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DB Schenker Rail (UK) Limited  
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310 Goswell Road  
London EC1V 7LW

Jens Neilsen  
Associated British Ports  
Aldwych House,  
71-91 Aldwych,  
London  
WC2B 4HN

Dear Nigel and Jens,

## **Approval of a Facility Access Contract between DB Schenker Rail (UK) Limited and Associated British Ports**

1. The Office of Rail Regulation (ORR) has today approved the terms of the facility access contract (FAC) submitted by Associated British Ports (ABP), with the agreement of DB Schenker Rail (UK) Limited (DBS), under section 18 of the Railways Act 1993 (the Act), and has directed both parties to enter into it. The purpose of this letter is to set out the reasons for our decision.

### **Purpose of the contract**

2. The purpose of this contract is to grant DBS the rights necessary to use the Port of Immingham (the Facility) to access the port terminals. The agreement specifies that DBS will use the Facility for haulage of services and carriage of goods to and from the terminals. The rights are to commence on the date of signature of this contract and will expire on 31<sup>st</sup> March 2020.

### **Consultation**

3. Consultation on the access rights in question was undertaken as part of an application to extend the previous access contract under section 22 of the Act. There were no unresolved issues. Given that application could not be approved prior to the expiry of the relevant contract, the new FAC has the same end result and it was agreed that no additional consultation was required.

### **ORR policy and review**

4. There was no need for a fresh external consultation as the FAC is essentially on the same basis as the previous FAC which expired in December 2014. The terms of the FAC are agreed by ABP and DBS. ORR has not identified any economic or performance concerns.



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## Conclusions

5. In considering the contract and in reaching our decision, we have had to weigh and strike the appropriate balance in discharging our statutory duties under section 4 of the Act. We have concluded that issuing directions in respect of this contract is consistent with our section 4 duties, in particular those relating to:

- (a) promote improvements in railway service performance;
- (b) promote the use of the railway network in Great Britain for the carriage of passengers and goods, and the development of the railway network, to the greatest extent that ORR considers economically practicable;
- (c) contribute to the development of an integrated system of transport of passengers and goods;
- (d) promote competition in the provision of railway services; and
- (e) enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.

## ORR's public register

6. ORR is required under section 72 of the Act to maintain a public register which must include, *inter alia*, every direction to enter into an access contract. Would you therefore please send me two copies of the signed contract no later than 14 days after the date upon which the contract is entered into, as required by section 72(5) of the Act.

7. In placing any contract on the public register, we are required to have regard to the need for excluding, so far as that is practicable, the matters referred to in section 71(2)(a) and (b) of the Act. These cover:

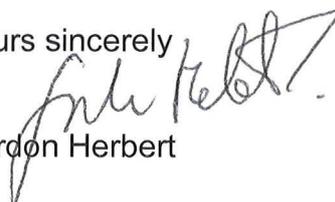
- (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of ORR, seriously and prejudicially affect the interests of that individual; and
- (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of ORR, seriously and prejudicially affect the interests of that body.

8. When you submit the copies of the signed contract would you therefore please list any aspects of the contract which you wish us to consider excluding from our register and explain why you consider how they meet the requirements of sections 71(2)(a) or (b).

## Administration

9. A copy of this letter will be sent to Chris Geldard of Geldard Consulting Limited.

Yours sincerely

  
Gordon Herbert

