SOCIAL DIALOGUE IN THE RAILWAYS SECTOR

Sectoral Policies Department

INTERNATIONAL LABOUR OFFICE • GENEVA

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Contents

PART ONE:
Introduction to social dialogue   1

PART TWO:
Social Dialogue
in the railways sector   11

PART THREE:
Process and implementation of social dialogue in the railways sector 57

List of Tables

List of Figures

List of Boxes

Purpose and structure of the manual

At its 310th Session, in 2011, the ILO Governing Body approved the development of a practical guidance manual for social dialogue in the railways sector "in order to enhance social dialogue in the railways sector at international level and to further improve rail safety". The scope of this manual is conflict prevention, thus involving the preparation and identification of different steps and processes for social dialogue with an emphasis on the railways sector.

As a sector-specific social dialogue manual, this publication follows two others: *Social dialogue in the process of structural adjustment and private sector participation in ports: A practical guidance manual* and *Social dialogue in the health services: A tool for practical guidance*. The ILO's *Manual on collective bargaining and dispute resolution in the public service* also constitutes an excellent source, and focuses mostly on collective bargaining processes and conflict resolution techniques. Another useful ILO resource in case of restructuring process is the *Practical Guide for Strengthening Social Dialogue in Public Service Reform*. At the national level, the ILO's 2013 guide on *National Tripartite Social Dialogue* establishes a solid framework within which member States can promote tripartite social dialogue.

This railway manual gives a brief overview of the process of social dialogue with particular examples and recommendations for the railways sector. Social dialogue practices are country- and context-specific, and depend on specific industrial relations experience. Different "checklist" sections throughout the manual are intended to raise questions or topics to improve preparation for social dialogue. This manual is in three sections. Part One highlights the importance of social dialogue. Part Two provides background and recent developments in the railways sector that might be helpful in defining and preparing social dialogue. Part Three explains in more detail the practical implementation of social dialogue and gives examples of the process of conducting social dialogue.

Acknowledgements

Acronyms and abbreviations

AIDS	acquired immunodeficiency syndrome
Amtrak	National Railroad Passenger Corporation (United States)
ASLEF	Associated Society of Locomotive Steam Enginemen and Firemen (United Kingdom)
Cato	computer-aided train operation
CER	Community of European Railway and Infrastructure Companies
CIS	Commonwealth of Independent States
CN	Canadian National
CRC	China Railways Corporation
DB	German Railways (Deutsche Bahn)
DFID	Department for International Development (United Kingdom)
EIM	European Rail Infrastructure Managers
EIRO	European Industrial Relations Observatory
ERA	European Railway Agency
ERTMS	European Rail Traffic Management System
ESCAP	United Nations Economic Commission for Asia and the Pacific
ETF	European Transport Workers' Federation
EU	European Union
Eurofound	European Foundation for the Improvement of Living and Working Conditions
Eurostat	European Commission's Directorate-General of Statistics
FMX	Fuel Management Excellence
FNM	Mexican Railways (Ferrocarriles Nacionales de México)
FRA	Federal Railroad Administration (United States Department of Transportation)
HIV	human immunodeficiency virus
JR	Japanese National Railways
ILO	International Labour Organization *or* International Labour Office
IR	Indian Railways
ITF	International Transport Workers' Federation
km	kilometres
MAV Zrt	Hungarian Railways
NACE	statistical classification of economic activities in the European Community (*Nomenclature statistique des Activités économiques dans la Communauté Européenne*)

NACO	National AIDS Control Organization (India)
NAFTA	North American Free Trade Agreement
NGO	non-governmental organization
NRZ	National Railways of Zimbabwe
OECD	Organisation for Economic Co-operation and Development
ORR	Office of Rail Regulation (United Kingdom)
OSH	occupational safety and health
PNM	Indian Railways' Permanent Negotiating Machinery
PPIAF	Public-Private Infrastructure Advisory Facility
PRASA	Passenger Rail Agency of South Africa
PSP	private sector participation
RFFSA	Brazil's National Rail Network (Rede Ferroviária Federal Sociedade Anônima)
RSSB	Rail Safety and Standards Board (United Kingdom)
RVR	Rift Valley Railways
RZD	Russian railways
Satawu	South African Transport and Allied Workers Union
SBB	Swiss railways
SNCB	Belgian railways (Société nationale des chemins de fer belges)
SNCF	French railways (Société nationale des chemins de fer français)
TOCs	train operating companies
TTC	Tripartite Turnaround Committee (Zimbabwe)
UIC	International Union of Railways
UK	United Kingdom
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
US	United States of America

PART ONE:
INTRODUCTION TO SOCIAL DIALOGUE

At the 90th Session of the International Labour Conference, in 2002, a resolution concerning tripartism and social dialogue encouraged governments of member States "to ensure that the necessary preconditions exist for social dialogue, including respect for the fundamental principles and the right to freedom of association and collective bargaining, a sound industrial relations environment, and respect for the role of the social partners". [1] Social dialogue is a foundation for good governance, social development and economic growth.

Promoting social dialogue is a fundamental part of the work of the International Labour Organization (ILO). Social dialogue strengthens democracy and good governance, and ensures social justice. Furthermore, it also plays a crucial role in fostering a productive and competitive economy. There are several international labour standards related to social dialogue and collective bargaining. Among these are the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Collective Bargaining Convention, 1981 (No. 154) and associated Recommendation (No. 163); Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and associated Recommendation (No. 152); and Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113). Moreover, the Labour Relations (Public Service) Convention, 1978 (No. 151) applies to all persons employed by public authorities.

1. The importance of social dialogue

Social dialogue can build trust between parties and prevent or resolve conflicts. Social dialogue reduces uncertainty and builds credible commitments among the social partners. At the national, industry, company, or workplace level, social dialogue can lead to common understanding, joint decision-making, improved operations, and decent working conditions.

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[1] ILO 2002.

Institutions for social dialogue and collective bargaining promote stable industrial relations, and protect the fundamental rights of workers. Social dialogue can take place at the international, national, sectoral, company, or workplace level. It can be formal or informal. Institutions established to engage in social dialogue range from company-based works councils to national or international tripartite consultative bodies.

In the context of labour relations, issues typically addressed by social dialogue include: wages, working hours, and other terms and conditions of work; occupational safety and health (OSH) issues; and training. This manual also provides examples of how technological and environmental developments as well as gender equality can be addressed in the railway industry through social dialogue.

1.1 What is social dialogue?

No universally agreed definition of social dialogue exists. Social dialogue can take place at different levels and in various forms, depending on national contexts. [2] The ILO's working definition of social dialogue encompasses various processes, including "*all types of negotiation, consultation and exchange of information between the representatives of governments, employers and workers on issues of common interest relating to economic and social policy*". [3] Social dialogue is a cooperative and constructive approach to labour relations and facilitates consensus-building. Social dialogue is advocated at local, national and international levels, and by a variety of different actors; it is composed of three elements, as shown by Figure 1.

Figure 1. Social dialogue triangle
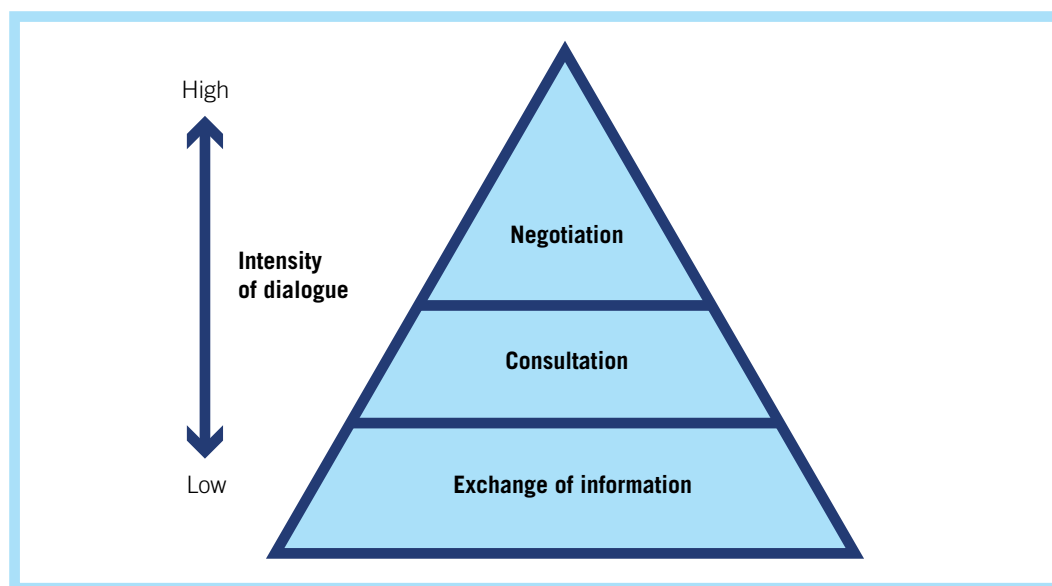
Source: Ishikawa 2003.

➔ **Exchange of information** is the most basic process of social dialogue. Although it does not involve any real discussion, the two-way process of information exchange is the bedrock of more substantial social dialogue and the processes through which decisions are made. [4]

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[2] ILO 2013a.

[3] Ishikawa 2003.

[4] Ibid.

➔ **Consultation** is a means by which the social partners not only share information, but also engage in more in-depth dialogue about issues raised. While consultation itself does not carry with it decision-making power, it can take place as part of such a process. [5]

➔ **Negotiation** can be categorized into two dominant types -- collective bargaining and policy concertation. *Collective bargaining* consists of negotiations between, on the one hand, an employer, a group of employers or employers' representatives, and workers' representatives on the other, to determine issues related to wages and conditions of employment. Primarily in Europe, there is also *policy concertation*, the co-determination of public policy by governments, employers' organizations and workers' organizations, usually at the national or sector level. Negotiations should result in formal agreements that commit the social partners to a particular course of action, where they are jointly responsible for the ensuing outcomes. [6]

Box 1: Pertinent resources on social dialogue

Bolwell, D. and Weinz, W. 2008. *Guide for social dialogue in the tourism industry*, Sectoral Activities Programme Working Paper WP.265 (Geneva, ILO).

Carls, K. and Bridgford, J. 2012. *Social dialogue: A manual for trade union education* (Turin, International Training Centre of the ILO).

ILO. 2004. *Promoting national social dialogue: An ILO training manual* (Geneva, InFocus Programme on Social Dialogue, Labour Law and Labour Administration).

—. 2004. *Social dialogue in the health services: A tool for practical guidance* (Geneva, Sectoral Activities Programme).

—. 2011. *Manual on collective bargaining and dispute resolution in the public service*. (Geneva, Sectoral Activities Department).

—. 2013. *National tripartite social dialogue – An ILO guide for improved governance*. (Geneva, Governance and Tripartism Department).

International Training Centre of the ILO. 2013. *Labour dispute systems: Guidelines for improved performance* (Turin).

Ishikawa, J. 2003. *Key features of national social dialogue: A social dialogue resource book* (Geneva, ILO, InFocus Programme on Social Dialogue, Labour Law and Labour Administration).

Ratnam, V. and Tomoda, S. 2005. *Practical guide for strengthening social dialogue in public service reform* (Geneva, ILO, Sectoral Activities Department).

Turnbull, P. 2006. *Social dialogue in the process of structural adjustment and private sector participation in ports: A practical guidance manual* (Geneva, ILO, Sectoral Activities Department).

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[5] Idem.

[6] Idem.

Traditional social dialogue involves social partners and the government, as social dialogue has its origins in issues related to the "world of work". Tripartism can be defined as *the interaction of government, employers and workers as equal and independent partners to seek solutions to issues of common concern.*[7] Traditional tripartite partners may choose in some cases to open up the dialogue and engage with other civil society groups to gain a wider perspective and consensus on issues beyond the world of work.[8]

Social dialogue helps to build trust between the parties, the essence of which is a belief that another party will continue to adhere to rules of fairness and reciprocity even in circumstances where it might be advantageous to do otherwise.[9] Social dialogue need not necessarily produce consensus. If it generates at least a better understanding of the divergent views expressed by the various stakeholders, it can be considered to have largely achieved its purpose.[10] Social dialogue must create commitment to the ideas produced, actions contemplated and results achieved.

Social dialogue should serve as the best prevention tool against industrial discord.[11] If conflicting interests cannot be addressed and consensus reached through negotiations, dispute prevention measures such as mediation and arbitration may be necessary. Dispute resolution may involve independent mediators or decision-makers. If a solution is not found, the parties may decide to exercise power in the form of industrial action (including lock-outs, go-slows and strikes). Women employees should have a proportional share of representation in the different forums for social dialogue at all levels.

1.2 Pre-conditions for social dialogue

Pre-conditions for social dialogue include:[12]

→ **Democratic foundations and freedom of association:** freedom of association and the right to collective bargaining are of vital importance for the social partners as they provide the basis for interest representation. Freedom of association requires a climate of respect for the rule of law.

→ **Strong, independent and representative workers' and employers' organizations:** precise and objective criteria are necessary to entitle parties to effectively participate and represent their organization.

→ **Political will and commitment to engage in social dialogue:** trust and political will are key components to engage in the process, despite the parties' divergent views.

→ **Appropriate institutional support:** social dialogue should be a part of the decision making process of a country. An important foundation includes a sound legislative framework for social dialogue.

→ **Practice and experience:** solid training and the availability of experts constitute important technical resources.

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7   ILO 2013a.

8   ILO 2013. For example, the 2002 ILO resolution concerning tripartism and social dialogue acknowledges the potential of collaborating with civil society.

9   Turnbull 2006.

10   Ratnam and Tomoda 2005.

11   ILO 2011a.

12   ILO 2013.

2. The parties to social dialogue

Organizations and individuals who represent the social partners must have the trust of their constituents, the authority to speak on their behalf, and the recognition of their counterparts. Basic enabling conditions for effective representation of social partners are:

- freedom of association;
- democratic foundations (of society in general. and the representative organizations of the social partners in particular);
- legitimacy (through representative, transparent, accountable, and cohesive employer and employee organizations);
- the political will and commitment to engage in social dialogue;
- social acceptance of the role and activities of the social partners;
- technical competence of the social actors to engage in social dialogue; and
- capacity to deliver.[13]

Effective social dialogue requires that the parties involved recognize one another for that purpose. In order for the social partners to effectively engage in social dialogue:

- the role of worker representatives or trade unions in decision-making is defined by law, and accepted as good practice by management and the state;
- representative organizations are unified or at least highly coordinated;
- there is transparency and accountability for all decisions that are taken; and
- the social partners have the capacity to enforce compliance with their part of any agreement.

The existence of the freedom of association does not necessarily guarantee that there will automatically be recognition of unions and associations for social dialogue or collective bargaining purposes. [14] For example, in some countries there might be a multiplicity of trade and workers' unions, social partners and other entities. Research, objective criteria and jurisdiction information within the industrial relations system and laws will allow the relevant authorities to decide when and how a union should be recognized as representative for social dialogue purposes.

The accepted principle is often to recognize the most representative union. As shown in Figure 2, the criteria used to decide this differs from system to system. In some countries, the issue would be determined by requiring the union to have not less than a stipulated percentage of the workers in the enterprise or category in its membership. The representativeness may be decided by a referendum in the workplace, or by an outside certifying authority (such as a labour department or an independent statutory body). [15]

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[13] Ishikawa 2003.
[14] de Silva, 1996.
[15] de Silva, 1996.

Figure 2. Selected examples of representativeness criteria for workers' and employers' organizations

Quantitative criteria
- membership
- geographical or industrial coverage
- number of collective agreements concluded
- results of professional elections

Qualitative criteria
- respect of democratic principles in the functioning of the organization
- financial/organizational independence
- number of years of experience
- infrastructure for communication (website, publications...)

Other criteria
- affiliation to international organizations, in particular ITUC and IOE
- presence of the organization at the entreprise or workplace level (for trade unions)

Source: ILO 2013

For example, within the EU, Article 154 of the Treaty on the Functioning of the European Union defines who may initiate and participate in social dialogue; the European Commission uses the criterion of representativeness. Representativeness includes three criteria: worker and employer organizations should "be cross-industry or relate to specific sectors or categories and be organized at European level; consist of organizations, which are themselves an integral and recognized part of Member State social partner structures and with the capacity to negotiate agreements, and which are representative of all Member States, as far as possible; [and] have adequate structures to ensure their effective participation in the consultation process". [16]

Representativeness has both internal and external dimensions. Internal representativeness requires that participants in social dialogue possess the authority to speak on behalf of their relevant constituency, and to then commit the latter to the terms of any agreement

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[16] Eurofound 2013.

(typically, after a process of internal consultation and/or democratic vote). This becomes more challenging as group size increases, or the group becomes more heterogeneous, or where there are competing representative organizations. [17]

Social dialogue can be a bipartite process between management and labour (employers' and workers' organizations), or a tripartite process, when the government is an official party to the process. Where the government is also the employer (as is sometimes the case in the railway industry), the distinction between bipartite and tripartite social dialogue can become blurred. In some situations, other entities, such as customers or non-governmental organizations, might also be invited to participate (with a voice but no vote) in social dialogue. However, these entities do not participate directly in collective bargaining processes. Employers' and workers' organizations are distinct from other civil society groups in that they represent the actors of the world of work and the "real economy", and draw their legitimacy from their membership. In any case, the purpose of involvement with other advocacy groups is to strengthen tripartism, not to weaken or dilute it. [18]

Government participation can involve other responsible ministries, aside from the transport ministry/railway agency. For example, the ministry of finance becomes involved when the topics under discussion have implications for public finance and budget resources. The labour ministry has the task of ensuring compliance with, and the enforcement of, constitutional and legal provisions concerning working conditions. [19]

Bipartite social dialogue is when two parties – one or more employers and/or employers' organizations, and one or more workers' organizations – exchange information, consult each other or negotiate together, without government intervention. While the government is not a partner in the bipartite process, it may provide assistance to the social partners in their bipartite negotiations. The government may also offer conciliation and mediation services should a dispute arise between the social partners. The type and degree of government involvement in the bipartite process is determined by the system of industrial relations in place. Because of this contribution, the borders between tripartite and bipartite social dialogue can sometimes be difficult to define precisely.

