

PANORAMIC

RAIL TRANSPORT

Uruguay



 LEXOLOGY

Rail Transport

Contributing Editor

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Uruguay



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GENERAL

Industry structure

How is the rail transport industry generally structured in your country?

Uruguayan rail infrastructure is state-owned. The infrastructure was originally mainly owned by British companies and was nationalised in 1949 as part of an agreement between the United Kingdom and Uruguay. In 1952, property to rail infrastructure was assigned by law to the State Railway Administration (AFE), a state-owned rail company.

Pursuant to a recent law passed in 2022 (law No. 20,075), the responsibility to construct, modify and conserve, and to administer and manage the rail infrastructure and the ancillary works, passed from AFE to the Ministry of Transport and Public Works (Ministry of Transport) through its National Directorate of Rail Transport (DNTR), an operating unit of the Ministry of Transport. The Ministry of Transport is allowed to carry out these activities either directly or through third parties (concessionaires).

Rail transport services operate under a free competition regime, both in respect of passenger and freight transport (open-access system). In this sense, article 247 of law 20,075 provides that private companies have the right to access the rail infrastructure, provided they comply with the technical requirements and pay the correspondent tolls. Legal commentators classify rail transport services as a private activity (as opposed to public services), in which sector the state (through AFE and its subsidiaries) provides services in competition with private companies, where such private companies require an authorisation (as opposed to a concession) to operate.

Law stated - 6 agosto 2024

Ownership and control

Does the government of your country have an ownership interest in any rail transport companies or another direct role in providing rail transport services?

Yes, the government owns AFE, which is a rail transport company, subject to public law. Pursuant to its organic law (No. 14,396), AFE is entrusted with the provision of passenger and freight rail services.

With regard to passenger rail operations, AFE is currently the only company providing services in the market. Such services are provided by AFE directly (ie, not by subsidiaries or through third parties). With regard to freight rail operations, AFE provides the services through its subsidiary Servicios Logísticos Ferroviarios S.A. (SELF). SELF is a government-owned company subject to private law, which is jointly owned by AFE with a 51 per cent participation and Corporación Nacional para el Desarrollo (CND), a non-state public company with a 49 per cent participation. AFE's participation in SELF was authorised by article 206 of law 17,930 (passed in 2005) and was provided for by the Executive Power's Decree No. 473/011 (passed in 2011). In exchange for its 51 per cent shareholding participation, AFE transferred to SELF its total assets relating to freight rail operations.

In addition, the government is the owner of the total rail network infrastructure, through the Executive Power and the Ministry of Transport, in accordance with article 243 of law 20,075. Prior to such law, which was passed recently in 2022, ownership of the rail infrastructure corresponded to AFE.

Law stated - 6 agosto 2024

Ownership and control

Are freight and passenger operations typically controlled by separate companies?

Currently, there is only one rail company providing passenger services, which is AFE. AFE also provides freight services, through its subsidiary SELF, which is one of the only two current companies providing freight services.

Law stated - 6 agosto 2024

Regulatory bodies

Which bodies regulate rail transport in your country, and under what basic laws?

In accordance with law No. 20,075, the body responsible for regulating rail transport is the Executive Power through the DNTF, which is an operating unit within the sphere of the Ministry of Transport. Pursuant to the mentioned law, the DNTF's regulatory scope includes:

- establishing the acceptable rail load and speed standards;
- establishing the requirements to obtain an authorisation to become a rail operator and the issuance of such authorisation;
- establishing the requirements to be met by traction and towed material and authorise them;
- defining the rail route for each operator and establishing priority criteria among the different operators;
- determining the preferences over each section of the infrastructure; and
- establishing the rules that the signalling and communication devices should meet.