A particular form of bipartite social dialogue is collective bargaining. According to the ILO Collective Bargaining Convention, 1981 (No. 154), collective bargaining extends to all negotiations which take place between an employer, a group of employers or one or more employers' organizations, on the one hand, and one or more workers' organizations on the other for (i) determining working conditions and terms of employment, and/or (ii) regulating relations between employers and workers, and/or (iii) regulating relations between employers or their organizations and a workers' organization or workers' organizations. [20]

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[17] Eurofound 2013.

[18] ILO 2013.

[19] Ratnam and Tomoda 2005.

[20] Article 2.

3. Levels of social dialogue

Social dialogue may be initiated by government, or employer or worker organizations. Governments need the necessary administrative and technical capacity to create and sustain an enabling environment for social dialogue in its different forms. "Government intervention, when it comes, is generally graduated: first facilitative, then directive and, only as a last resort, prescriptive." [21] Social dialogue may take place at different levels. "The appropriate level or levels for bargaining will depend on the strength, interests, objectives and priorities of the parties covered, as well as the structure of the trade union movement, the representatives of the government and traditional patterns of industrial relations." [22] Where several levels of social dialogue prevail, coordination among the levels should be sought.

At what levels can social dialogue take place? Table 1 shows possible levels of social dialogue. However, the increasingly complicated structures of companies, fragmentation in unions, and new regulations applicable to regional economic areas are some of the factors that can impact the identity and representativeness of social partners.

Table 1. Levels of social dialogue

Dialogue level	Social Partners
International/ Supranational	ILO, International Organisation of Employers, International Trade Union Confederation, ITF, UIC, European social partners as established by EU agreements, cross-border agencies, consolidated unions and employer associations, cross-border rail companies and operators.
National/ Sectoral	Workers' and employers' associations, ministries, other entities.
Subnational/ Regional	Regional social partners, regional branches of the government or decentralized government agencies, other regional entities.

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[21] ILO 2011a.
[22] ILO 2011a.

☑ Checklist

- ❖ What is the historical background of social dialogue/collective bargaining in the railways industry in your country?

- ❖ What ILO Conventions related to freedom of association and has your country ratified?

- ❖ What challenges has social dialogue in your industry faced vis-à-vis recognition of social partners? What steps can ensure the recognition of all participants in the social dialogue table?

- ❖ Identify the regulatory framework that defines representativeness.

- ❖ Which workers' and employers' unions and associations have legal recognition in the railways sector in your country?

- ❖ Ask, inform yourself and document your findings. Take the following table as a template and fill in the information on social partners and other possibly interested entities.

Analysing social partners and other interested entities					
Name	Social partner? Other?	Sector(s) covered	Legal juris-diction and representativeness	Mission and objec-tives	Authority to sign commitments?

Conclusion - Part One

Tripartite social dialogue brings together governments, workers and employers to discuss policies, laws and other decision-making that affect the social partners. Consultations can ensure greater cooperation among the tripartite partners and build consensus. Social dialogue is a key instrument in promoting and achieving decent work, inclusive development and social cohesion, and it encourages good governance.[23]

Tripartite social dialogue may exist at different levels: at the subnational, national, regional and international levels. Depending on legislation and the division of powers between authorities, tripartite social dialogue at the different levels can take different forms. For example, at the European Union (EU) level, social dialogue is an integral part of its model and a central component of EU governance.

Recent developments in the industry have had potential impacts on social dialogue, working conditions, labour relations, and the safety, quality and accessibility of services. The liberalization of markets and increased private sector participation (PSP) operating in the sector raises new issues that will be discussed more in-depth in the following section of this manual.

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[23]   ILO 2011a.

PART TWO:
SOCIAL DIALOGUE IN THE RAILWAYS SECTOR

Part Two of this manual seeks to provide context regarding the current situation in the railways sector. In recent decades, staffing patterns have evolved, ownership has changed, and technological and environmental factors have impacted industrial relations, for both passenger and freight operations. Public transport rail services have also gained traction, as current mobility models have focused on studying the limits of the use of private vehicles. Public transport and long-distance passenger operations policies have social impacts (labour exclusion of workers who do not have a driving licence, effects on workers' health and safety caused by commuting accidents, and the increase in pulmonary diseases due to higher levels of pollution), economic impacts (loss of competitiveness or individual and collective costs of mobility) and environmental impacts (transport consumes around 40 per cent of primary energy in industrialized countries and represents an important share of greenhouse emissions).[24]

4. The ILO's commitment to the railways sector

There is no specific ILO convention or recommendation for the railways sector. However, promotion of social dialogue in the sector has been addressed in meetings and numerous publications since the first International Railwaymen's Congress in 1920. The last two tripartite meetings related to the railways sector hosted by the ILO were in 1994 and 1999.

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[24] European Commission 2010b.

In 1994, the ILO hosted a Tripartite Meeting on Consequences for Management and Personnel of the Restructuring of Railways, which concluded that the ILO should promote the application of core labour standards, [25] and should continue to monitor the labour and social consequences of the changes in the industry, and the policies and modes of collective bargaining brought about by these changes. [26]

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[25] The Meeting named the following standards: the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Human Resources Development Convention, 1975 (No. 142) and associated Recommendation, 1975 (No. 150); and Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

[26] ILO 1994.

Box 2: 50 years of ILO resources targeting the railways sector (1964 - 2013)

1964. "Technical progress and job security on the United States railroads" (Geneva, *International labour review*, Vol. 89, No. 5).

1966. *Methods of collective bargaining and settlement of disputes in rail transport* (Geneva, Labour-Management Relations Series: No. 29).

1966. *Pay structure in rail transport* (Geneva, Inland Transport Committee).

1969. *Social consequences of technological progress in railways* (Geneva, General conditions of work series No. 13)

1970. *The modernisation of apprenticeship: Vocational training for the Egyptian Railways* (Geneva, Technical report No. 1).

1973. *Arab Republic of Egypt: Vocational training for the Egyptian railways; project findings and recommendations* (Cairo, Egypt Country Office).

1976. *Zambia: Training of railway personnel: Project findings and recommendations* (Geneva, Project Findings and Recommendations).

1979. *Vocational training and retraining* (Geneva, Programme of Industrial Activities).

1979. *Working conditions in rail transport* (Geneva, Programme of Industrial Activities).

1984. *Social and labour aspects of road and rail transport in African landlocked countries* (Geneva, Programme of Industrial Activities).

1985. *Zimbabwe: An appraisal of the job evaluation system applied by the national railways of Zimbabwe* (Geneva, Workers' Education Branch).

1985. *Proceedings of seminar: Equality of opportunity and treatment in the South African railway and road transport sectors* (Geneva, Equality of Rights Branch).

1987. *Inequality of opportunity and treatment in the South African transport sector (road passenger and railways)* (Geneva, Programme Against Apartheid, Working paper No. 3).

1991. *Recent developments in inland transport* (Geneva, Inland Transport Committee).

1992. *Manpower aspects of restructuring railways in developing countries: a synthesis of six country case studies* (Geneva, Sectoral Activities Programme, Working paper No. 48).

1993. *Restructuring of the Japanese national railways: effects on labour and management* (Geneva, Industrial Activities Branch, Working paper No. 54)

1994. *Final report: Tripartite meeting on the consequences for management and personnel of the restructuring of railways* (Geneva, Sectoral Activities Programme).

1994. *Consequences for management and personnel of the reorganization of railways in the Russian Federation* (Geneva, Industrial Activities Branch, Working paper No. 72).

1997. *Privatization impacts on workers (focus on iron and steel industry and railway transport in five South American countries: Argentina, Bolivia, Brazil, Chile and Peru)* (Rio de Janeiro, Brazil Country Office).

1999. *Symposium on the social and labour consequences of technological developments, deregulation and privatization of transport: background document* (Geneva, Sectoral Activities Programme).

2000. *Final report: Symposium on the social and labour consequences of technological developments, deregulation and privatization of transport* (Geneva, Sectoral Activities Programme)

2009. *Consultant's report on railway management training for Nigerian Railway Corporation and Nigerian Institute of Transport Technology* (Abuja, Nigeria Country Office).

2010. *On the right track: A training toolkit on HIV/AIDS for the railway sector: full package* (Geneva, Sectoral Activities Department).

In 1999, a cross-sectoral tripartite symposium was held on the Social and Labour Consequences of Technological Developments, Deregulation and Privatization of Transport. The background document for the symposium identified the following trends in the railways sector:

- declining modal share of railways, despite growing demand for transport;
- stretch on the infrastructure, especially in Europe;
- the need for economically, environmentally and socially sustainable transport policies; globalization and diversification of ownership and management in the transport industry;
- concessions, privatization, and deregulation; transport companies becoming multinational or multimodal; technological developments such as speed, safety, and traffic management; and
- restructuring and erosion of national railway companies and its impact on staffing, decreasing level of jobs, declining wages, weakened protection, and the changing legal status and security of workers. [27]

The 1999 symposium concluded that the ILO should, among other things, promote social dialogue in (all of the) transport sector(s), carry out studies on the impact of change in industrial relations, particularly in developing countries, compare examples of change and collect data on different measures. [28]

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[27] ILO 1999a.
[28] ILO 1999b.

5. Special features of the railways sector

Features of the railways industry that distinguish it from other industries stem mainly from its historical importance and contribution to national economies as a whole and to the community at large. [29] In some countries, railways play a key role in transporting people and goods, facilitating trade and tourism, and creating sustainable economic growth.

Transport markets worldwide have registered growth, and increased demand for freight and passenger transport has been prevalent in the last decades. Nonetheless, the share of rail transport has declined substantially since the 1970s in both the freight and passenger markets. The dismantling of *de facto* network monopolies, coupled with serious financial difficulties in the railways industry, have led to changes in ownership, restructurings and, in some cases, privatization. Nonetheless, generally, the railways sector has remained highly unionized.

Important factors that determine the nature of industrial relations in the railways are the type of ownership of each railway network, technological innovation and environmental factors. For example, ownership defines the decisions promoted by each railway management, which creates a special situation for railways.[30] In many countries, railways staff is composed of public servants, and covered by government rules and regulations that grant them special status.[31] Technological innovation has also prompted railway managers to modify their policies, including their staffing policies. Environmental factors have also had an influence on staff training programmes and promoting railways employment as "green jobs". The situation varies between regions and countries. The railways sector carries great growth potential in some regions and thus great potential for employment creation.

5.1 Employment developments

The following paragraphs analyse recent definitions and staffing patterns in the railways sector. It is important to note that in the railways sector, labour costs typically account for 40-50 per cent of total operating costs.[32] When priced to compete vis-à-vis other inland modes of transport (i.e., road or waterways), operating expenses are heavily taken into consideration. The main components include labour (salaries, benefits, pensions, insurance), energy costs (electricity, fuel), materials (rails, sleepers, ballast and other maintenance items), services (rolling stock computer support, catering in passenger services, etc.), rental (on leases on assets, facilities or rolling stock, among others), and depreciation.[33] Relative proportions of these six cost groups may vary, depending on the type of services railways provide (e.g., the share of labour costs for passenger services is higher than for freight services).[34]

The first challenge when analysing labour in the railways sector is to determine which job classifications should be considered. The sector contains many different categories of employees: infrastructure and maintenance, train driving, conducting, on-board and auxiliary services, ticketing and other administrative services, management, and manufacturing.

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[29] ILO 1967.
[30] ILO 1967.
[31] ILO 1967.
[32] Amos 2009.
[33] World Bank 2011.
[34] World Bank 2011.

Table 2 shows one possibility for characterizing railways workers in accordance with the International Union of Railways (UIC)'s staff classifications and rail activities, which divide workers' employment into activities related to infrastructure, operations or other activities.

Table 2. Employment by activity, UIC staff classification

Infrastructure		Operations			Other
Management	Others	Railways		Road, and sea/ waterways	
		Train Drivers	Train Staff		

Source: UIC 2013. [35]

Another possibility for classifying railway workers is in accordance with the European Commission's Directorate-General of Statistics (Eurostat) data on employment in principal railway enterprises by type of activity. Activities include operations and general administration; the first includes several subcategories, as shown in Table 3. The European Labour Force Survey uses the *Statistical classification of economic activities in the European Community* (NACE)[36].

Table 3. Employment by type of activity, Eurostat operations staff classification

Operations							
Operating and traffic				Traction and Rolling Stocks			Ways and Works
Station Staff	Train Crew	Advertising	Tourism	Tractive unit crew	Workshop	Inspection staff	

Source: Eurostat 2013.

Outsourcing and subcontracting of activities, especially in railway infrastructure management, makes data collection on employment a challenging task. Rail companies typically provide some degree of freight and passenger service, with outsourcing and subcontracting making the situation more complicated. Available data sets are not generally comparable, as they might only encompass information from some of the concessionaires or entities operating in a part of a country's network. It is also important to note that trade unions' jurisdiction and the scope of collective bargaining agreements are not consistent with UIC or NACE classifications.

Table 4 includes staff numbers for selected countries where staff is over 50,000 rail employees. This information was summarized from the UIC's *International Railway Statistics 2011*. It includes passenger and freight operations staff, as well as infrastructure management and operations personnel from UIC member companies and associations.

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[35] The UIC is a worldwide international organization of the railway sector, including 197 members across all 5 continents (82 active members [including the railways from Europe, the Russian Federation, the Middle East, North Africa, South Africa, India, Pakistan, China, Japan, Republic of Korea, Kazakhstan, and companies operating worldwide such as Veolia Transport]; 80 associate members (including railways from Asia, Africa, America and Australia); and 35 affiliate members (related or ancillary rail transport businesses or services).

[36] Eurostat 2008.

Table 4. Railways staff in 2011, selected countries (50,000 employees and more)

Country	No. of staff
China	2 051 100
India	1 328 100
Russian Federation	917 319
Ukraine	339 289
Germany	282 300
France	151 808
United States	178 475
Japan	127 379
Poland	100 942
United Kingdom	86 628
Pakistan	82 424
Kazakhstan	78 675
Belarus	78 218
Italy	76 467
Egypt	69 890
Republic of Korea	57 163
Uzbekistan	52 942
Romania	51 141

Source: UIC 2013.

Table 4 shows that China, India, Russian Federations, Ukraine and Germany were the largest railway employers in 2011. When compared in terms of total railway lines length, the countries with the longest networks are the United States (194,136 km), the Russian Federation (85,166 km), China (66,041 km), India (64,460 km), and Canada (52,002 km).[37]

At a global level, the railways sector has undergone a process of restructuring. Originally organized as a form of state-controlled infrastructure, railways are currently undergoing a process of transformation into a business sector. This process can result in market-entry deregulation and service liberalization (sometimes accompanied by full or partial privatization of the former state-owned operator). [38] Reforms have impacted labour relations. Echoing the transfer of the state-owned operator from a public law undertaking into a private law company, railway employment relationships are shifting from public sector regulations to private law status. [39]

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[37] ESCAP 2011 and UIC 2013.
[38] Traxler and Adam 2008.
[39] Ibid.

Table 5 shows how the sector in the EU region has undergone a thorough process of labour reduction. This dataset includes only operations personnel following the Eurostat classification included in Table 3.

Table 5. Railway operations employees in selected EU and non-EU countries, 1990 to 2010

Country	1990	1995	2000	2005	2010
Austria	n/a	60 352	52 554	15 897	12 468
Belgium	45 205	41 730	41 663	37 290	n/a
Bulgaria	64 082	49 224	19 435	n/a	29 126
Croatia	39 456	21 812	18 535	14 152	12 556
Czech Republic	n/a	101 874	87 215	66 627	n/a
Denmark	21 197	n/a	9 705	n/a	n/a
Estonia	8 961	8 250	6 448	3 536	1 568
Finland	19 824	15 005	12 236	10 144	10 015
France	202 081	179 193	174 787	164 298	n/a
Germany	235 975	294 691	230 615	n/a	134 702
Greece	13 324	12 510	9 973	7 963	n/a
Hungary	129 067	72 246	57 242	n/a	n/a
Ireland	11 799	5 313	5 358	n/a	n/a
Italy	n/a	126 061	106 180	91 500	80 153
Latvia	23 736	20 399	15 563	15 178	4 785
Lithuania	18 788	17 511	15 618	11 327	10 318
Luxembourg	3 543	n/a	n/a	n/a	n/a
Netherlands	26 719	n/a	11 300	n/a	n/a
Poland	336 614	237 338	169 488	126 342	103 806
Portugal	21 980	13 148	12 417	n/a	7 637
Romania	247 659	141 027	104 795	n/a	n/a
Slovakia	n/a	52 965	46 813	36 664	31 749
Slovenia	21 295	9 761	9 026	8 075	6 892
Spain	49 724	38 958	33 747	21 141	n/a
Sweden	29 196	22 190	14 499	15 124	14 428
United Kingdom	136 158	n/a	n/a	n/a	n/a
Norway	13 973	11 894	5 912	n/a	7 779
Switzerland	37 694	33 529	35 715	34 318	32 281

Country	1990	1995	2000	2005	2010
The Former Yugoslav Republic of Macedonia	n/a	4 995	4 144	2 921	2 927
Turkey	49 285	50 569	47 212	27 473	26 032

Source: Eurostat 2014.
n/a: data not available.