With regard to rail transport regulation, it is also worth mentioning the Principles of Rail Regulation, approved by the Executive Power through Decree No. 280/018, which set forth the general guidelines that the DNTF should follow in the development of the regulation for the National Rail System. The general guidelines establish that the following principles (among others) should govern the regulation:

- promoting the Rail System as a driver for the national and logistic development;
- fostering competition in the provision of rail transport services, guaranteeing compliance with objectivity, transparency and non-discriminatory standards;
-

guaranteeing the provision of rail services in safety conditions, assigning responsibilities to the different agents of the System; and

- protecting users and consumers' rights, guaranteeing their right to access the rail services according to quality standards and in safety conditions.

In addition to its regulatory role, its organic law entrusts the DNTF with the responsibility of supervising compliance with the regulation and the application of sanctions. The DNTF is also assigned with the role of advising the Executive Power in the design of rail transport policy.

Law stated - 6 agosto 2024

MARKET ENTRY

Regulatory approval

Is regulatory approval necessary to enter the market as a rail transport provider? What is the procedure for obtaining approval?

Yes, to enter the market as a rail transport provider, either for freight or passenger transport, a rail operator licence from the National Directorate of Rail Transport (DNTF) should be obtained (the Rail Operator Licence or Licence) and assignment of capacity to the infrastructure should be requested to the DNTF (Assignment of Capacity).

Chapter III, Section I of the Principles of Rail Regulation sets forth the procedures and requirements to obtain the Licence. The procedure starts with the interested party submitting a 'declaration of activity', which should comprise the type, characteristics and quantity of services that it is interested in providing. In addition, the following requirements should be met or complied with.

- The applicant should be a company incorporated under Uruguayan law, whose principal business purpose under its by-laws should be freight mass transportation or collective passenger transport. The share title certificates of the company should be nominative and its owners should be disclosed.
- It should demonstrate financial capacity to comply with its present and future obligations. The applicant should evidence that within a 12-month period, it should be able to meet its actual and potential obligations. With respect to newly created companies, financial capacity should be evaluated based on its social and paid-in capital and the guarantees granted by the company or its shareholders to backstop the company's obligations.
- Prior to commencing operations, the applicant should have obtained or demonstrated:
 - a safety certificate issued by the DNTF;
 - managerial bodies with necessary knowledge and experience to exercise a reliable and trustworthy supervision and operative control of the activities authorised by the Rail Operator License;
 - personnel responsible for rail transport safety, duly authorised by the DNTF;and

- operative personnel authorised by the DNTF.
- Liability insurance policies in place at the time of the commencement of operations and throughout its operations to cover civil liability, particularly damages caused to passengers, to the load, to third parties and to the rail infrastructure.
- Evidence of having in place (or being in process of having) a Health and Occupational Safety Management System based on national laws and ISO norms 45001.

The DNTF has a 90-day term from the submission of the complete application to decide whether the Rail Operator Licence should be granted. The fee charged by the DNTF in respect of the Licence procedure is 413,164 Unidades Indexadas (approximately US\$60,000 as of today). The Licence is granted subject to conditions that should be complied with by the licensee. To the extent the licensee complies with these conditions, the should be valid for 20 years from the notification of its issuance.

With regard to the Assignment of Capacity, the procedure for its request is set forth under Chapter IV of the DNTF's Regulatory Rail Principles. Under this procedure, the administrator of the rail traffic (DNTF) assigns time slots to applicants for the purpose of a train, or any rail vehicle, being allowed to circulate between two points during a certain time frame.

Law stated - 6 agosto 2024

Regulatory approval

Is regulatory approval necessary to acquire control of an existing rail transport provider? What is the procedure for obtaining approval?

Article 10 of the DNTF's Principles of Rail Regulation provides that in the case of a modification to rail transport provider's legal regime, especially, in the case of transformation, merger or any corporate modification, the rail transport provider should notify the DNTF within five days of its occurrence.

In addition to rail regulation, the acquirer should consider general merger control laws.

Law stated - 6 agosto 2024

Regulatory approval

Is special approval required for rail transport companies to be owned or controlled by foreign entities?

The regulation does not distinguish between domestic and foreign entities owning or controlling rail transport companies.

Law stated - 6 agosto 2024

Regulatory approval

Is regulatory approval necessary to construct a new rail line? What is the procedure for obtaining approval?

Yes, pursuant to article 12 of the DNTF's Principles of Rail Regulation, rail line construction activity requires a rail circulation permit from the DNTF (the Rail Circulation Permit or Permit).

Pursuant to article 13 of the DNTF's Principles of Rail Regulation, the following is required to obtain the Permit:

- the applicant should be a company incorporated under Uruguayan law;
- the applicant should be registered before the State Supplier's Unique Register;
- prior to commencing activities, the applicant should have:
 - a safety certificate or authorisation issued by DNFT,
 - staff responsible for rail transport safety authorised by DNFT; and
 - operational staff authorised by the DNFT;
- liability insurance policies, where the minimum amount and conditions coverage of which should be established by the DNTF;
- the applicant should be registered before the Public Works National Registry of the Ministry of Transport; and
- evidence of having in place (or being in process of having) a Health and Occupational Safety Management System based on national laws and ISO norms 45001.

The has a 90-day term from the submission of the complete application to decide whether the Rail Circulation Permit should be granted. The fee charged by the DNTF in respect of the Permit procedure is of 41,316 Unidades Indexadas (approximately US\$6,200 as of today). The Permit is granted subject to conditions that should be complied with by its holder. To the extent the Permit holder complies with these conditions, the Permit should be valid for five years as of the notification of its issuance and may be renewed for new subsequent five-year periods.

Law stated - 6 agosto 2024

MARKET EXIT

Discontinuing a service

What laws govern a rail transport company's ability to voluntarily discontinue service or to remove rail infrastructure over a particular route?

There are no sector-specific laws governing a rail transport company's ability to voluntarily discontinue services. In doing so, the rail transport company should consider the general laws on the termination of contracts. General consumer protection laws should also be considered, particularly in respect of passenger services.

With regard to the removal of rail infrastructure, Law 20,075, passed in 2022, assigns to the Ministry of Transport, through the National Directorate of Rail Transport (DNTF), competence to remove and replenish rail infrastructure (tracks, sleepers, etc) whenever it deems it convenient, provided it maintains the trace for the destinations of the affected line. Prior to

this law, the body in charge of such role was the State Railway Administration (AFE). In the past, in practice, AFE has decided the discontinuation of passenger services and the removal of rail infrastructure through various Board decisions. By 1990, AFE had discontinued most passenger services and availability of almost half of the national rail line due to losses experienced by the company.

Law stated - 6 agosto 2024

Discontinuing a service

On what grounds, and what is the procedure, for the government or a third party to force a rail transport provider to discontinue service over a particular route or to withdraw a rail transport provider's authorisation to operate? What measures are available for the authorisation holder to challenge the withdrawal of its authorisation to operate?

Article 9 of the DNTF's Principles of Rail Regulation establishes the following events as causes for the withdrawal by the DNTF of a rail transport provider's authorisation to operate: (a) breaches to the requirements established for obtaining the Licence; (b) having obtained the Licence through false representations; (c) repeated infringements of the rail regulations; and (d) failing to commence authorised services within 24 months after receipt of the Licence. In addition, the regulation sets forth that the Licence may be suspended by the DNTF in the following cases: (a) as a sanction derived from an administrative process or investigation; (b) when the licensee fails to pay rail fees or tariffs that are due and payable; or (c) when the company has interrupted its rail operations during a period exceeding six months.

Pursuant to article 6 of the DNTF's National Rail System Sanctions Regime, approved by the Executive Power through Decree 373/019, the DNTF's investigations and applications of sanctions to rail transport providers should be carried out in accordance with the procedure established under the Executive Power's Decree 500/991. This decree codifies the general administrative procedures relating to the activity of the Executive Power's bodies and has been adopted by other governmental entities. The Decree establishes general procedural principles (eg, impartiality, legal objectivity, material truth, transparency, efficiency, etc.).