According to the data shown in Table 5 (and comparing available data trends from 1990 to 2010), it can be observed that workforce reductions were of 43 per cent in Germany, 50 per cent in Sweden, 54 per cent in Bulgaria, 65 per cent in Portugal, 68 per cent in Croatia, and 69 per cent in Poland. When comparing available data trends from 1995 to 2010, it can be observed that workforce reductions were of 36 per cent in Italy, and 40 per cent in Slovakia, for example. Staff reduction in some of these cases can be attributed to restructuring processes in these countries.

For the EU region, the Transport Division of the United Nations Economic Commission for Europe (UNECE) also gathers railways sector workforce statistics.[40] These follow the Eurostat classification system, although disaggregation by male and female employment is also possible. In the case of other economic regions, current and comparable railways workforce statistics were not found. However, in 2003[41] and 2007[42], the Transport Division of the United Nations Economic Commission for Asia and the Pacific (ESCAP) published railway employment data extracted from a commercial database. [43]

Growing international acceptance of sustainability and environmental targets in general has had positive consequences for the railways sector. Policymakers' perception has shifted towards increasingly considering the sector's importance as strategic asset again. Regarding the creation of employment and boosting economic activity, renewed interest in rail has fostered employment in the form of "green jobs". In addition, indirect employment in the supply chain, maintenance and other activities related to the industry is also relevant. A recent CER study reports that in the EU region the sector directly or indirectly employs approximately 2.3 million workers.

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[40] UNECE 2013.
[41] ESCAP 2003.
[42] ESCAP 2007.
[43] Railway Gazette 2014.

☑ Checklist

- ❖ What classifications and categories define railways employees in your country? Which parts of the workforce will be represented during the social dialogue process?

- ❖ How have unions been representing rail workers? Does occupational representation match railway workers' categories and classifications?

- ❖ What type of representation exists for employers? Are employers represented by sectoral or cross-sectoral associations? Do employer associations include all segments of railways (i.e., operations, management, construction, maintenance, sub-contractors)? Is the employer a government entity?

- ❖ What have been the prevailing staffing patterns in the last 10 years for the railways sector in your country? What can you anticipate the trends will be?

- ❖ Has railway labour decreased? Are data and documents readily available?

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5.2 Structural and ownership developments

Railways have been characterized as comparable to a natural monopoly, since they are capital-intensive, and have substantial fixed costs and limited flexibility.[44] Railway transport is important for economic and social development, especially in rural areas with few transport alternatives.[45]

In some regions, both passenger and freight segments have experienced deregulation, liberalization, and PSP processes. This has led to changes in ownership, operation, and management. The Americas and most of the EU-27 countries initiated the process within the past 20 years, while many Eastern European, Commonwealth of Independent States (CIS) and Asian countries have retained government ownership and operation of railways. Restructuring processes include revision of laws and regulations, determination of ownership of assets, and human resources management. Restructuring can be a slow process, as in New Zealand and Japan, or a rapid process, as in the United Kingdom (UK) or Argentina.

The "traditional" model of national railway companies has been vertical integration, meaning that the ownership and management of rail operations and the maintenance of facilities lie with the same company. Vertical separation occurs when these responsibilities have been divided. Deregulation, restructuring and privatization tend to be used synonymously in railway literature. Restructuring usually follows deregulation, but does not automatically equate to privatization. Privatization and PSP could include various types of agreements, depending on the objectives sought by the process: these could involve a government department, a public enterprise, management contracts, leases, concessions, joint venture, or private ownership.

Why have governments liberalized railway markets and encouraged PSP? No single answer can be given. The railways sector has faced increasing competition from other modes of transport, particularly from road transport. In many countries, the railways have lost market shares to road transport, both in the passenger and freight segments. In some cases, under-investment in rail infrastructure has led to both the speed and capacity of the rail networks becoming outdated. Some governments have seen PSP as a way to finance infrastructure investments. In other countries, there is a strong belief that rail competition and markets perform better than state-owned monopolies. It has also been the case that PSP enables private sector stakeholders to access rail funding and subsidies through open tendering processes for rail services.

Table 6 provides a summary of the different forms of ownership and participation in rail restructuring and/or privatization processes as of November 2014. Special emphasis has been added regarding the type of management and possible change of stakeholders that might happen at each step in these processes.

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[44] Kessides and Willig 1995.
[45] Campos and Cantos 2005.

Table 6. Railways structures: Interaction of ownership and labour

Form of participation	Summary description	Ownership of infrastructure assets	Ownership of operating assets	Management	Current examples in the railways sector
Conventional Government Agency	Administrative unit of government, established in the executive branch of government	Public	Public	Public	India, Botswana, Mozambique
Performance-based organization	Government agency, in which agency officials are rewarded on the basis of performance.	Public	Public	Public	South Africa's PRASA
Government Corporation	Owned by the government, but intended to be run as a business. It acts like a private corporation and is freed from many restrictions imposed on government agencies.	Public	Public	Public	Germany, Republic of Korea's KORAIL, US's Amtrak, Canada's VIA Rail, South Africa's Transnet Freight, Russia's RZD, China Railways Corporation
Service contract	A contract for the maintenance of a specific service by a private entity.	Public	Public/ private	Public/ private (operator employs staff)	Queensland rail network, Philippine's metro rail transit, Switzerland's SBB Mattstetten-Rothrist line (signalling)
Management contract	The government pays a private operator to manage facilities, yet retains much of the operating risks.	Public	Private	Public/ private (operator employs staff)	Portugal, Spain
Lease contract	A private operator pays a fee to the government for the right to manage the facility and takes some of the operating risks.	Public	Private	Private	Western Australian freight rail network, JR Freight

Form of participation	Summary description	Ownership of infrastructure assets	Ownership of operating assets	Management	Current examples in the railways sector
Build-operate-transfer arrangement	A private entity builds, owns and operates a facility, then transfers ownership to the government at the end of a specified period.	Public	Private	Private	Taiwan High Speed Rail (Taiwan, China), Swedish Arlanda Airport link
Concession	A private entity takes over the management of a facility or a state-owned enterprise for a given period, during which it also assumes significant investment and operational risks.	Public	Private	Private	Latin American countries, Hong Kong Railways[1], sub-Saharan Africa
Partial privatization/ divestiture	The government transfers part of the equity in the state-owned company to private entities (operators, institutional investors). The private stake may or may not imply private management of the facility.	Public/ private	Private	Private	United Kingdom
Full privatization/ divestiture	The government structures or regulates a public service as a state-owned company and transfers 100 per cent of the equity in the state-owned company to private owners.	Private	Private	Private	United States, Canada, Japan

Sources: OECD 2013; von Weizsäcker, Young and Finger (eds.) 2005; World Bank 2013; World Bank 2006.

According to the Organisation for Economic Co-operation and Development (OECD), passenger rail services' modal shares are expected to remain stable from 2005 to 2050[46] in OECD countries. This means approximately 1 per cent for OECD countries in North America, 5 per cent for OECD countries in Europe, 9 per cent for OECD countries in the Pacific and 1 per cent for the Latin American region.[47] Passenger railway services' modal share is expected to decrease in China from 15 per cent in 2005, to 10 per cent in 2050.[48]

Box 3: The railways sector in the United States

In the United States (US), freight rail transport services are under private owner-ship and operation. A study sponsored by the US Department of Energy shows that trucks have a dominant modal share of transport freight from 1 to 700 km. Thereafter, rail freight services become more competitive, and dominate the market for longer-haul services.

Deregulation of rail freight transport took place in the 1970s. The 1980s marked an all-time low for both employment and miles travelled in the industry; during that decade, mergers and acquisitions took place, as well as several rounds of layoffs and no-hiring policies. Deregulation brought about demands for reduced labour costs, cut the required crew size, and increased working hours.

Peoples (1998) has studied the impact of deregulation on various transport sec-tors and notes that, unlike in other sectors, in railways there has been little impact on union membership, the unionization rate of 75 per cent remaining far above the national average of 14 per cent. The union scene in the United States railways sector is frag-mented, as in Europe, but unions and employers together form the National Railway Labor Conference, which negotiates industry-wide agreements.

Wages remained approximately the same as before deregulation, but the number of jobs more than halved between 1973 and 1996 (although there has been a small increase since then). Workers who lost their jobs in the railways sector experienced an earning loss 20 percentage points greater than in other industries. This would suggest that the skills railway employees need and possess are very industry-specific, and not in high demand outside the sector.

Currently, the railroad industry is anticipating growth fuelled by a new national interest in green initiatives, the establishment of a higher-speed rail system in the United States, and other high-tech projects focusing on safety and reliability across the rail network.

Sources: US Department of Energy; Brogan et al. 2013; US Department of Transportation - Federal Railroad Administration (FRA) 2011; Peoples 1998; Smith 2012.

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[46] Projections in this section were calculated by the OECD, using the International Energy Agency's Mobility Model ("Momo Model").

[47] OECD - ITF 2011.

[48] OECD - ITF 2011.

Box 4: Railways restructuring in the European Union

Since the 1990s, the EU has made efforts to liberalize the railway market in order to promote an integrated transport area. The first step in European rail deregulation was Council Directive 91/440/EC, which required the financial and managerial separation of railway companies from the State. Two EU white papers, in 2001 and 2011, highlighted the need to create a common European transport system, including a Single European Railway Area, which required investment in infrastructure and technology, and "abolishment of technical, administrative and legal obstacles which still impede entry to national railway markets".[2] The white paper of 2011 highlighted the need for social dialogue in the creation of quality jobs in the railways sector, especially as the sector will face a labour shortage due to retirements.

The EU has launched four railway packages consisting of a number of directives, with the aim of creating a single market and increasing competition through gradual liberalization of, first, the freight transport market and, eventually, passenger transport. The first railway package was launched in 2001. It included directives on the separation of infrastructure management and operations, equitable access to infrastructure (non-discriminatory pricing), and the requirement for an independent regulator to oversee fair competition in accessing the infrastructure.

The second railway package was introduced in 2004, aimed at creating a legally and technically integrated European railway area, including increased safety and interoperability as well as the opening up of the rail freight market. It also created the European Railway Agency (ERA) to provide support for the simultaneously established national safety authorities.

The third railway package of 2007 called for the liberalization of international passenger transport in Europe, and introduced regulation for passenger rights and certification of train crews.

The fourth railway package -- adopted by the European Commission at the beginning of 2013 – is intended to open up domestic passenger transport to competition by 2019. The package also established ERA as the sole safety certification issuing authority (replacing national safety regulators), and strengthened the role of infrastructure managers. Anticipating the retirements the sector will be facing, the package also highlights the need to focus on the attractiveness of the sector for employment, and provides for the transfer of staff in the event that operations are awarded to another company.

The European Transport Workers' Federation (ETF) rejected the compulsory tendering in passenger transport included in the fourth railway package. It also rejected the complete separation of infrastructure management from operation, arguing that this would endanger the universality and accessibility of rail service. The union also criticized the lack of a common approach to social conditions and the protection of staff.

Sources: Council of the European Communities 1991; European Commission 2011; European Commission 2013a; European Commission 2013b; International Transport Workers' Federation 2013a; International Transport Workers' Federation 2013b.

When compared, modal splits between rail freight services and trucks are expected shift significantly from 2005 to 2050. For OECD countries, rail shares are expected to decrease from 60 to 46 per cent for North American countries; 14 to 10 per cent in European countries; and 28 to 19 per cent in the Pacific countries. Rail shares are expected to decrease from 75 to 44 per cent in China and 16 to 8 per cent in Latin America.[49]

The World Bank has argued that an endogenous cause for the reduced share of railways services in the transport market was the "inability of the sector to adapt itself to the changing conditions of its economic environment".[50] Although railways companies were heavily subsidized with public funds, they experienced increasing losses. Simultaneously, governments have been under pressure to cut spending. As a result, the railways sector in many countries has concluded or is still involved in restructuring and privatization processes.

At the regional level, European rail freight services have seen a decline caused by:

- competition from road haulage;
- long delivery times, due to priority being given to passenger transport;
- complicated formalities; and
- cross-border differences in infrastructure and staffing.

Rail freight's share of total land freight transport in the EU-27 fell from 19.7 per cent in 2000 to 16.5 per cent in 2009, particularly in new member states.[51] In a majority of countries, the share of passenger transport by rail increased slightly between 1998 and 2008. The beginning of the economic crisis in 2008–09 had a worse impact on freight than on passenger transport.[52] While there are no clear trends at the country level, according to available Eurostat data, freight transport at the European level decreased by 31.3 per cent during the crisis, whereas passenger transport increased by 1 per cent.[53] Implementation of EU legislation at national level has led to state monopolies being transformed into state-owned holding companies. However, several EU Member States have not yet implemented the EU requirements.[54]

Examples of renationalization also exist. In Estonia, the state-owned Eesti Raudtee was first privatized in 2001, when it was sold to an American company. However, when Estonia joined the EU, privatized railways systems meant that the sector would not be eligible for EU infrastructure funds. This potential public investment was deemed crucial for Estonia's railways. Thus, in 2006, the government decided to renationalize, and repurchased the railways in 2007.[55] In 2009, Estonian railways were reorganized into two companies.[56] Another case of renationalization is KiwiRail in New Zealand, which was initially privatized in 1993, but purchased back by the government in 2008.

Most railway companies in Eastern Europe, the CIS region and Central Asia remain national monopolies, although some reforms and restructurings have taken place. In countries from the CIS region, freight transport is more prevalent than passenger transport. Furthermore, the modal share of rail in freight transport in the region is greater than in Western Europe.[57] Despite the importance of railways for the CIS region's economy, significant

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[49] OECD 2013.

[50] Campos and Cantos 1999.

[51] Traxler and Adam, 2008.

[52] Ibid.

[53] Ibid.

[54] Ibid.

[55] EPSU 2014.

[56] Traxler, and Adam 2008.

[57] Friebel et al. 2007.

investment and funding are lacking. The sector is highly unionized in the region. In some cases, governments have lacked funding for severance payments and for other restructuring mitigation mechanisms and measures.[58]

In the Russian Federation, railways are owned and operated by the state-owned company RZD. The company was created in 2003 when railway operations were separated from the Ministry of Transport.[59] The Russian Federation's location across Europe and Asia is strategic for freight transit and corridors. The country is investing to improve railway linkages between east and west,[60] and attaches great importance to neighbouring countries projects.[61]

In the case of Latin America, most countries experienced a decline in rail modal share during the second half of the twentieth century. In the early 1990s, rail transport, primarily freight, was widely privatized. All the major railway networks in the region were concessioned. Thus, the state retains ownership of the railway infrastructure, with operation and management franchised on a regional, line or case-by-case basis.[62] Thompson notes that in Latin America, PSP programmes in the railways sector were part of a larger trend to increase the role of private investment in the delivery of all types of services.[63] The countries in the region with the most extensive railway networks are Brazil, Mexico and Argentina. Argentina was the first to start concessioning.[64]

In absolute terms, China has experienced the greatest growth. Intermodal transport being crucial to China's economy, the country has also invested in high-speed technology in railways and rail transport linkages, both domestically and to the west.[65] The Ministry of Railways was disestablished in March 2013: the Ministry of Communications took over the planning and policy functions. Other administrative functions are now responsibility of the State Railways Administration, and commercial operations are now run by China Railways Corporation (CRC).[66]

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58 Ibid.
59 RZD 2014.
60 ESCAP 2011.
61 UNECE 2014.
62 Sharp 2005.
63 Thompson 2003.
64 Sharp 2005.
65 ESCAP 2011.
66   Qi and Yang 2013.

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Box 5: Indian Railways' workforce

Indian Railways (IR) is the third largest railway network in the world. It transports 2.65 million tonnes of freight traffic, 23 million passengers every day and 7.2 billion passengers per year. It currently has 1.36 million employees and is one of the largest employers in the world. IR is a vertically integrated government body managed by the Indian Railway Board, under the Ministry of Railways, and consists of 16 zonal railway authorities, production units that manufacture rolling stock, and other services. IR is also a major player and operator in urban transport in India, and also owns and manages facilities for staff, such as hospitals, schools and housing. Some publicly owned corporation entities have also been established, for example CONCOR in containerized cargo transport by rail. The railways sector accounts for approximately 40 per cent of freight and 20 per cent of passenger transport. The railways sector plays an important role in increasing transport access for lower-income Indians. Since fares for passenger transport have been kept low, the revenue from freight transport subsidizes passenger transport.

In the mid-2000s, the financial performance of IR improved significantly, mostly due to traffic growth spurred by economic growth, and increased capacity. Employment reduction also played a role. In 2003, the report of an expert group (the "Mohan report") examined the organization of IR and suggested restructuring, including the balancing of tariffs between freight and passenger transport, a major investment programme in order to increase traffic, organizational restructuring and corporatization, and separation of policy-setting, regulatory and operational functions. Despite the suggestions by the expert group, later endorsed by the international financial institutions, no broad-scale restructuring has yet taken place in the railways sector in India. The possibility of PSP has been included in the five-year development plans. Public–private partnerships have started to play a role, mainly in infrastructure development. In addition, since 2007, container transport by rail (around 2 per cent of all rail freight transport) has been organized through concessions to private operators.