In accordance with the Executive Power's Decree 500/991, throughout the investigation procedure, the authorisation holder should be entitled, among others, to have access to the administrative file, submit evidence to defend its position and file its defences. Additionally, if the resolution is adverse, the affected party may submit an appeal for revocation before the DNTF and, subsidiarily, a hierarchic appeal before the Executive Power. If the resolution is upheld, the affected party may submit a final appeal (an action for annulment) before the *Tribunal de lo Contencioso Administrativo* (an administrative tribunal independent from the Executive Power).

Law stated - 6 agosto 2024

Insolvency

Are there sector-specific rules that govern the insolvency of rail transport providers, or do general insolvency rules apply? Must a rail transport provider continue providing service during insolvency?

There are no sector-specific rules governing the insolvency of rail transport providers. Insolvencies are governed by general rules.

It is worth mentioning that, unlike other jurisdictions, the initiation of insolvency proceedings against the rail operator or its declaration of bankruptcy are not included among the events or causes that trigger the suspension or revocation of its Licence.

Law stated - 6 agosto 2024

COMPETITION LAW

Competition rules

Do general and sector-specific competition rules apply to rail transport?

General competition rules apply to rail transport. Sector-specific provisions related to competition are only established in the form of principles or objectives that are to be taken into consideration by the National Directorate of Rail Transport (DNTF) in exercising its task (issuance of regulation, authorisations, etc).

In this sense, the DNTF's Principles of Rail Regulation, which set forth the general guidelines that the DNTF should follow in the development of the regulation, enshrines under its article 1, as one of the principles of regulation, the promotion of competition in the provision of rail transport services, guaranteeing compliance with objectivity, transparency and non-discriminatory standards.

Additionally, articles 19 and 25 of the DNTF's Principles of Rail Regulation, which set forth the criteria to be followed by the DNTF in granting Assignment of Capacity to the infrastructure, provides as one of its objectives, the promotion of competition, enabling rail transport to generate chain value and national production, whereby competitiveness should be a factor fostering efficiency and eliminating monopolies.

Law stated - 6 agosto 2024

Regulator competition responsibilities

Does the sector-specific regulator have any responsibility for enforcing competition law?

No, the DNTF has no responsibility for enforcing competition laws. The body responsible for investigating anticompetitive practices and enforcing competition laws is the Commission for the Promotion and Defence of Competition (Antitrust Commission), in accordance with article 10 of the Defence of Competition Act (law 18,159).

However, with regard to competition, it is worth mentioning that the DNTF's Principles of Rail Regulation, which set forth the general guidelines that the DNTF should follow in the development of the regulation, provide in its article 1, as one of the principles of regulation,

the promotion of competition in the provision of rail transport services, guaranteeing compliance with objectivity, transparency and non-discriminatory standards.

Additionally, articles 19 and 25 of the DNTF's Principles of Rail Regulation, which set forth the criteria to be followed by the DNTF in granting Assignment of Capacity to the infrastructure, provides as one of its objectives, the promotion of competition, enabling rail transport to generate chain value and national production, whereby competitiveness should be a factor fostering efficiency and eliminating monopolies.

Law stated - 6 agosto 2024

Competition assessments

What are the main standards for assessing the competitive effect of a transaction involving rail transport companies?

Transactions involving rail transport companies fall under the general merger control laws (section 7 of law 18,159, dated 20 July 2007, as amended by laws 19.833 dated 30 September 2019 and 20.212 dated 6 November 2023). In general terms, the regime provides that prior authorisation is required from the Antitrust Commission with respect to any act of economic concentration surpassing an established dual threshold. The dual threshold is triggered when: within any of the last three accounting years, (1) the annual net turnover (excluding taxes) within Uruguayan territory of all the participants of the operation is equal to or greater than the amount of 500 million indexed units (approximately US\$75 million as at May 2024) and (2) the annual net turnover within Uruguayan territory of two or more participants in the transaction, considered individually, is equal to or greater than 30 million indexed units (approximately US\$4.5 million as at May 2024).

Section 8 of the Defence of Competition Act provides certain exceptions to the obligation to obtain prior authorisation from the Antitrust Commission, which include the following: (1) acquisition in which the buyer previously held at least 50 per cent of the company shares; (2) acquisition of a sole company by a foreign company that did not previously had assets or shares in other Uruguayan companies (newcomer exception); and (3) the acquisition of companies declared bankrupt, provided that buyer was the only bidder under the competitive procedure.