The employees of IR are public servants. Employment declined from 1.6 million in the early 1990s to 1.32 million in 2011. Between 2010 and 2011, the number of employees decreased by 33,932. IR's *Vision 2020* anticipates a reduction in employment of 1 per cent per annum. Staff costs and pensions represent over 52 per cent of the total cost of IR. Overall, in the transport sector and infrastructure development in India, where there are both public and private companies operating in the same sector, differences in salaries have been increasing significantly. The level of mechanization in IR remains low, with most employees characterized as low-skilled or single-skilled. IR employees are classified into four categories, A to D, from highly skilled and administration workers to low-skilled staff. IR's modernization plan of 2012 highlighted the need to increase the level of training of staff. Despite improvement during past decades, accidents and safety remain an issue in the Indian railways sector.

Sources: Government of India 2012, IR 2013, Mukherjee and Sachdeva 2004, World Bank 2011, Government of India 2009a and 2009b, Mohan 2003.

In the case of Japan, the Japanese National Railway (JR) was reformed by the model of horizontal separation, in which the passenger sector is vertically integrated and the freight sector accesses the passenger company's infrastructure.[67] It is important to note that similar to the UK, Japan's passenger railways services are more prevalent than freight. In 1987, JR was reformed and split into six passenger companies and one freight company (JR-Freight). In this case, an unprofitable freight division was separated from a profitable passenger division to end cross-subsidies.[68]

In the African continent, railways have not played a significant role in the economy, with the exception of South Africa.[69] In South Africa, freight railways are operated by a subsidiary of the government-owned transport corporation (Transnet), Transnet Freight. Passenger operations are managed by the Passenger Rail Agency of South Africa (PRASA). Transnet freight employs approximately 25,000 rail workers and PRASA approximately 16,000.

The railways sector in Africa is fragmented, and there is need for infrastructure renewal and maintenance. However, rail density is low. Freight transport is generally more common than passenger transport. The only urban transport networks currently in function are in South Africa and Senegal. Most investments in the railways sector come from bilateral and multilateral donors promoting concessions (i.e., the World Bank Group, and the African Development Bank).

Thirty African countries have publicly owned railways, with 14 using concession arrangements, and one operating under a management contract.[70] Four countries have begun privatizing. Countries in Central, East and West Africa with concession arrangements with private foreign companies usually do not include vertical separation.

Generally, the regulatory framework for railways on the continent has been weak. Challenges encountered in the concessioning process have resulted in a significant reduction in the workforce.[71] Other characteristics of labour in the railways sector in Africa are low wages, low mechanization, and difficulties in recruiting and retaining skilled staff.[72] The African railway conference of the International Transport Workers' Federation (ITF) held in February 2013 determined that its affiliated unions would continue fighting against the fragmentation and restructuring of the sector in Africa.[73]

The ILO sectoral meetings on public services held in 1998, 2001 and 2003 – excluding education and health services – concluded that reform processes can only be sustainable if planned, implemented and monitored through social dialogue. "If the reform of public services is considered a social change process, the management of transition is critical for effective change strategies."[74]

Social dialogue should be an inclusive process, not an exclusive one.[75] As documented by this section, until fairly recently, in many countries, government was the sole employer of staff working in the railway services. A continuing trend of private sector participation in providing railway services is being increasingly recognized. Social dialogue and/or cooperation

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[67] Kurosaki and Kawata 2013.

[68] Ibid.

[69] Bullock and Gwilliam 2010.

[70] Ibid.

[71] Ibid.

[72] Ibid.

[73] ITF 2013a.

[74] Ratnam, and Tomoda 2005.

[75] Ibid.

regarding public services in general and railways in particular are in some cases no longer confined to traditional social partners. Such dialogue and cooperation mechanisms may now in some cases involve other social groups or actors in civil society – including consumers, community groups, NGOs. The latter are becoming important in making services accountable and more responsive with respect to the aspirations of citizens and communities.

☑ Checklist

- ❖ What changes have impacted the railways sector in your country in the last 20 years? Have rail infrastructure/operations been restructured and/or privatized? If so, how was the sector restructured or privatized?

- ❖ Identify the main parties to social dialogue – who represents the workforce, the infrastructure management and operations?

- ❖ Are public or private entities responsible for hiring staff? Are these different from infrastructure owners and operators?

- ❖ What is the applicable regulation to railway workers?

- ❖ What have been or could be the impacts of restructuring/privatization processes on the workforce?

- ❖ What measures/processes do you think could provide a smoother transition for imminent restructuring/privatization schemes?

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5.3 Technological developments

Technological developments in the railways industry have focused on reliability, maintenance, speed and safety. However, introduction of labour-saving technological changes often generate concern for workers and job security.[76] Unions have generally resisted technological developments because they have historically had a negative impact on employment.

The demands on quality and capacity have increased in the railway sector, leading to more trains and higher travelling speeds with heavier axle loads. Heavier, wider and longer trains running on the railway results in higher degradation of railway assets, and consequently higher maintenance needs and costs. Long-time functional life-span is one important aspect of railway infrastructure, which is highly dependent on the maintenance and renewal strategy used during its life cycle.[77] Table 7 summarizes thematically some of the most relevant technological changes impacting the railways sector, and their effect on labour.

Currently, the trend towards higher-speed networks and trains continues. Intelligent transport, high-speed train technology, international expansion, planning seamless travel patterns, and new traffic management systems require new and more-specialized skills.

In Europe, the ETF and its Italian affiliate carried out a study on the social impact of the European Rail Traffic Management System (ERTMS) -- a railway signalling and traffic management system created to ensure uniform standards and interoperability in the European rail market. The ERTMS primarily affects the work of train drivers, traffic controllers and rolling stock maintenance staff through reorganization of their work, requiring better communication skills, and new, specialized technology competencies.[78] These factors may increase workers' feelings of insecurity and other health and psychosocial risks.

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[76] Schwarz-Miller and Talley 2002.
[77] Azmoudeh and Saury 2011
[78] Assist Project EU 2013.

Table 7. Relevant technological developments and their impact on labour

	Asset involved	Technological development	Labour implication
Means of transport	Locomotive	Diesel / electric locomotive; increased fuel efficiency.	Fewer but higher-skilled crew required for running and maintaining the locomotive (i.e., firemen and boilermakers no longer used); additional training to achieve higher fuel-efficiency.
		Improved horse-power and adhesion/ traction.	Fewer locomotives and crew needed to haul the same amount; longer, faster, heavier trains.
		Locomotive micro-processor technology.	Allows possibility to schedule maintenance and repairs, potentially creating more predictable maintenance patterns.
		Higher and high speed rail.	Fewer but higher-skilled employees needed.
	Car	Larger, more specialized freight cars / use of container / double-stacking technology.	Fewer cars; yard and repair crew has decreased to haul the same tonnage.
Infrastructure		New maintenance techniques develop quickly – although inspection is labour-intensive, technology to detect maintenance issues has also developed.	In the beginning, heavier trains resulted in higher track maintenance costs. Currently, fewer but higher-skilled maintenance crew required.
	Track	Improved choice of materials; steel on rails, improved techniques to choose wood or concrete sleepers, joint reduction.	Fewer but higher-skilled maintenance crew required.
		Increased mechanization of track-laying techniques.	Fewer but higher-skilled employees needed to handle machines.
		Labour-intensive visual inspection is currently conducted to forecast future maintenance / repair needs. Tools are currently under development to reduce labour costs.	Fewer but higher-skilled employees needed to interpret artificial intelligence technology and tool data.
	Catenary systems	Electric-powered trains.	Fewer but higher-skilled employees needed.
	Signalling system/ traffic control / positive train control	Track efficiencies achieved, improved infrastructure capacity monitoring.	Potentially increased safety for rail workers; maintenance, dispatching and switching staff decreased.

Information technology	Asset involved	Technological development	Labour implication
	Scheduling / software tools	Maintenance and gang (group of workers) scheduling, reduced size of gangs and condensed windows of service.	Little margin for rescheduling, as specific sequences are assigned to groups of workers over a limited time horizon.
	Electronic cargo data	Waybill and cargo data electronically processed.	Fewer clerks required to process operations.
	Electronic ticketing	Electronic ticketing offices and electronic applications for passenger rail users to purchase their tickets.	Fewer clerks required to process sales.

Sources: Schwarz-Miller; Talley 2002; ILO 1991; Mohammad 2008; Gil 1986; Community of European Railway and Infrastructure Companies (CER) undated.

33

☑ Checklist

❖ What technological developments have impacted the railways sector in your country?

❖ What have been the main labour negotiations regarding the implementation of these changes?

❖ What changes can be foreseen that might impact staff numbers in the future?

❖ What preventive measures can be taken to retrain staff to fit new operations/technological demands?

❖ Identify new ways of mainstreaming social dialogue to address issues related to the changing nature of work.

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5.4   Environmental developments

Railway track, vehicle design and train configuration all have an impact on environmental factors. Railway companies and operators have been testing and implementing operational strategies that will have progressively greater impact on network capacity and fuel-efficiency. Additional training and incentive programmes and technology tools have targeted eco-driving.

Box 6: Operational strategy - Adapting driver behaviour

In response to environmental and economic pressures, operators have invested in applying and experimenting with eco-driving (energy-efficient driving techniques). However, eco-driving is about more than environmental benefits and cost-savings: *the focus on the driving task and on how it relates to broader company and industry sustainability goals means that it is increasingly treated as a core part of professional driving*. Currently, several European and US rail companies have implemented these techniques and developed/purchased technology tools to enable drivers to change driving-behaviour patterns.

A study conducted by the UK's Rail Safety and Standards Board (RSSB) identifies best practices collected by different types of passenger and freight rail companies operating in the UK. The document includes case studies of policies and strategies implemented by DB Schenker, First ScotRail, London Midland, Northern, Southeastern, National Express East Anglia, and Virgin Trains.

In the case of Sweden, mining company LKAB has also launched a programme experimenting with heavier and longer trains and technology, using the computer-aided train operation (Cato) system, which provides guidance to railway drivers about reducing energy consumption. The Cato driver advisory system uses radio communication to transmit operational parameters (i.e., operational timetable and train status information in real-time between the control centre and the train). The advisories displayed on the driver interface in the cab enable the drivers to keep to the operational timetable with very high precision while reducing energy consumption.

In 2010, Canadian National (CN) launched the Fuel Management Excellence (FMX) program, which focuses on measuring the amount of diesel going into each locomotive and the number of gross ton miles per litre of fuel per train. Since 2006, CN had installed telemetry systems tracking driver behaviour and implementation of fuel management instructions. In 2009, the company implemented a Horsepower Per Ton Analyser. The analyser, now part of the FMX program, takes into consideration horsepower tonnage and the amount of power on locomotives to ensure the railroad is not using more power than needed.

These operational strategies have promoted close collaboration between employers and employees – implementation has often been translated in the selection of one or several drivers and employees (peer educators) to test and train colleagues to improve fuel consumption patterns in rail companies and operators.

Sources: RSSB 2011, Joborn 2012, Cotey 2012.

35

Increasing international commitments to reduce environmental pollution have renewed interest in the railways sector. [79] From an environmental perspective, railway transport can represent a cleaner alternative to other modes of transport and an opportunity to create "green jobs". Green jobs can be defined as "decent jobs that contribute to preserving and restoring the environment. Green jobs reduce consumption of energy and raw materials; limit greenhouse gas emissions; minimize waste and pollution; protect and restore ecosystems; and enable enterprises and communities to adapt to climate change." [80]

In a report on sustainable transport, the UNECE and the World Health Organization emphasized that the transition to greener and healthier transport modes not only shifts numbers of jobs from one type to another, but also creates new job profiles.[81] The report mentions that the transition to lower carbon transport systems can have different impacts on the workforce. These can include creation of additional jobs, adaptation of existing jobs to make them greener, substitution of jobs, and elimination of jobs.

In the railways arena, one of the factors that can fuel such transition, and potentially positive workforce impacts, are policy-induced modal shifts. These shifts seek to promote the use of railways networks vis-à-vis road infrastructure or air transport. For example, according to the UIC[82] and the US Department of Energy[83], regulatory actions can influence shifting freight traffic from trucks to trains. Some of these policies, which have been implemented recently in the EU, include:[84]

- modification of truck size and weight limits;
- increased taxes on fuels;
- regulation or pricing of greenhouse gas emissions;
- expanding the use of direct-user fees;
- public investment in rail corridors;
- modification of driver hours, commercial vehicle hours, or distances; and
- regulation of freight rates.

In the case of passenger transport, scenarios of workforce and employment variations as a consequence of policy-induced modal shifts have been documented in different studies.[85] For example, the United Nations Environment Programme (UNEP) found that improved energy efficiency across all transport modes combined with modal shift would increase employment by about 10 per cent above business-as-usual by 2050. However, no specific studies on employment impacts were found specifically detailing assumptions for modal shifts and their impacts on railway networks for passenger or freight services. Passenger mobility initiatives, such as the E-Cosmos at the EU level, have made information available on public policies and guidelines to enable social partners to negotiate for safe access to workplaces. [86] In addition, online tools, such as EcoPassenger, can provide data to decision-makers and increase the public's awareness on their travelling patterns' environmental footprint. [87]

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[79] For example, *"sustainable transport systems for all"* has been included as an indicator of Sustainable Development Goal 11.

[80] ILO 2013b.

[81] WHO 2011.

[82] den Boer et al. 2011.

[83] Brogan et al. 2013.

[84] Ibid.

[85] UNEP 2011; World Wide Fund for Nature 2009; UNEP 2008.

[86] European Commission 2010b.

[87] UIC undated.

☑ Checklist

- ❖ How have environmental, sustainability and efficiency principles impacted your day-to-day activities? What new skills and training programmes have been developed as a result?

- ❖ Have policies promoting railway transport usage been implemented in your country?

- ❖ How would a "green job" definition fit your day-to-day activities (or those of others in your company)?

- ❖ Has the staff increased in numbers, changed in purpose or been reduced because of environmental programmes or policies?

- ❖ Identify new ways of mainstreaming social dialogue to promote environmental and sustainable principles.

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37

5.5   Safety developments

Accidents and derailments in the past 20 years have raised concerns about the link between deregulation and privatization of the industry and the implementation of adequate safety and operational parameters. Safety risks associated with railway operations may not only injure employees but also passengers, pedestrians or road drivers. Derailments and collisions are the most characteristic railway risks in the mind of the public at large.[88] These can happen at at-grade crossings (level crossings), on railway property or tracks and on passenger or freight services.[89]

With regard to workforce re-organization, deregulation has redefined the roles of employees. Providing additional training to staff who might be new or unfamiliar with safety issues is crucial to avoid further incidents that might not only involve workers but also third parties. Deregulation and privatization should provide an opportunity to improve the safety culture within that railway service, by opening up possibilities to surpass the former operator or state agency.[90] Regulatory bodies and frameworks should be strengthened to ensure the safety of workers and the general public.

Divergent views exist regarding the link between safety and deregulation. On the one hand, a recently published OECD report[91] includes a literature review of selected studies analysing the link between deregulation and privatization, and its impact on safety. The study found that the available documents and data show no evidence that railways restructuring has had an adverse effect on safety.[92] The OECD report also includes a comparative overview of regulatory frameworks in different countries related to railway safety.

Box 7: Deregulation hand-in-hand with an improved safety framework

The US railway industry primarily serves freight customers, with the exception of long-distance passenger service that is provided by the National Railroad Passenger Corporation ("Amtrak"), and commuter operations around the largest cities. All railway services are vertically integrated in the US. The country's regulatory framework provides the opportunity for railway companies to negotiate trackage rights to operate over the lines of neighbouring companies. However, there is no legal requirement to provide open access to competitive train operators. Railway companies own their right-of-way, and pay taxes to the government for that property.

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[88] Bier et al. 2001.

[89] Ibid.

[90] Tungland 2004.

[91] OECD-ITF 2010.

[92] OECD-ITF 2010.

US rail regulatory reforms documents have included the:

- *1970 Rail Passenger Service Act -* which created the publicly owned Amtrak to take over almost all long-distance passenger services (currently operates with heavy subsidies).
- *1970 Federal Railroad Safety Act –* which strengthened the Federal Railroad Administration (FRA)'s mandate for safety.
- *1973 Regional Rail Reorganization Act –* which nationalized the bankrupt Penn Central system in the Northeast to form the publicly owned Consolidated Rail Corporation ("Conrail"). Conrail was returned to the private sector in 1987 by offering its shares to the public and raising $1.65 billion in the process.
- *1976 Railroad Revitalization and Regulatory Reform Act* ("the 4R Act") - which exempted some commodities from regulation, and made the abandonment of uneconomic branches lines easier.
- *1980 Staggers Act -* which exempted further commodities from regulation and loosened price regulation. Private contracts between railroads and shippers were permitted.

Since deregulation, infrastructure has been renewed, costs have fallen, and many secondary and branch lines have been sold off to short-line companies. The lack of controlled pricing has allowed railway companies to enter into more agreements with shippers. Unlike in Europe, where there has been popular concern that deregulation has caused safety problems, Savage (2003) indicates that in the United States, accidents were more prevalent *before* deregulation. Financial difficulties borne by the industry led to track and capital stock disinvestment.

Created in 1966, the FRA was in 1970 given rulemaking authority to "promote safety in all areas of railroad operations." The FRA's first order of business was to set up a committee to decide on recommended track standards. Detailed engineering specifications were then issued. The FRA focuses also on regulating railway car crashworthiness and best methods of collision avoidance. The administration has powers to hire track inspectors to enforce these standards, and assess penalties for non-compliant companies. In addition, the agency distributes federal monies on a competitive basis to certain railway projects, and has a research branch. At the state level, the department of transport's rail divisions also oversee rail safety matters within their jurisdiction.

Source: Savage 2003

On the other hand, academic,[93] governmental,[94] and union[95] documents include data or testimonies that link deregulation processes with decreased safety and an increased number of work-related accidents. Concerns regarding safety in cases of deregulation include (i) weak or non-existing safety authorities to supervise the growing number of railway companies, (ii) subcontracting or non-standard forms of work for safety-related jobs, including several layers of subcontracting, (iii) insufficient training and job experience for the remaining workforce, and (iv) lack of regulation, control and enforcement of working-time and rest-time regulations.

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[93] Leach and Berman 2012, Muttram 2003.
[94] Government of New Zealand 2000
[95] ITF 2014.

Box 8: New Zealand's OSH Inquiry and railway repurchase

From 1863 to 1953, New Zealand's rail witnessed growth and expansion. During this period, rail was the key infrastructure for this country. It opened up the country to settlement, transported goods, moved people and provided a lifeline for remote communities. It became the country's biggest employer. Starting in 1953 and up to 1983, the sector was insulated through heavy regulation, protecting its operations from road and air transport that had become serious competitors. From 1983 to 2000, reforms were carried out to allow for PSP in the sector:

- *1983-1993 - Deregulation and preparation for sale:* in 1983 the regulations protecting rail were removed, and plans were formulated to ready the state-owned service for sale. Extensive social and economic reform took place, including corporatization and privatization of Government assets. Staff numbers were cut from 20,000 to 5,000 approximately. In 1992, a new regulation was passed excluding rail employees from coverage under the Health and Safety in Employment Act (1992). This put workers in a position where they did not have the same health and safety standards that other workplaces did, as rail workers were exempted from these legal protections.

- *1993-2000 - Private ownership:* in 1993 New Zealand Rail Ltd was sold to private stakeholders. Governance structures responsible for rail safety changed. Worker numbers were further cut to reach an all-time low in 1999. During this time, there were repeated attempts by the union to access Tranz Rail's safety system. From 1995 to 2000, 11 Tranz Rail workers were killed in job-related accidents, of which 5 occurred in 1999-2000.

- *2000 The Tranz Rail Inquiry:* a governmental Inquiry analysed Tranz Rail's health and safety system. The inquiry sought to examine the factors that contributed to the poor safety record to suggest possible changes. The report's key recommendations called for the inclusion of Tranz Rail's workers in the coverage of the Health and Safety in Employment Act. In addition, it suggested the publication of Tranz Rail's approved safety systems. The report changed health and safety within Tranz Rail, and fostered a commitment by the union and Tranz Rail to work together on health and safety issues.

- *2000 to date:* after the Tranz Rail inquiry, and the exit of private shareholders, safety improved as did employer-union cooperation. In the first 12 months following the Inquiry, the union and Tranz Rail achieved a 40 per cent reduction in lost time injuries*, a 30 per cent decrease in injury severity and a reduction in operating incidents such as derailments. Rail workers were included in the coverage of the Health and Safety in Employment Act. The Government moved to reacquire rail: first the infrastructure and later the operations. Governance structures first passed in 2003 to Toll NZ Ltd, and thereafter in 2008 to the re-named KiwiRail.

Source: Government of New Zealand 2000, Armstrong undated, Armstrong 2012 and Armstrong 2013.* A lost-time injury can be defined as an occurrence that resulted in a fatality, permanent disability or time lost from work of one day/shift or more (Commonwealth of Australia, 1990).

In each situation, it is first important to assess the fact and number data with regard to each safety incident, its severity and consequences. Data on the safety programmes implemented by the operator should also be available to the public and to the unions, providing insight to evaluate possible flaws and redress them. Creating a culture of compliance and commitment to reduce exposure to risk is of paramount importance for a safer workplace and for the travelling public.

☑ Checklist

❖ Obtain applicable historical and recent data on collisions, crashes and derailments and answer the following questions:

- Has the incidence of accidents increased or decreased over time? Can a specific incident potentially be related to an ownership change in the structure?
- What safety regulations are mandatory in your country? What are the minimum policies an operator, agency or corporation should be applying? Are these being enforced?
- In case of structural change, is the operator investing in training programmes to educate employees on safety issues and concerns?
- What are the productivity expectations? Have these increased? Are these feasible?
- What approach is being implemented regarding employees' non-compliance with safety standards? Is it being implemented by the employer, the union(s) or others?

❖ Identify new ways of mainstreaming social dialogue to address safety concerns.

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41

6. Selected social dialogue topics

Social dialogue should be part of regular labour relations and corporate human resource management policies. Therefore, most, if not all, issues related to the operation of the organization could be on the agenda for social dialogue. This section introduces possible topics for discussion, including, working conditions, OSH, staff development and training, and gender equality. These selected issues are not intended to represent all available topics subject to social dialogue.

6.1   Working conditions

Regulation regarding working hours limits, overtime hours and remuneration, annual leave and social protection will vary from country to country. Labour reform is inherent within broader railways restructuring and privatization. Most structural adjustment programmes in the railways sector have resulted in reductions in employment and significant changes in the terms and conditions of employment. Unfortunately and despite its importance, labour has sometimes been an issue that has been forgotten or given delayed consideration in case of some privatizations.

To ensure respect for the fundamental principles and rights at work,[96] social dialogue should also address questions of employment security, fair remuneration, training and development, health and safety, equality of opportunity, the avoidance of any form of discrimination, and work–life balance. Social dialogue cannot guarantee labour peace and cooperative relationships between the social partners, but it can allay workers' fears of uncertainty.

6.2   Training

The issue of training has been addressed through social dialogue.[97] Greater internationalization and cross-border mobility of workers have created new challenges for training staff. For example, legislation regarding the certification of train drivers has been harmonized in the EU. The European Commission's sectoral social dialogue committee on railways has agreed on a *European licence for drivers carrying out a cross-border interoperability service.* A study commissioned in 2002 by the EU Commission analysing the training and staff requirements in cross-border operations concluded that there was a need for a common training approach and harmonized minimum requirements for staff involved in cross-border operations.[98] In the EU, differences in the training of staff is one of the issues related to the formation of a common railways market. Specific national training requirements result in local recruitment. Thus, harmonization of minimum requirements for staff in cross-border operations has been recommended.[99]

In many countries with state-owned railway companies, training was traditionally organized by the national monopoly-holder through its own training centre. After restructuring, equal opportunities and access to training should be addressed, through the establishment of

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[96]   ILO 1998.

[97]   Traxler and Adam 2008.

[98]   Danish Technological Institute et al. 2007.

[99]   Olsen et al. 2002.

national railways training facilities,[100] or company-based training programmes. Technological developments, such as the ERTMS, positive train control systems or intelligent systems, create new professional requirements and job profiles requiring specific skills.[101]

The FRA,[102] stakeholders in Australia[103] and the EU[104] have been studying how workforce composition and structures will change in the future. They have found that the workforce in the railways sector is ageing, and a large number of employees will need to be recruited in the future. Governments and operators that have foreseen a shortage in the railways workforce are trying to market the sector as an attractive alternative, with training possibilities for new recruits. Sector attractiveness varies depending on working conditions, training possibilities, employment stability, and perceived sustainability of the industry. [105]

6.3   Occupational safety and health

Different categories of work in the railways sector involve a wide range of OSH risks. Health and safety issues may affect workers, passengers, and the wider community in the case of transporting dangerous goods. Transport workers in general are more exposed to vibration, heavy lifting, repetitive movements, loud noise, and dangerous substances than other workers.

Transport workers report high rates of musculoskeletal disorders, stress, asbestos-related disorders, hearing loss and infectious diseases. The prevalence of occupational accidents and fatigue is higher than in other fields. In addition, a significant proportion of transport workers are approaching retirement age, posing additional demands for particular OSH considerations.[106] The following risks specific to the railways sector have been identified by a recent study:[107]

➔ work organization changes and outsourcing leading to increased workload, including lone work;
➔ working time issues, shift work and weekend work;
➔ increasing long-distance transport;
➔ ergonomics and workplace design; and
➔ climatic conditions.

[100] Liikenne- ja viestintäministeriö [Finnish Ministry of Transport and Communication] 2010.
[101] Danish Technological Institute et al. 2007; Giaccone and Pomposiello 2011.
[102] For example, FRA's Workforce Development Initiative.
[103] Australasian Railway Association 2006.
[104] European Academy for Environmentally Friendly Transport GmbH 2013.
[105] Traxler and Adam 2008.
[106] UK ORR 2011.
[107] European Agency for Safety and Health at Work 2011.

43

In the EU, several initiatives have been implemented to improve OSH for workers, including longer recovery time for night shift workers (Sweden), prevention of work injuries and stress, and improving life quality at work (France), support of healthy lifestyles (Austria and Estonia), and initiatives around the issue of drugs and alcohol (Ireland). In Slovakia, an investigative committee for occupational accidents in railways was established by a provision in the collective agreement. In Spain, bipartite bodies for safety issues and psychological risk assessment have been established.[108]

Social dialogue at the EU level has addressed the issue through a project that resulted in a good practice guide, *Promoting security and the feeling of security vis-à-vis third-party violence in the European railway sector*.[109] The guide provides suggestions on how the issue could be addressed through policies and in collective bargaining agreements at the local, company, sectoral and European levels.

Third-party violence is also a significant OSH issue in the railways sector. In 2003, an ILO working paper addressed the issue of violence and stress at work in the transport sector, where, according to data from several countries, the number of incidents of violence has been rising and many more incidents remain unreported.[110] Preventive measures could include legislation and implementation, social security and compensation, and training and proper reporting procedures.

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[108] Traxler and Adam 2008.

[109] European Academy for Environmentally Friendly Transport GmbH (EVA) 2013. The good practice guide defines security and the feeling of insecurity as follows: "Insecurity is understood as the opposite of security, i.e. a situation potentially dangerous to a person's health or dignity. A feeling of insecurity arises on account of subjective aspects, in situations where certain incidents or occurrences are expected."

[110] Essenberg 2003.

In the UK, railway workers report more work-related ill-health than do workers in other sectors in transport and storage, or construction. The UK Office of Rail Regulation (ORR) has identified the following risks related to the effect of work on health (and the groups of workers exposed to the risks): musculoskeletal disorders, stress (including trauma from suicides, verbal & physical assaults, workplace violence,, shift work), vibration, noise, substances hazardous to health (including lead, asbestos), and microbial hazards. In addition, issues related to health at work include: obesity and high blood pressure, fatigue and sleep disorders, hypertension, cardiovascular diseases, and back pain. The ORR's 2010-2014 programme to promote occupational health in the sector aimed to incorporate OSH in the organizational cultures of railway companies, promote awareness and spread information on best practices, encourage the industry to take the lead and be proactive on issues of health at work, and improve occupational health regulation by the ORR. The programme mentions trade unions as stakeholders with whom to coordinate actions.[111]

On an international scale, UIC OSH Group has developed guidance on the following matters: high visibility clothing and personal protective equipment for track workers; safety of persons working near railway lines; managing safety risks related to the influence of alcohol, drugs or psychoactive medication; safe use of portable communication devices by railway workers; and management of distressing events and prevention of post-traumatic stress. Its ongoing work includes analysis of occupational accidents typical in the railways sector, examination and adaptation of technical directives on OSH, and collaboration on human resources and occupational medicine.[112]

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[111] ORR undated; ORR 2011.
[112] UIC 2012.

With regard to HIV/AIDS, limited research has been done on the incidence of HIV/AIDS among railway workers and the factors contributing to its transmission through railroad sector employees, passengers and the effect on the general population as a whole.[113] However, as is the case with road transport employees, railway employees are especially mobile, putting train crews and workers at risk of contracting this disease. Railways constitute a vector of migration and can potentially facilitate cross-border spread of HIV/AIDS among passengers, but also among populations that interact through the social networks created near train stations (i.e., ambulatory vendors, porters, food sellers, commercial sex workers, mechanics, and others).[114]

In 2009, the World Bank published a Synthesis of Experience and Best Practice Guidelines that provides numerous examples and policies implemented by different transport sectors and operators to tackle the spread of HIV/AIDS.[115] The Guidelines also includes a summary of the national HIV/AIDS frameworks per country and strategies used specifically in the transport sector.

Box 11: Tackling the HIV/AIDS epidemic in India

Indian Railways alone is the world's third largest employer. Its mobile workforce can be susceptible to being exposed to the virus. The rail agency has tackled the epidemic through:

➔ Awareness campaigns and treatment policies in the railway industry. For example, Indian Railways, along with UN agencies, non-governmental organizations (NGOs), and India's National AIDS Control Organization (NACO), collaborated on an AIDS awareness campaign between 2002 and 2006. The campaign targeted 25,000 employees of its south-central branch, which is located in a region identified by NACO as having a higher prevalence rate.

➔ Providing infrastructure of housing, services and facilities for its staff. These facilities are used as means of communication with its employees about HIV/AIDS risks and prevention techniques.

➔ Offering 50 per cent fare concessions to people living with HIV/AIDS in the country to facilitate their travel to the NACO's antiretroviral treatment facilities, which offer subsidized treatment at 127 locations.

➔ Co-organizing an exhibition called the Red Ribbon Express, together with the NACO, the Rajiv Gandhi Foundation and the Nehru Yuva Kendra to create awareness of HIV/AIDS all over the country. The initiative has ten coaches, of which five are open for public viewing. Three coaches have an exhibition on HIV/AIDS, one for holding training sessions and the last one for providing voluntary testing and counselling to the public. The Red Ribbon Express is scheduled to stop at 180 stations throughout the country, including 19 in Tamil Nadu and will cover a distance of 9,000 km. The exhibition will cover 50,000 villages and potentially benefit 70 million people, including 10 million people in 5,000 villages in Tamil Nadu.

Source: World Bank 2009

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[113] World Bank 2009.
[114] World Bank 2009.
[115] World Bank 2009.

6.4   Structural change

When labour is excluded from the decision-making process of major organizational change, there is a danger of creating an environment of mistrust between the social partners that could cause hostility and jeopardize future railways operations.

Mechanisms for workforce reduction such as natural wastage, early retirement, and voluntary severance can be included on the agenda for social dialogue. Table 8 summarizes the most common mechanisms used for workforce restructuring. However, not all restructuring processes only mean downsizing, but also redefinition of the work itself. Liberalization has increased subcontracting and outsourcing of activities of the national railway companies and, in addition to job losses, this has had implications on working time, working location, defining specific working tasks, wages and company benefits, and participation in training.

The experience of each restructuring and privatization process has been different, depending on implementation, dialogue and mechanisms used. In Latin America and Africa, concessions have been the most common form of privatizing. Governments initially implemented a mix between soft options and attractive programmes to restructure labour. In these cases, most of the concerns have focused on whether the government would be able to honour programme commitments. A second labour restructuring occurred when private operators re-evaluated workforce structure and redefined functions. Most of remaining workers at this stage remained unionized and part of collective agreements. In some cases, they were reported to earn more, although the productivity levels and functions expected from them have also changed.

> **Box 12: Railway labour reform in Brazil**
>
> In Brazil, plans for privatization of the government-owned Federal Railroad Network (RFFSA) were introduced in the 1990s. In January 1995, before the restructuring process started, RFFSA employed 42,000 workers. In three years, after implementing a labour redundancy programme, the company cut 18,000 jobs, including 4,000 voluntary departures. The World Bank provided financial assistance to carry out the restructuring processes, including the workforce reduction before privatizing. This strategy was used to address social concerns related to lay-offs, and to prevent later conflicts between private operators and the unions.
>
> The workers in the RFFSA, on average, were either low skilled or highly specialized, older than those in the general labour market, and earned 30 per cent more than the average worker. The incentive programmes offered by RFFSA included early retirement and voluntary separation, training programmes, assistance to facilitate re-employment, and severance payments. When concessions were awarded, labour had been reduced by half. Private operators further reduced the workforce again by half; 11,000 workers remained after the process was complete.
>
> *Source: Estache et al. 2000, Martin and Micoud 2002, World Bank 2004*

Table 8. Most common workforce restructuring mechanisms

Restructuring options	General programmes	Specific measures
First level: SOFT OPTIONS → easier mechanism to implement → sends message that there is the intention to tackle workforce restructuring in a manner that can provide space for dialogue → achieves progress, although slower → tests political commitment	Enforcing existing rules	Manage payroll (i.e., remove ghost workers, pensioners, benefits) Enforcement of retirement age Enforcement of disciplinary actions (i.e., discipline absentees)
	Transferring staff to other public entities	Transfer social workforce to municipal and local governments
	Enforcing limits on work-force strengths	Recruitment and promotion freezes
Second level: WORKPLACE RESTRUCTURING → might imply changes in the nature of work → still leaves some room for new operator to redesign workforce	Stretching work	Job sharing and reducing work hours Unpaid time off, voluntary leave of absence Temporary administrative leave
	Reorganizing the workforce	Reduced working hours and training Multiskilling
	Restructuring the state-owned enterprise	Shedding or contracting out non-core businesses
Third level: RETIREMENT AND REDUN-DANCY PROGRAMMES → to implement in cases of high levels of overstaffing → most privatizations have recourse to this option at the last stage	Early retirement	Permanent administrative leave (unpaid, partially or fully paid) Retirement with an early pension or with pension at pensionable age
	Voluntary or compulsory redundancy	Uniform or targeted packages

Source: World Bank 2004

Box 13: The case of the mad locomotives

In 1995, the Government of Mexico decided to privatize the railways sector. Labour unions of Ferrocarriles Nacionales de México (FNM), the government-owned rail company, were important supporters of the governing party (the *Partido Revolucionario Institucional*). Thus, discussions on privatization were highly charged in public political life. Nonetheless, financial indicators for FNM seemed to point in favour of privatization. In order to carry out the privatization process, the labour issue was a major component of the decision. The privatization team sought to make the company attractive to investors. Respecting the labour rights of employees and ensuring labour redundancy reduction represented the main challenges for the privatization team. Before concessioning to private companies, internal restructuring of the FNM's rail lines first took place, and this required a significant amount of political work.