Law stated - 6 agosto 2024

PRICE REGULATION

Types of regulation

Are the prices charged by rail carriers for freight transport regulated? How?

The prices charged by rail carriers for freight transport are not regulated (ie, operators may freely negotiate and agree prices with their clients). Rail carriers should, nevertheless, take into consideration general competition law principles, which, among others, establish the prohibition of certain practices (eg, applying to third parties unequal conditions in respect of

equivalent services, positioning such third parties on an important disadvantage regarding competitors).

With regard to the State Railway Administration (AFE), its organic law provides that its prices should be set by its Board of Directors with the approval of the Executive Power (article 5, G, law 14,396). The law further provides that, in exceptional circumstances, it may execute individual contracts by giving an ex-post notice to the Executive Power.

Law stated - 6 agosto 2024

Types of regulation

Are the prices charged by rail carriers for passenger transport regulated? How?

Rail passenger carriers are generally free to set their own prices but must grant users adequate access to such information, ensuring that services are provided in accordance with basic conditions of accessibility and non-discrimination (article 10, g, c, of the National Directorate of Rail Transport's (DNTF) Principles of Rail Regulation). Rail passenger carriers should also take in consideration general consumer protection law principles (eg, consumers' right to equal treatment).

With regard to AFE, its organic law provides that its prices should be set by its board of directors with the approval of the Executive Power (article 5, G, law 14,396). The law provides further that, in exceptional circumstances, it may execute individual contracts by giving an ex-post notice to the Executive Power.

Law stated - 6 agosto 2024

Types of regulation

Is there a procedure for freight shippers or passengers to challenge price levels? Who adjudicates those challenges, and what rules apply?

The price levels for freight shippers or passengers are not regulated.

Law stated - 6 agosto 2024

Types of regulation

Must rail transport companies charge similar prices to all shippers and passengers who are requesting similar service?

With regard to passenger rail services, article 10, g, c, of the DNTF's Principles of Rail Regulation expressly provides that rail passenger carriers must ensure that services are provided in non-discriminatory conditions (article 10, g, c, of the DNTF's Principles of Rail Regulation). The fact that passenger prices should be published excludes the possibility to justify a differential treatment based on objective reasons. Passengers are also entitled to request the right to equal treatment under consumer protection general laws.

Prices charged by rail carriers to shippers are not regulated (ie, operators may freely negotiate and agree prices with their clients). Rail carriers should, nevertheless, take into consideration general competition law principles, which, among others, establish the prohibition of certain practices (eg, applying to third parties unequal conditions in respect of equivalent services, positioning such third parties on an important disadvantage regarding competitors).

Law stated - 6 agosto 2024

NETWORK ACCESS

Sharing access with other companies

Must entities controlling rail infrastructure grant network access to other rail transport companies? Are there exceptions or restrictions?

Yes, article 25 of the National Directorate of Rail Transport's (DNTF) Principles of Rail Regulation, which establishes the criteria that the DNTF should follow to grant Assignment of Capacity to the rail infrastructure, provides that the procedure to grant such capacity should be adjusted to non-discriminatory principles.

Law stated - 6 agosto 2024

Access pricing

Are the prices for granting of network access regulated? How?

Pursuant to article 244 of law 20,075, the price or tolls to have access to the network are proposed by the DNTF to the Executive Power and approved by the Executive Power. In addition, such law provides that the DNTF should propose to the Executive Power the criteria for the calculation of such tolls. As of the date of this report (May 2024), these criteria have not yet been regulated.

Law stated - 6 agosto 2024

Competitor access

Is there a declared policy on allowing new market entrants network access or increasing competition in rail transport? What is it?