The greatest resistance took place when the government tried to integrate the Coatzacoalcos Salina-Cruz line into the Southeast route. The opposition of labour union groups in the region was so strong that the authorities decided to delay the plans for some time. The General Director of the Coatzacoalcos line, Sr de Pablo, reported that his personal vehicle was hit by gunfire when he was not in it. He interpreted this as a probable warning. Part of the workforce started to boycott company operations before the imminent possibility of massive dismissal. Thefts and sabotage were commonplace as the privatization date approached The workers wanted to show their opposition to the policies implemented by the company. They also used other means of protest, known as the "mad locomotives". They would let a locomotive run on the track, without a driver, until it crashed. Before the privatization process, the number of "mad locomotives" incidents increased.

Then, Sr de Pablo changed strategy. He believed that the only way in which the privatization could succeed was by making the union a fundamental part of the process, and keeping in constant communication with the leaders. He also organized a tour taking local union leaders around the country so they could observe the restructuring processes on other FNM lines, to provide further background and knowledge on Mexican privatization processes to union leaders.

Source: López-Calva 2001

In the case of China, the Ministry of Railways was split into three in August 2013, after 64 years of existence. This change separated business functions from governmental functions. According to the reform plan announced in March, the railway ministry's:

- railway-planning and policy-making functions now pertain to the Ministry of Communications;
- other administrative functions rest with a new governmental organization - the State Railways Administration; and
- commercial activities passed to the new CRC.[116]

The CRC is a state-owned company reporting directly to the central government. It will be financed by the Ministry of Finance and regulated by both the Ministry of Communications and the State Railways Administration. CRC is now carrying out all passenger and freight activities, and is responsible for operating and managing the country's rail network.[117] The CRC's 18 regional railway offices employ approximately 2 million workers.[118] The CRC's general manager has confirmed there will be no lay-offs – although the workforce was restructured, and all employees have been transferred to different agencies to achieve this goal.[119] Eighty per cent of the railway workers were transferred to CRC; the remaining workers were distributed to the other two entities.

Unions in Europe have argued that there has been increasing insecurity in employment relationships and working time, longer working hours, pressure on wage developments, weakening company-based benefits, and less access to training.[120] In the EU, the decline in employment has been accompanied by a proliferation of railway companies.[121] A report published by EIRO notes that "these restructuring processes in state-owned companies are typically regulated by agreements between the management of the company and the sectoral trade unions" and restructuring can include voluntary early retirement, redundancy packages, and measures for re-employment.[122]

The legal changes affecting national railways in Europe have had a major impact on employment relationships, as they have shifted from public to private law. Increasing demands for efficiency, brought about by increased competition, have led to job cuts, "despite the employment created in the new companies entering the market".[123] Currently, the majority of employees are covered by collective bargaining agreements governed by private law. For example, in Austria and Germany, restructuring has led to wage discrepancies between employees with permanent contracts and those who joined the company later. In other countries, such as Belgium, France, Italy, Lithuania and Sweden, the railways reorganization process has had a positive impact and shown some increase in pay. While temporary contracts have not become widespread in the sector in Europe, forms of flexible working such as part-time work have become more common.[124]

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[116] Qi and Yang 2013
[117] Ibid.
[118] Idem.
[119] Idem.
[120] Vacas Soriano et al. 2012.
[121] Ibid.
[122] Traxler and Adam 2008.
[123] Ibid.
[124] Idem. 2008.

MacKinnon, Cumbers and Shaw note that, in the UK, privatization led to significant casualization of employment among track maintenance workers. Due to redundancies, overall employment in railways declined after privatization from 48,919 in 1994 to 39,338 in 2001. After traffic began to increase, levels of employment began to rise again, reaching 44,942 in 2003.[125] MacKinnon at al. note that the development of "rationalization" of employment in the railways sector in the UK is similar to the privatization processes in public utilities.[126] In the UK in general, privatization and fragmentation of collective bargaining have led to significant differences in pay and working conditions across different companies. In areas where there is a skills shortage, increased competition through privatization may have been beneficial to workers such as train drivers. The widening earnings gap between different groups of workers has led to tensions within the industry.[127]

6.5 Gender equality

Disaggregated and detailed statistics on gender and employment of women in the railways sector are not always available. For example, many transport databases, including the ILO's LABORSTA database, include data for generic categories, but information by sex might not always be available. The UIC's Railway Statistics include data at the global level that is gender-disaggregated.

Table 9 is based on gender-disaggregated staff numbers according to seniority in the company (i.e., number of years worked) and employee's age. The data includes female passenger and freight operations staff, as well as infrastructure management and operations personnel from UIC member companies and operators. The database includes information by country/operator.

Table 9 . Percentage of women staff in the railways sector, UIC member companies and operators, 2011.

Average of women staff working in the railways sector: total: 19 per cent									
Employee's seniority (number of years worked)					Employee's age (in years)				
< 5	5-10	10-20	20-30	> 30	< 30	30-39	40-49	50-59	> 60
25%	23%	20%	17%	13%	23%	21%	18%	15%	11%

Source: UIC 2013.

In-depth regional efforts that also tackle the lack of gender-disaggregated data have been addressed through the EU-level social dialogue. The ETF and the CER started this work in 2004–05 in the form of a baseline study, after which the policy-oriented *Joint recommendations for a better representation and integration of women in the railway sector* was launched. The follow-up study identified, among other things, the most important measures undertaken to increase the employment of women in collective agreements and through joint initiatives with companies. In 2012, ETF and CER carried out a project on women in rail, leading to a good practices and implementation guide. In 2013, this effort also led to publication of an annual report, including statistics based on primary data gathered through sampling 24 rail

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[125] MacKinnon, Cumbers and Shaw 2008.
[126] Ibid.
[127] Idem.

operators in the EU region (13 in Western Europe and 11 in Eastern Europe). Figure 3 shows the results of the sample surveys per country. The study also concludes that the average share of women staff for European employers is 19.5 per cent. As it can be observed, this average coincides closely with the UIC's 2011 statistics.

Figure 3. Percentage of women employees in European railway companies
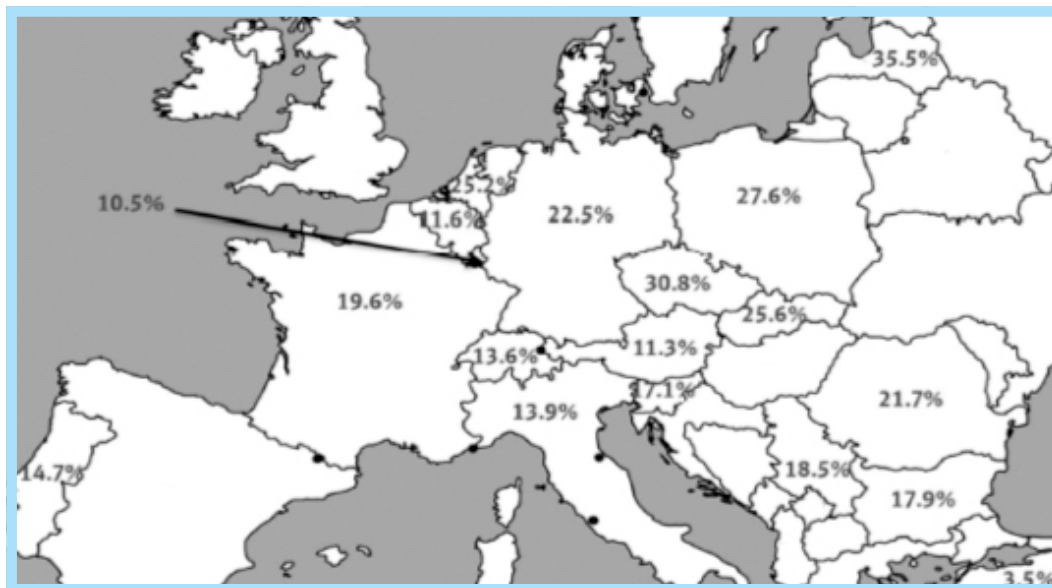
Source: ETF and CER 2013

Analysis of policy options is required to enhance the opportunities for and mitigate the barriers facing women in the transport sector. Some of the barriers faced by women are:

→ "imposed" barriers: legal restrictions that inhibit the working time of women in some countries, most notably in night work, which effectively excludes them from many transport jobs that demand 24/7 operations.

→ "gender-specific" barriers: cultural stereotypes that define "men's work" and "women's work" – including unpaid work in the home – which display many common characteristics across countries and transport sectors, but also some marked differences by country and transport sector.

→ "gender-intensified" barriers: aspects that affect both sexes but bear down most on women. For example, inadequate childcare provisions or the absence of "family-friendly" working arrangements create problems for both men and women. But, as women most commonly bear the primary responsibility for childcare and other household activities, they are more severely affected.

More data on the global scale is needed in order to formulate additional initiatives. A gender approach to data collection and analysis is generally promoted by women; however, transport is the one of the most segregated industrial sectors.[128] Gender differences need to be considered when labour statistics are produced. This would constitute a first step to provide a solid basis for promoting equality between women and men.[129]

In addition to career constraints, the constraints on women and men in collective bargaining may be different. Gender analysis would help to ensure that both women's and men's

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[128] ETF 2014.
[129] Mata Greenwood 1999.

perspectives are included; it provides a tool to investigate the reasons for women's lower participation at the bargaining table. The ILO has published tools on how to assist and enhance women's participation in union structures and activities, and how to promote equality among union members.

Box 14: The railways sector lags behind in gender diversity

Breaking → **into career paths**

Breaking → **through glass ceilings**

Hungarian Railways (MAV Zrt) is one of the largest employers in that country. In February 2013, state-owned MAV Zrt started for the first time training women to become railroad drivers. The programme faced heavy opposition from an all-male trade union, that for 154 years instead that "women weren't up to it". Today, however, drivers do not lift heavy objects or shovel coal, so the train driver's job should now be "suitable" for women. Trains are modern and mostly automated. This reform and training programme is part of the company's modernization programme. MAV Zrt's chairwoman and chief executive officer, Ilona David, has -- within the company's modernization programme -- called for a larger pool of trained workers for the long-term.

However, gender gaps are even more apparent among leadership posts. The ETF and CER reported in 2013 that according to their surveys, the Czech Republic has the highest share of women in positions with managerial responsibilities (32 per cent), whilst Austria has the lowest share (7 per cent). The average share of women "top executives" for all the EU is just below 18 per cent.

In the US, railway companies have been narrowing the gender gap through diversity initiatives dedicated to recruiting, retaining and promoting women to positions of authority. Corporate initiatives include one-on-one executive coaching, formal and informal mentorships, leadership training and networking opportunities inside and outside the organization. In addition, companies have been implementing policies that encourage employees to pursue advanced educational degrees (e.g., tuition reimbursement) or that enable women to balance work, education and time with their families. Although companies have achieved progress in closing the gender gap at management and executive levels, additional targets still need to be set specifically for recruiting women into the operations side.

Other aspects of gender-inclusive policies include sourcing from women or minority-owned businesses. For example, PRASA implements their "Women in Rail" programme that follows a three-pronged approach to mainstreaming women into their business: sourcing from women-owned businesses, recruiting women professionals, and promoting railway careers amongst female students through scholarships.

Sources: Guylas 2013, Björkman 2013, Sneider 2012, PRASA 2013

☑ Checklist

❖ Determine what working conditions issues can be part of your process of social dialogue.

❖ Determine what training programmes or measures can be part of your process of social dialogue. Have most of the workforce positions and profiles been changed recently? What training efforts or initiatives would enable employees to come up to speed with the new company's/operator's needs?

❖ Determine what OSH issues are the most pressing to be part of your process of social dialogue. Are measures on how to tackle HIV/AIDS on the agenda?

❖ Determine what gender mainstreaming measures can be part of your process of social dialogue:

- Gender-disaggregated data collection? Promoting the distribution of information to young women about railways careers? Promoting employees to attend "science fairs" and "science days" events to provide visibility to actual *women* role models already in the sector? Encouraging women to apply for jobs or promotion.
- Offering women who are already part of the team sufficient retention measures, such as: equal pay policies; no tolerance to violence policies; seniority and promotion policies; day-care facilities/preferential arrangements, a lactation/breast-feeding room, family-friendly schedules or leave, and opportunities for training.

❖ Which issues are the most sensitive for employers/workers?

❖ Identify new ways of mainstreaming social dialogue to address these issues.

Conclusion - Part Two

Historically, the railways sector has been dominated by state-owned companies that controlled all or most of the aspects of railroad operation and management. These included infrastructure development and maintenance, train operation, rolling stock, management and administration, and auxiliary services. More recently, portions of rail operations have been divided, outsourced or subcontracted, with different levels of PSP making the industry structure more complex. Modern technology and environmental issues also impact on railways sector operations and working conditions. Factors that contribute to the success of social dialogue include (i) strong, independent, and representative employer and worker organizations; (ii) institutional support and political will; and (iii) respect for the fundamental rights of freedom of association and collective bargaining. Other entities with an interest in rail transport and related activities may be helpful in dialogue with the social partners. Table 10 summarizes the enabling conditions for social dialogue, a list of issues that can help in preparing social dialogue, and suggestions for topic selection.

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Table 10. Enabling conditions, preparation and topic selection

Enabling conditions for social dialogue	Preparing for social dialogue	Topic selection for discussion
Individual freedoms / freedom of association	Staffing patterns	Working conditions (working time, salary, mobility policies)
Strong and representative interlocutors (counterparts)	Ownership of railways	Labour restructuring
Shared objectives and interdependency	Technological changes	Gender equality
Acceptance of the need for social dialogue	Environmental factors and operational strategies	Safety and security
Mutual recognition of social partners	Safety data	Violence at work
Adequate information available to all parties		Training
Technical capacity and binding/effective authority/ mandate of representatives		OSH – including HIV/ AIDS
Ethical, effective and even-handed management of the process		

Source: Murgas-Torrazza 2011

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PART THREE:
PROCESS AND IMPLEMENTATION OF SOCIAL DIALOGUE IN THE RAILWAYS SECTOR

Social dialogue is a mechanism for ensuring open communication and engagement among the social partners, which could foster stable industrial relations and successful operation of an organization. It should not be a one-off event to address isolated problems. Social dialogue is best practised as a continuous and wide-ranging process, including information sharing, consultation, negotiation, monitoring and evaluation. The steps necessary for planning and implementing social dialogue overlap, and they are interrelated.

Whenever possible, the social partners should take the time to ensure that the process is thorough and inclusive. Often there is a particular event or challenge, such as restructuring, which would serve as a catalyst for establishing a new process of social dialogue. In these situations the organization should, ideally, consider both the short-term gains from initiating social dialogue to prevent disputes, and the long-term benefits from building trust, mutual respect and shared problem-solving.

Part Two of this manual provides information and guidance on the process of social dialogue. This section is largely based on, and follows the same structure as, the ILO's practical guidance manual for social dialogue in the process of structural adjustment and private sector participation in ports.[130]

At its 102nd Session (June 2013), the International Labour Conference adopted a resolution concerning the recurrent discussion on social dialogue. Social dialogue is a means to achieve social and economic progress. The process of social dialogue in itself embodies the basic democratic principle that people affected by decisions should have a voice in the decision-making process.

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[130]   Turnbull 2006.

7. Planning for and initiating social dialogue

A common understanding on the need for social dialogue should be the starting point of the social dialogue process. The social partners may not have the same perspective on the challenges facing the rail industry, the need for change, and the most appropriate direction for future changes.

The social partners should be involved as early as possible in the planning stages to ensure their ownership of the process. Parts One and Two of this manual are intended to help stakeholders prepare for social dialogue. There is no uniform model for planning social dialogue in the railways sector, but the planning stage has to anticipate and support the subsequent phases of social dialogue, including the implementation of the agreed conclusions of each phase of the process, which should define future follow-up. Social dialogue may be initiated by the government or employers' or workers' organizations. In some countries, issues to be addressed in cooperation between the employer and worker representatives are defined in legislation, as well as the process for initiating social dialogue. In particular, strategic decisions in the railways sector may be implemented as a result of political processes and decisions. Early tripartite consultation and cooperation on strategic decisions is advised.

Once social dialogue has been initiated, it may be necessary to engage in consultation or negotiations about the scope and agenda, and how the process will proceed. Social dialogue requires a commitment to cooperation, democratic involvement, consensus-building, and a problem-solving approach to the issues in question. Through the process, social partners should be able to foster relationships based on trust and mutual respect. This may take time, but it is vital to establish an agreed agenda to be implemented through future social dialogue.

7.1 Who will participate in the planning process?

Identifying the parties to be involved in planning is related to the issues that will be included on the agenda and who has authority to implement decisions made. Participants in social dialogue should be recognized as equal partners. The organizations chosen must be representative of the group of people concerned with the agenda item chosen (see Part One, section 3, of this manual). If the agenda relates to broader issues in the railways sector and railways reform, consultation with social partners might be included. An important issue that must be addressed at the planning stage is the internal representativeness of the social partners, as their legitimacy, acceptance, and ability to engage effectively in the process of social dialogue depend on this.

7.2 How will the agenda and objectives for social dialogue be determined?

Planning for social dialogue should be based on the analysis of the current situation in the sector. This process should begin with information gathering and sharing (see Part One, section 2, of this manual). Transparency about the factual basis for the need for social dialogue is an important step in developing trust and mutual respect among the participants.

Social dialogue can start as either an informal or formal process. If a long-term process of reform is envisaged and there is little tradition of social dialogue, it may be appropriate to start in an informal way to build up trust among the social partners. However, there should

be provisions on how and when such informal exchange of information and points of view can be turned into formal negotiation. All steps have to be made explicit.

For the initial stage of social dialogue, it might be helpful to begin with a focused agenda. This could simply be to take stock of current issues in the railways sector at national or enterprise level, and to set out the necessary steps to address these issues through social dialogue. An agenda can be agreed that incorporates the interests of the social partners and, where appropriate, other entities.

7.3   Potential participation of other entities

It may be important to identify and include other entities, in addition to the social partners, to offer support and advice in the social dialogue process. Setting the agenda for social dialogue and finding the appropriate representation to discuss the agenda items are closely interrelated. Parties in the railways sector might include: public safety or OSH regulators, the Ministry of Finance, Ministry of Labour or Ministry of Transport, regional or international organizations (such as the EU and the ILO), industry-specific organizations, other employers' organizations, other workers' organizations, training institutions, international financial institutions and development agencies, rail passengers, and freight customers.

Box 15: Inclusive process (Switzerland)

In the case of Switzerland's railway reform, federal institutions organized social dialogue, which included both bipartite negotiations between employers and workers, and tripartite negotiations that associated the public authorities too. Commitments were documented in the form of conventions or laws.

In Switzerland the following entities take part in the debate:

- social partners (trade union organizations, professional organizations)
- various associations interested in transport policies
- the conference of "canton" (municipal) directors of public transport, which has a consultative role.
- The Federal Council of State and National Council (since they have transport commissions)
- Department of Environment, Transport, Energy and Communications (DETEC), as transport is part of a ministerial portfolio

Source: Chevroulet and Sevestre 2007

7.4   What type of social dialogue process will be used, and at what level?

Social dialogue includes exchange of information, consultation and negotiation. Information shared between the social partners on current performance and conditions of employment in the rail industry varies from country to country. The agenda and planned outcomes will determine which type of process would be most appropriate. The process selected will also indicate who needs to participate in the process and what authority they should have. Another consideration is whether social dialogue should take place locally at the workplace, regionally at the company level, or be sector-wide, or happen at the national level.

> **Box 16: Social dialogue structures in Indian Railways**
>
> Frameworks for industrial relations and social dialogue in IR are the Permanent Negotiating Machinery (PNM) and Participation of Railway Employees in Management. The PNM was set up in 1951 to facilitate collective bargaining and social dialogue and to serve as a dispute resolution mechanism. Other mechanisms include Joint Consultative Machinery and Compulsory Arbitration. IR's *Vision 2020* highlights the need to strengthen the system and operate on a consensual basis. Two unions, the All India Railwaymen's Federation and National Federation of Indian Railwaymen, are recognized at the national level. In addition to these, there are a number of unions recognized at a regional level, as well as many unrecognized unions, the majority of which cover a particular group of workers.
>
> *Sources: All India Railwaymen's Federation undated; Government of India 2009a and 2009b; Indian Railway Employee undated.*

7.5   What is the timeframe for the initial phases of the process?

Setting out an initial timeframe for social dialogue helps the participants to plan, prepare and take the process seriously. Schedules may have to adapt to unforeseen events, but forward planning is essential to build momentum and commitment to the process. Hasty or ill-prepared engagement processes can be damaging.[131]

7.6   Establishing rules for the social dialogue process

Regardless of who initiates social dialogue, it is important to establish a communication protocol and ground rules for dialogue between the social partners. In some cases, the government or national legislation has already defined basic principles for industrial relations discussions. It is often useful to have consultations about consultation, or negotiations about negotiation, in order to establish how the parties will engage in social dialogue.

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[131]   World Bank 2004.

One of the important outcomes of this initial phase is to demonstrate that social dialogue is a problem-solving process that will deepen the interdependencies between the social partners. Unless social dialogue is established on this basis, it is unlikely to bear fruit. Ground rules can:

- address how the information is shared inside and outside the social dialogue process;
- establish adequate planning processes and stages, to ensure professionalism during negotiations;
- include respect for confidentiality and sensitivity of information;
- contain a commitment to avoid adopting publicly entrenched positions, and
- establish the avoidance of inflammatory or derogatory words and deeds.

Other relevant issues or questions can include:

- How are the parties going to conduct the social dialogue sessions?
- What is appropriate behaviour during the discussions?
- How will they be held accountable for their actions or omissions?

Creating joint task-teams or committees can also represent another tool to enable consultations and starting the social dialogue process. These teams or committees can provide a forum for employers, workers and government to come together in an *ad hoc* setting to prepare for social dialogue and negotiations.

Taking an approach of open information-sharing and consensus-building should facilitate more efficient and fruitful discussions and bargaining. It is imperative that social dialogue is conducted in good faith, even-handedly, with an atmosphere of professionalism and mutual respect. If parties do not follow the ground rules or fail to follow through on agreed assignments or activities, the other participants must have a mechanism to hold each other accountable.

7.7   Planning for social dialogue in case of restructuring

Diverse restructuring experiences suggest distinct union strategies on restructuring negotiations. In most cases, workers' unions have initially taken an anti-restructuring stance in an effort to minimize job cuts and the loss of job security and benefits. In some cases, unions have adopted a position in which they believe restructuring would be inevitable. Thus, it would be in their interest to take an active role in restructuring-related planning from the very beginning.[132] This has been the case in Germany and the Netherlands and, to some extent, in Japan. Other unions have first ensured they have a strong position before starting the social dialogue process, through the agreement of ground rules and compliance mechanisms to ensure social dialogue continues.

Organizational restructuring or privatization can be addressed within the existing social dialogue process, including information exchange, consultation and negotiation. However, there may be occasions when new institutions or methods of discussion and dialogue are called for.[133] Social partners' engagement processes have starts and stops, and it may not always be possible to follow a scheduled plan. The goals of railway restructuring should be clear to all the parties. If the social partners concur on the need for change, involvement in the planning phase would allow the actors to share information and identify all the options that might be open to them. When major structural change is on the agenda, representation may be needed from a much wider range of stakeholders. There may be national legislation defining labour rights in the context of privatization, restructuring or collective dismissals for economic reasons; if so, the social partners must also consider these.

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[132]   ILO 1994.
[133]   ITF 2013c.

> **Box 18: Contrasting experiences for Kenyan and Ugandan workers**
>
> Effective and coherent union responses are indispensable in structural adjustment negotiations. In 2004, the Governments of the Republic of Kenya and the Republic of Uganda agreed to concession their respective railways together to Rift Valley Railways (RVR), a South African operator. In 2006, concession agreements for 25 years were executed and both Rift Valley Railways Kenya Ltd. and Rift Valley Railways Uganda Ltd. were established as concessionaires to rehabilitate, operate and maintain the rail networks of both countries as one railway system.
>
> On the one hand, the Uganda Railway Workers' Union representatives did not accept privatization until an agreement had been signed and implemented, which set the ground rules on how the union members would be treated. A two-week strike was organized to demonstrate to the government and RVR how seriously they took their demands about severance terms and pensions arrangements. The concession award was delayed until all railway workers had been retrenched, with severance pay of three months for each completed year of service. The union also secured a pension plan for retrenched workers rehired by RVR.
>
> On the other hand, the Kenyan Railway Workers' Union did not negotiate ground rules, and they accepted assurances with regard to the privatization process. The union went so far as to promote the concession, only for their members to be disappointed after the event by what they saw as the failure of the privatized railway to deliver on its side of the bargain. Indeed, since privatization, and despite an intervention by Kenya's Ministry of Labour, Rift Valley Railways has refused to recognize the Kenyan Railway Workers' Union. The union also appears to have lost the confidence of its declining membership, which has been offered worse terms than in Uganda.
>
> *Sources: Martin 2007 and African Development Bank 2011*

During major structural adjustment programmes, a special task force can be established. Another option is to conduct a series of workshops and seminars to disseminate information and generate discussion among the social partners and other entities. Restructuring committees or task forces should at least comprise equal representation from the government, the management and workers' unions.

When restructuring is under consideration, employees and workers' representatives usually prefer formal agreements and concrete commitments rather than general understandings or guidelines on future action. There may be a variety of arrangements for different issues to be addressed. Formal agreements can be over substantive issues such as pay and pensions. Informal understandings can take place about future training and development in the light of new technology, or an expansion of traffic leading to new job opportunities.

> ### Box 19: Zimbabwe's Tripartite Turnaround Committee
>
> As part of the overall structural adjustment programme in Zimbabwe, the management of National Railways of Zimbabwe (NRZ) announced privatization plans in 1998. The Ministry of Transport and Communication, together with the Privatization Agency of Zimbabwe and an external consultant, had started the process in 1997 without the involvement of the workers. The Tripartite Restructuring Committee was established in 1998 comprising representatives of the government, the management and the unions; its task was to examine the possibilities for privatization of NRZ.
>
> A new Minister of Transport in 2004 renamed the committee the Tripartite Turnaround Committee (TTC), the composition remaining the same. The TTC received funding from the Reserve Bank of Zimbabwe. It carried out an internal review of NRZ and concluded that the company should remain as an integrated entity, instead of adopting the vertical and horizontal separation suggested by the consultant. However, the changes TTC suggested included restructuring of the management, new pay systems and the permission to enter into joint ventures with private sector companies.
>
> *Source: ITF 2008.*

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☑ Checklist

❖ Who will initiate or has initiated social dialogue? Why?

❖ What communication tools have been used? What first steps have been envisaged?

❖ Is there an existing industrial relations/social dialogue framework in your country? Are there any loopholes that should be further discussed? Is your social dialogue procedure and framework starting from scratch?

❖ According to your own situation and existing framework, do you think that it would be advisable to set or negotiate ground rules for social dialogue? Would you be willing to accept the establishment of *ad hoc* mechanisms, such as a task force or committee?

❖ In any case, minimal rules are necessary. What type of ground rules should be agreed upon? Is there already a draft? What mechanisms do they include to hold all participants accountable for honouring commitments and obligations? What mechanisms are set forth if they fail to do so?

❖ Will "consultation on consultation" take place? What will it entail? Please summarize the efforts (e.g., letters, website, drafting a discussion or white paper).

❖ If structural change or privatization might be imminent, at what stage would social dialogue take place?

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65

8. Implementing social dialogue

The major task in the implementation phase is to follow the agreed plan and to keep participants interested and engaged in the process. The plan should specify the type of social dialogue process and the timeline for the initial phases of the process. Dialogue processes and outcomes should follow the guiding principles of efficiency and even-handedness.

Social partners must nominate participants with the necessary authority, skills and attitude to engage and commit in the discussions. The participants may need training in the specific skills and behaviour needed to fulfil their role in the social dialogue process. When the nominated representatives have little experience with social dialogue, it may be important to use an experienced facilitator or consultant to help implement the social dialogue. The role of the facilitator is to guide discussion, ensure continuity of the overall process and, in some cases, advise the participants on how to plan for future social dialogue activities. Negotiation skills training can crystallize in significant benefits.

The primary objective of social dialogue is to provide an opportunity for the social partners to engage in joint negotiations, collaboration and problem-solving. Social dialogue calms any fears promoted by improper information-sharing and creates networks of industrial relations that can be deepened and widened. These are preconditions for drawing social partners more fully into meaningful modes of exchange and consultation that social dialogue can facilitate.

8.1   Main elements

If possible, the preparatory process should have helped all parties by specific crystallizing of agenda items for discussion, and consolidating possible areas of agreement among workers and employers. Topic framing can be extremely challenging for social partners, and a source of frustration if dialogue topics are not sufficiently clear and precisely defined.

Figure 4 explains how information exchange, consultation and negotiation (and potentially cooperation) constitute effective methodological steps and an initial framework to carry out social dialogue. These steps are the heart and main challenge of the social dialogue process. Building consensus on the different issues and topics among workers and employers is the main objective of the dialogue process. This goal is the basis for joint planning and negotiation as a means of influencing railway company or operator decision-making.

The key question that arises regards the feasibility of this objective. Consensus-building can be lengthy and tortuous. Suspicions and controversial items for discussion must be carefully tackled. Relationship- and trust-building are long-term endeavours for social dialogue to bear fruit. While there can be antipathy among social partners or other entities, overt antagonism should be rare or non-existent.

Figure 4. Elements of social dialogue

Information Exchange

- Often the first step in the implementation of social dialogue.
- It creates the opportunity for communication about the current state of affairs in the railways sector, and could be carried out directly (through face-to-face meetings and team briefings) or indirectly (through emails and newsletters).
- With a view to a more informed process, all parties should have equal access to research about relevant labour market economics.
- Sound information and analysis serve as not only a reality check for participants, but also a resource for innovative solutions. Inequality in access to information may become a source of mistrust and misperceptions.
- When time allows, it may be beneficial for the social partners to jointly commission a research report to inform the process.

Consultation

- Cuonsultation is the process by which the social partners jointly examine and discuss issues of mutual concern.
- It involves employers and/or government agencies actively seeking - and then taking account of - the views of the workers, either directly or through their representatives, before making a decision.
- Meaningful consultation depends on those being consulted having adequate information as well as the time to consider and discuss the different points of view.
- It is important to remember that merely providing information does not constitute consultation. Consultation could also be a process for advising transport ministries, legislators and other policy-makers and decision-makers involved in the railways sector. It allows those invoved in it to tailor labour strategies to the requirements of the parties.

Negotiation / Cooperation

- Collective bargaining occurs when the social partners have the authority to reach agreement through negotiation on issues such as pay, and terms and conditions of employment. It is distinct from consultation, where the responsibility for decision-making remains with management.
- Conflict prevention should be a prime consideration when designing measures to introduce or strengthen collective bargaining. Certain models of collective bargaining can prevent conflict better than others. Broadly speaking, two different strategies for negotiations or collective bargaining exist: the positional model; and the principled or mutual gains model.
- Traditionally, positional bargaining emphasized the conflicting interests of and antagonism between the social partners. The mutual gains model is based on their cooperation and joint creativity.

Sources: Ishikawa 2004; World Bank 2004

Effective negotiations, collective bargaining and cooperation involve an encouragement to the parties to engage in dialogue and to promote consensus. A number of countries have endeavoured to do this by setting forth a statutory duty in the legislation intended to oblige the parties at the bargaining table to engage in fully informed negotiations. The purpose of this duty is to ensure that the parties have every possible opportunity to reach agreement. In some instances, this duty is limited to a duty to negotiate, while in others it is expressed as a duty to bargain in good faith.

Box 20: Breaking Spoornet into separate entities

Spoornet is the rail freight and long-distance passenger division of South Africa's transport state-owned company, Transnet. Spoornet is entirely separate from Metro-rail (which is the commuter rail entity of Transnet), and PRASA (which provides passenger services in the country). When restructuring consultations took place, Spoornet had five business units - General Freight, Coal link (bulk coal), Orex (bulk iron ore), Shosholoza Meyl (the mainline long-distance passenger service), and Luxrail (a luxury passenger train). The company now has one single freight business unit and one passenger business unit.

As soon as government's intentions were known, the South African Transport and Allied Workers' Union (Satawu) protested loudly. The initial objections were based on: the absence of transparency and consultation with labour in developing the model, the perception that there would be a reduction in safety standards, new inefficiencies, and the proposed job cuts.

The privatization team did not show willingness to meet with union representatives and thus, the union decided to put pressure on the government by appealing directly to parliament, and by mobilizing its membership in protest marches. Eventually the government representatives agreed to meet Satawu. Engagement with all three unions representing railway workers began in early 2001. A joint Task Team was established to analyse and reformulate the government's plans. The parties to the Task Team were composed of the three representative trade unions in Spoornet, the Department of Transport and the Department of Public Enterprise. In addition, the services of a consultant were retained to help the process advance.

In 2001, an interim report drafted by the Task Team made recommendations with regard to the Shosholoza Meyl and Luxrail services. Agreement on freight operations was reached one year later, in 2002, after several rounds of negotiations. The team focused on issues relating to socio-economic development and sustainability, rather than simply negotiating over job losses.

Source: Satawu 2005; World Bank 2004.

8.2 Structure and stages

The preparation, planning and initiation of social dialogue should make clear the nature and agenda of the discussions. When the implementation stage is reached, it will mostly focus on the terms adopted by all parties regarding the topic items selected. This stage is extremely important, as it will usually have financial consequences for the social partners.[134] The ability

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[134] World Bank 2004.

to negotiate through collective bargaining methods is central to trade unions.[135] Most of the OECD countries, for example, have established an enabling framework for social dialogue to take place, by permitting and guaranteeing rights to collective bargaining and freedom of association. Nevertheless, other countries still restrict these rights.