There is no specific or declared policy on allowing new market entrants network access or increasing competition in rail transport. However, it is worth mentioning that the DNTF's Principles of Rail Transport, approved by the Executive Power through Decree 280/018, as the body in charge of rail transport policy, expressly encourage the DNTF (as regulator) to develop its rail transport regulation by aiming to promote competitiveness, making of the railway a tool that fosters chain values and the national production and whereby competition should be a factor that generates efficiencies and eliminates monopolies. Pursuant to such regulation, the same criteria should be considered by the DNTF (as administrator of the rail infrastructure) when granting Assignment of Capacity to the infrastructure to rail operators. In addition, article 25 of the DNTF's Rail Transport Principles provides that the procedure to

be established by the DNTF to provide Assignment of Capacity to the infrastructure should be based on non-discriminatory criteria.

Law stated - 6 agosto 2024

SERVICE STANDARDS

Service delivery

**Must rail transport providers serve all customers who request service?
Are there exceptions or restrictions?**

With respect to passenger transport, article 10 of the National Directorate of Rail Transport's (DNTF) Principles of Rail Transport provides that rail transport providers should ensure that services are provided in accordance with basic accessibility and non-discriminatory conditions. The regulation does not contain exceptions or restrictions to such provision.

The regulation does not contain a similar provision in respect of freight rail transport.

Law stated - 6 agosto 2024

Service delivery

Are there legal or regulatory service standards that rail transport companies are required to meet?

Article 10 of the DNTF's Principles of Rail Transport provides that passenger rail transport companies should adopt rules relating to quality of services and implement quality management systems. The systems should contain the following (among others):

- information to users;
- tickets;
- punctuality of services and general principles to cope with disruptions of services;
- cleanliness of rolling stock and air quality in carriages;
- customer satisfaction surveys;
- complaint handling and refunds in case of breaches to rules relating to quality of services; and
- assistance provided to disabled persons and persons with reduced mobility.

In addition, the regulation sets forth that passenger rail operators should control their own results on quality aspects and, on an annual basis, should publish a report on the results obtained in such field. The report should be submitted before the DNTF and should be published on the website of the rail transport companies.

Law stated - 6 agosto 2024

Challenging service

Is there a procedure for freight shippers or passengers to challenge the quality of service they receive? Who adjudicates those challenges, and what rules apply?

Pursuant to article 6 of the DNTF's National Rail System Sanctions Regime, approved by the Executive Power through Decree 373/019, challenges by users in respect of breaches to their consumers' rights (which includes quality standards) are to be carried out in accordance with the administrative procedure set forth under the Executive Power's Decree 500/991. This is the general procedure governing administrative procedures relating to the activity of the Executive Power's bodies. The Decree includes general procedural principles (eg, impartiality, legal objectivity, material truth, transparency, efficiency, etc).

The DNTF is the body in charge of resolving users' challenges and sanctioning the rail company. Throughout the investigation procedure, the rail transport provider should be entitled, among others, to have access to the administrative file, submit evidence to defend its position and file its defences. Additionally, in case the resolution is adverse, it should be entitled to submit an appeal for revocation before the DNTF and, subsidiarily, a hierarchic appeal before the Executive Power. If the resolution is upheld, the rail company should be entitled to submit a final appeal (an action for annulment) before the Tribunal de lo Contencioso Administrativo (an administrative tribunal that is independent from the Executive Power).

Law stated - 6 agosto 2024

SAFETY REGULATION

Types of regulation How is rail safety regulated?

Rail safety is regulated through the rules, resolutions and instructions issued by the National Directorate of Rail Transport (DNTF). The main regulations in this respect include the following:

- the Principles of Rail Regulation, approved by the Executive Power through Decree 280/018, which sets forth:
 - the rules to which the administrator of the rail infrastructure is subject to in the maintenance of the infrastructure to ensure the functioning of operations under safety conditions; and
 - safety rules in respect of rail operators including the authorisations and certificates that rail operators and companies in charge of constructing and maintaining the infrastructure should obtain;
- DNTF's Technical Specifications for the Approval of Railway Rolling Stock, approved by the Executive Power through Decree 68/020, which sets forth the technical requirements to be met by rail rolling stock;
- DNTF's Safety Rules for Rail Level Crossing, approved by resolution of the Ministry of Transport dated December 15, 2020, which set forth requirements in respect of rail level crossings;

- DNTF's Regulation of Rail Accidents and Incidents Investigating Body, approved by the Executive Power through Decree 67/021, which regulates the procedure to be followed by the Rail Accidents and Incidents Investigating Body in carrying out its investigations; and
- DNTF's National Regulation on Rail Transport of Hazardous Goods, approved by the Executive Power through Decree 201/022, which sets forth rules and procedures in respect of the rail transport of hazardous goods to prevent risks affecting public health, public security and the environment.

Law stated - 6 agosto 2024

Competent body

What body has responsibility for regulating rail safety?

The body responsible for regulating rail safety is the DNTF, a division within the Ministry of Transport.

Law stated - 6 agosto 2024

Manufacturing regulations

What safety regulations apply to the manufacture of rail equipment?

The 's Technical Specifications for the Approval of Railway Rolling Stock, approved by the Executive Power through Decree 68/020, sets forth the technical requirements that rail equipment (including engines and rolling stock) should comply with to be allowed to circulate through the National Railroad. Pursuant to the Specifications, all rolling stock circulating through the National Railroad should be approved (homologated) by the DNTF and registered before the DNTF's National Rail Registry. The Decree grants operators a seven-year maximum term to adequate their rail equipment to meet such Specifications.

The Specifications expressly adopt the rules issued by the Association of American Railroads and the Technical Interoperability Specifications of the European Union Agency for Railways in respect of the technical requirements for rail rolling stock.

Law stated - 6 agosto 2024

Maintenance rules

What rules regulate the maintenance of track and other rail infrastructure?

Maintenance of track and other rail infrastructure is regulated under Chapter V of the DNTF's Principles of Rail Regulation, approved by the Executive Power through Decree 280/018.

Pursuant to said rules, the administrator of the rail infrastructure (DNTF) should plan its maintenance activities jointly with the traffic planners of the Traffic Control Centre. The administrator of the rail infrastructure may carry out the maintenance activities directly or through contractors.

Article 36 of the DNTF's Principles of Rail Regulation provides that the administrator of the rail infrastructure should measure the performance of the maintenance activities in accordance with key and adequate indicators, which should measure performance separating the different types of failures and locations. The administrator of the rail infrastructure should require that third parties contracted to undertake the maintenance activities be subject to the mentioned indicators and be subject to related sanctions and bonifications established by contract.

The administrator of the rail infrastructure should develop and implement a maintenance activities system that should meet the requirements and be in compliance with the international certification systems in respect of safety, quality and environmental standards (article 37 of the DNTF's Principles of Rail Regulation).

Law stated - 6 agosto 2024

Maintenance rules

What specific rules regulate the maintenance of rail equipment?

Pursuant to Annex III of the DNTF's Technical Specifications for the Approval of Railway Rolling Stock, maintenance of rail equipment should be carried out by personnel and centres duly authorised (homologated) by the DNTF. Maintenance centres are defined under article 1.2 of Annex III of such Specifications as the entity responsible for the comprehensive maintenance and repair and quality and safety of the rail equipment that is provided to them by third parties.

Article 2 of Annex III of the Specifications provides that the maintenance centres should elaborate work programmes and procedures relating to the maintenance interventions and operations to which they are entrusted by third parties in accordance with maintenance programmes, the elaboration and formalisation of documents relating to the maintenance interventions and operations and keeping the information relating to the maintenance carried out for a period of five years.

Law stated - 6 agosto 2024

Accident investigations

What systems and procedures are in place for the investigation of rail accidents?

The body in charge of investigating rail accidents is the Rail Accidents and Incidents Investigating Body (OIAF), established by law 18,834 (paragraph B, article 173). Pursuant to its organic law, the OIAF is a technically autonomous body whose reports are not binding but should be submitted to the Ministry of Transport through the DNTF.