The following six structural elements can be incorporated into the social dialogue process:

→ Representation and participation: Who will sit at the table? Are any other participants involved? What role will they have?
→ Time and financial constraints: What timeframe has been set for negotiations? What impact will it have on social partners' budgets? How many people can be dedicated to the effort?
→ Agenda-setting: What issues will be discussed first? Is it possible to identify "low-hanging fruit" topics, where reaching an agreement could be easier? What would be the more contentious issues?
→ Facilitation: Can the social partners identify a facilitator to guide the process? Is this person in-house or will a consultant/expert need to be hired?
→ Decision-making: What agreements need to be reached? Has the process stagnated?
→ Follow-through: Subsequent steps and actions need to be mapped and planned for.

According to the World Bank, simple and minimal stages of negotiation and cooperation can encompass:[136]

→ Preparation: define interests, draft and set opening positions, identify compromises that would be acceptable, identify minimum targets, list non-negotiable items, and generally consider negotiation scenarios.
→ Discussion of areas of negotiation: first create the right climate for discussion (e.g., choosing the venue, avoiding situations that might create tension or the impression of bias, choosing negotiators or facilitators (in-house or consultants); depending on the issues, this stage might have significant "back and forth".
→ Bargaining: ideally, look and negotiate for outcomes that satisfy the interests of all parties.
→ Closing: put in writing, execute and implement agreements; seek appropriate approvals.

8.3   Negotiation and collective bargaining models

Table 11 summarizes the main characteristics of positional bargaining and mutual gains or interest-based bargaining. These two models are not necessarily mutually exclusive and the mutual gains approach can be applied selectively as best suits the situation. For example, mutual-gains-based problem-solving methods have been used to deal with bargaining matters such as training, work–life balance, OSH, and the workplace environment, while accepting that positional bargaining methods will still feature as the principal determinant of distributive matters, such as wages and benefits.

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135   Ibid.
136   Ibid.

Table 11. Collective bargaining models

Positional bargaining	Mutual gains or interest-based bargaining
The main focus is to give as little and to get as much as possible.	The main focus is to ensure that the interests of each side are addressed.
The parties prepare separately by drafting opening positions as targets.	The parties prepare together by agreeing ground rules and ways of working.
These positions take the form of "wish lists". The parties frequently table "unreal" positions that they can subsequently "concede".	The parties prepare separately by discussing interests with constituents. If constituents present positions, the negotiators convert these into interests.
They also prepare resistance points, above or below which they are not prepared to go.	They approach bargaining with open minds as to what the final agreement might be.
The negotiations take the form of two sides bargaining across a table, with breaks for caucus meetings; options are explored in private sessions.	The negotiations take the form of one group, with occasional breaks for caucus or side meetings; options are openly explored in joint sessions.
If the parties undergo negotiation training, it is done separately.	If using interest-based bargaining for the first time, the parties undergo joint training.
The negotiations open with positional statements, and follow a sequence of offers and counter-offers with frequent deferrals and breakdowns.	The negotiations open with discussions around an issue, and each party's interests underlying that issue, followed by a problem-solving sequence.
Information is kept "tight", and only disclosed under pressure or to extract a concession.	Information is openly shared, and research is usually conducted jointly.
Decisions are made by compromise or under pressure.	Decisions are made by consensus, after an agreed and objective evaluation of options.
The process mainly involves industrial relations managers and union officials.	Involvement is extended to others with expertise around relevant topics.
Spokespersons present key positions and moves/measures/proposals.	Spokespersons outline key interests, but all members participate.
Each side attempts to keep the other under pressure, through power tactics.	The parties agree not to use pressure as a negotiation lever.
The parties use a facilitator when they reach an impasse.	The parties use a facilitator during the entire process.

Source: O'Dowd and Barrett 2005.

Mutual-gains bargaining requires each party to consider carefully its and the other parties' interests or needs before proposing any solution to the issues, because pre-empting engagement with early answers may negate shared ownership of both the solution and the problem. The distinctive and most beneficial feature of mutual-gains bargaining involves the joint exploration of issues. Therefore, parties should, ideally, arrive at the negotiations without positions, but with clearly articulated interests and issues, and flexible mandates. Maximum disclosure of information, which is a matter of trust and good faith communication, is essential for reaching an optimal solution.

Traditional bargainers have as their objective the maximization of gains for their side. For problem-solvers, the goal is to secure the optimum collective agreement – a deal that best reconciles the different interests of the stakeholders and best promotes their common ones. With traditional positional bargaining, the negotiators are typically constrained by relatively tight bargaining instructions. In a more expansive process, the negotiators will, in the first instance, look for guidance on interests rather than positions when interacting with their constituencies. At the outset of bargaining, their quest will be to secure flexible mandates from their constituents.

8.4   Mechanisms for dispute resolution

The agreement to engage in social dialogue should predetermine alternative mechanisms to resolve disputes. The parties may choose to resolve disputes through mediation or arbitration, which could be either voluntary or mandatory. Recourse to industrial action should be a last resort.

Another alternative to improve objectivity in a dispute would be to engage a neutral third party to undertake a fact-finding exercise and then present findings to the negotiators. While the fact-finder has no determinative role, the intention is that the independence, expertise and, ideally, weight that comes with the title will be highly persuasive. This is intended to put the parties under considerable moral pressure to respect or, better still, adopt the relevant recommendations.

During mediation, the parties to a dispute, either voluntarily or under legal obligation, use the services of an independent third party to clarify issues, develop alternatives, and consider settlement options. Process, not substance, is the mediator's responsibility. If the parties remain unconvinced, the impasse may persist.

If mediation fails, arbitration is frequently the next step. In voluntary arbitration, the parties to the dispute voluntarily agree to place the issues dividing them before an independent third party. The arbitrator is empowered -- by either contract or statute -- to consider evidence and argument, and then make a final and binding determination on the matters in dispute.

Voluntary arbitration may be used to dispose of an entire dispute, or to resolve only certain elements of a larger negotiation. A fused or directly connected two-stage process of mediation followed by arbitration exists in many countries, in both the private and public sectors. Compulsory arbitration by independent bodies at the request of both parties can also provide an alternative mechanism to end collective labour disputes and strikes.[137] Transport services have been considered by the ILO supervisory bodies to constitute a public service of primary importance that might justify the requirement of a minimum service in the event of strike,[138]

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[137]   ILO 2006. See paragraphs 564, 565 and 618.
[138]   Ibid. See in particular paragraph 621.

while the negotiation of minimum service requirements might vary from country to country.[139] Dispute resolution nearly always entails the enlistment of extra resources, including external resources. Just like the broader collective bargaining system of which it is a part, the effectiveness of a dispute resolution system turns substantially on its legitimacy. That legitimacy flows from the participation of the interested parties in its creation. Private systems may play a valuable supplementary role in dispute resolution. It is a general principle of dispute resolution systems that issues should be dealt with as close to their source as possible.

Industrial action – meaning all forms of work stoppages, slowdowns and lockouts, including, in the case of employers, the unilateral implementation of changes to terms and conditions of employment, or even the threat of industrial action – may play an important role in the collective bargaining process. Many labour relations systems require the parties to bargain seriously and exhaustively before any recourse to industrial action will be regarded as legitimate and lawful. In addition, it is a common requirement that any industrial action be deferred until any agreed or obligatory mediation has also been given an opportunity to address matters.

Recourse to industrial action may damage the negotiating process and the relationships between the social partners. It should not be exercised while social dialogue is under way. Consequently, several legal systems provide, in respect of both private and public sector bargaining, that neither side may resort to industrial action to advance its claim, at least until the negotiation process has been exhausted. There may be prohibitions to industrial action in the railways sector. Because the costs associated with industrial action may be too high to bear, legislators may decide to restrict or prohibit such action in critical areas of the public service.

Box 21: Privatization and industrial action in the UK

In the UK, the number of strikes and approved industrial actions rose sharply at the beginning of the 2000s. Pay and conditions were the cause of nearly half the industrial action between 1997 and 2004, and pay differentials in 21 per cent of cases. Other causes included changes to roles and responsibilities, working hours, disciplinary issues, and union recognition/representation.

The nature of strikes changed; the majority were undertaken against particular operators at local and regional levels. However, the organization of the unions at national level may be an important strategic resource for the unions. In the railways sector, which was strongly unionized before privatization, restructuring has not led to weakening of the unions.

Source: MacKinnon, Cumbers and Shaw 2008.

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[139] Ibid. See in particular paragraphs 612 and 613.

☑ Checklist

- ❖ Who will implement and facilitate social dialogue? Do the parties and the facilitator have experience with social dialogue processes? What negotiation skills have they developed? Is it under consideration to hire an external and more experienced facilitator? What budget has been allocated for such a purpose?

- ❖ What information exchange methodologies have been implemented? Have these been efficient and even-handed? Are background papers to inform decision-making a possibility? How many people will be dedicated to this effort, and for how long?

- ❖ Identify potential areas of agreement to start agenda-setting for social dialogue sessions. In addition, gather accurate and equitable information on major group concerns. Lastly, compile information on sensitive subjects under consideration. Take the following table as a template to fill in applicable information.
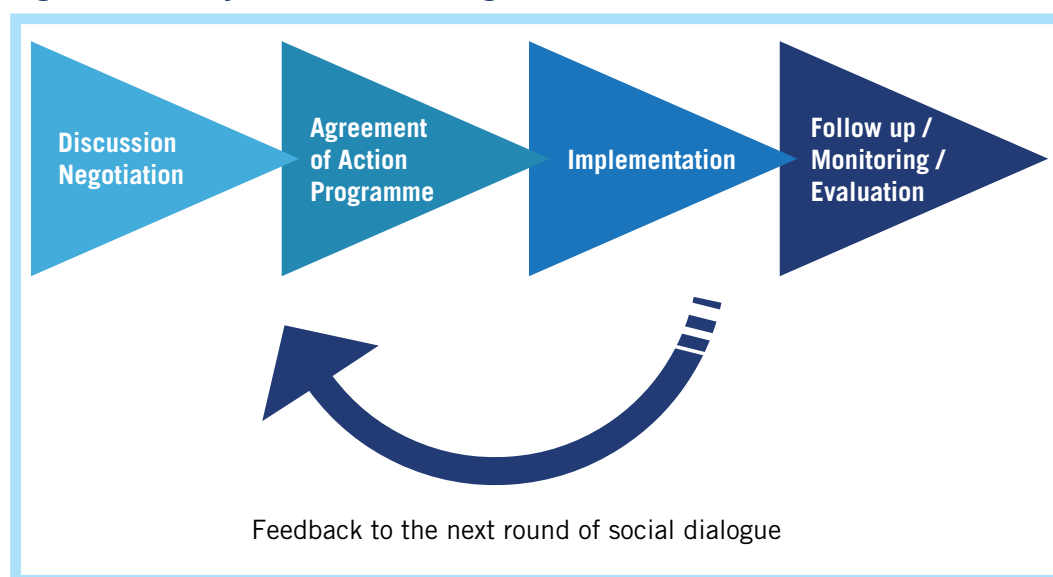
Topic selection and bargaining positions					
Issue/topic/ programme description	Concern(s) – is this topic open for negotiation?	Opening position	Bargaining range	Minimum acceptable	Other entities' proposals

- ❖ Which types of negotiation or bargaining techniques do you wish to use? Would these change according to the topic/issue/programme?

- ❖ What conflict resolution processes and techniques have been established in case the social dialogue process cannot move forward?

9. Measuring progress, monitoring and evaluation of the social dialogue process and its outcomes

Figure 5 shows that social dialogue process should provide continuous information for quality improvement, and should be scheduled for each phase of social dialogue. It should not be seen as a review conducted in isolation at the end of the process.

Figure 5. The cycle of social dialogue

Discussion Negotiation → Agreement of Action Programme → Implementation → Follow up / Monitoring / Evaluation

Feedback to the next round of social dialogue

Source: ILO 2013.

The participants should agree on indicators to monitor progress. Indicators could measure the progress of the social dialogue process or the outcomes of the social dialogue. It should be recalled that the primary aims of social dialogue are to build trust and credible commitments between the social partners, as well as to promote democratic involvement and more efficient bargaining. Process criteria such as trust, commitment and democratic involvement can be difficult to measure and evaluate. However, the following can be considered:

➔ To what degree do the social partners involved consider the outcomes of the dialogues to be fruitful and legitimate? Are the social partners willing to continue with future multi-entity dialogue processes?
➔ To what degree has social dialogue influenced the formulation and implementation of sustainable channels of communication between employers and workers?
➔ To what degree have representatives engaged in joint problem-solving? What strategies have worked for each topic addressed?
➔ What concrete collective bargaining results were obtained? Did parties reach an agreement by compromising? Were win-win cooperation and synergies achieved?
➔ To what degree has social dialogue generated concrete follow-up efforts?

→ If negotiations take longer than expected, but the outcome is a stronger commitment to integrative bargaining in the future, how could this be measured against the costs incurred today in terms of inefficient rail operations, delays in the schedule, higher costs?

Trust, commitment and democratic involvement are vital to build the "social capital" that modern-day organizations need to promote innovation, agility and flexibility. Outcome criteria could include decent work indicators, efficiency, flexibility, costs and the competitiveness of the railways. Categories of indicators could include loading, off-loading and shipping performance; labour productivity, station usage, and passenger usage. It is important that data collection and indicators of process effectiveness are objective.

Social partners should endeavour to undertake their own research on both the process and outcomes of social dialogue. In addition, public authorities should be encouraged to undertake tripartite reviews and to commission independent research. Data collection should embrace labour indicators that can be used to evaluate decent work as well as railway performance. Such data is vital when the social partners need to take remedial action or resolve conflicts of interest.

A mechanism for periodic evaluation of the indicators could provide opportunities to acknowledge progress, make adjustments to reflect current needs, and hold parties accountable for deficiencies, or help resolve conflicts between the parties.

Systematic monitoring and evaluation would enable the social partners to identify problems or potential areas of conflict. In the event of any such deficiencies, appropriate remedial action can then be taken. More significant problems, however, may give rise to overt social conflict, and it is important to agree in advance how disputes and disagreements would be settled. For example, would the social partners make use of existing dispute resolution mechanisms and grievance procedures? Or would special institutions or new procedures need to be established to address issues in the social dialogue process? These issues should be discussed well in advance, ideally during the planning stage.

Finally, it is important to bear in mind that participants' and social partners' enthusiasm will be dampened by limited tangible results if the process and social dialogue are too shallow. Dialogue needs to be dynamic and realize its full creative potential. Factors that may also impact outcomes can range from the geography of the meeting rooms, to timing of the dialogue, facilitation style, etc.

☑ Checklist

- ❖ What was the impact of the social dialogue process?

- ❖ Did it have an instrumental role in enhancing and supporting cooperation and win-win negotiations between the parties?

- ❖ What constructive role can you foresee for social dialogue in the future (including which aspects and topics of industrial relations)?

- ❖ Lessons learned: What can you improve for the next sessions? Did you collect participant input through polls or questionnaires? What were the general perceptions on the process?

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Conclusion - Part Three

Figure 4 includes a proposed sequence of social dialogue.

Preparatory work and initiating social dialogue

The process of planning for social dialogue should consider:

➔ Who should be involved in the planning process, especially as new actors are being encouraged to enter the transport services market?

➔ Can existing institutions for social dialogue be used, or will external agencies or new organizations be required?

➔ What is the timeframe for the process?

➔ What are the ground rules governing how the participants will interact?

➔ In the case of restructuring, who should be involved, and what are the legal rights and responsibilities of the social partners?

➔ Will a facilitator be needed to assist the process of social dialogue?

Implementation of social dialogue

Social dialogue includes information exchange, consultation and negotiations -- among representatives of government, employers and workers -- on issues of common interest relating to economic and social policy in the railways sector. Ideally, negotiations and collective bargaining should apply an interest-based or problem-solving approach, in order to minimize conflict that could lead to industrial action. It is also important to plan for the different types of dispute-resolution mechanisms, which may include mediation and arbitration. However, the parties may predetermine alternative mechanisms to resolve disputes that arise during the social dialogue process.

Monitoring and evaluation

Indicators should be defined and mechanisms established to monitor and evaluate the process and outcomes of social dialogue. Periodic evaluation should provide an opportunity for improving the process, acknowledging the outcomes and preventing disputes.

Figure 6. Sequencing social dialogue

Subject and stage	Preparatory work and initiating social dialogue	Implementation: Management and facilitation of social dialogue	Outcomes, follow-up and evaluation
	• individual freedoms • freedom of association • workers' rights	• follow rules of procedure for social dialogue • ensure effective and even-handed handling of the process	• compliance and implementation of commitments • lessons learned; collect participant input • evaluation to deepen social dialogue by promoting enabling legal frameworks or structures
Process	• set ground rules and rules of procedure for social dialogue • invite appropriate social partners and interested entities to the dialogue • when applicable, representatives should have mandate/authority to bind and commit themselves • if the creation of a task force is envisaged, how will it be regulated?	• define and adapt human and financial resources as necessary, as well as the timeframe for the social dialogue process	
Participants	• determination of representativeness – legal framework or rules for social partner representation • decide if other entities will be invited to the dialogue • acceptance and respect of all parties – build trust • authority to bind and commit • who will facilitate? look for experienced facilitator in-house or for-hire		• representatives should oversee follow-up of agreements • evaluate representatives' performance and effectiveness
Content	• establishment of topics and issues for discussion • data collection and research process	• establishment of topics and issues for discussion • items and positions can be modified – review feasibility • exchange of information, consultation, negotiation and cooperation • execute agreements and start implementation	• assessment and evaluation; data and indicator collection • indicator evaluation on implementation and results
	• what are you willing to compromise about in order for the dialogue to continue?		

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