OIAF's investigatory procedure is regulated under the Rules of the Rail Accidents and Incidents Investigating Body, approved by the Executive Power through Decree 67/021. Pursuant to article 1 of the regulation, the purpose of OIAF's investigations is to prevent the repetition of future rail accidents by carrying out technical investigations and analysis of accidents with the purpose of determining the causes, determining responsibilities and

recommending corrective measures. Article 2 sets forth that the procedure established thereunder applies to the investigation of material accidents and to use technical analysis of incidents and accidents to prepare reports that are useful to improve rail safety and prevention of accidents.

Law stated - 6 agosto 2024

Accident liability

Are there any special rules about the liability of rail transport companies for rail accidents, or does the ordinary liability regime apply?

The ordinary liability regime applies to rail transport companies for rail accidents, including general consumer rights laws. There are no special rules in this regard with respect to rail transport.

Law stated - 6 agosto 2024

FINANCIAL SUPPORT

Government support

Does the government or government-controlled entities provide direct or indirect financial support to rail transport companies? What is the nature of such support (eg, loans, direct financial subsidies, or other forms of support)?

In support of companies that provide services, the Executive Power's Decree 348/014 declared freight rail.

Law stated - 6 agosto 2024

Requesting support

Are there sector-specific rules governing financial support to rail transport companies and is there a formal process to request such support or to challenge a grant of financial support?

In support of companies that provide services, the Executive Power's Decree 348/014 declared freight rail transport as a promoted activity in accordance with article 11 of the investment promotion law (No. 16,906). Pursuant to this law, companies whose investment is promoted by the Executive Power benefit from the following:

- exemptions of the net worth tax benefits;
- exemption of the Income Tax on Economic Activities for a maximum amount and term that will result from applying a matrix of certain public-policy indicators (creation of jobs, increased exports, use of clean technologies, etc);
- VAT tax credits akin to the exporters' regime for the local acquisition of materials and services for civil works; and

- exemption of fees or taxes on imports, including VAT, on personal property for fixed assets and materials for civil works, which do not have exemptions under the benefits of other regimes, and are declared non-competitive for the national industry.

Additionally, article 6 of the Executive Power's Decree 348/014 provides that freight rail companies should benefit from the following:

- exemption from wealth tax in respect of the following fixed assets:
 - cargo transport units, and
 - electronic data processing equipment, and
- exemption from VAT and from the specific internal tax corresponding to the importation of the before-mentioned goods and reimbursement of VAT included in the local acquisition of such goods. Certain exceptions are provided in respect of such exemptions.

The Decree sets forth that to apply for these exemptions, the companies should submit before the Investment Commission a copy of their authorisation by the Ministry of Transport to provide freight rail services.

Law stated - 6 agosto 2024

LABOUR REGULATION

Applicable labour and employment laws

Are there specialised labour or employment laws that apply to workers in the rail transport industry, or do standard labour and employment laws apply?

Uruguayan legislation contains certain specialised labour regulations relating to workers in the rail transport industry, which are established by Salary Councils, namely, within Group 13 (Transport and Storage), SubGroup 13 (Railway Transportation of People and Load), Chapter 13.1 (Load Railroad Transportation). The Salary Councils, created by law 10,449, are tripartite bodies, which include the business sector, the workers sector and the government, where, through the mechanism of social dialogue, minimum salaries, categories and other benefits are negotiated and determined. Pursuant to Law 18,566, the regulation adopted by the Salary Councils applies to all employers and employees involved in the sector.

Finally, it should be noted that general labour laws and regulations apply to matters not regulated by Salary Councils.

Law stated - 6 agosto 2024

ENVIRONMENTAL REGULATION

Applicable environmental laws

Are there specialised environmental laws that apply to rail transport companies, or do standard environmental laws apply?

Standard environmental laws apply to rail transport companies. With regard to the construction and rehabilitation of new rail lines, a Prior Environmental Authorisation should be required from the Ministry of Environment in accordance with Law 16,466 and the Executive Power's Decree No. 349/005. Such authorisation should be preceded by an environmental impact assessment before the Ministry of Environment. Other general environmental regulations, such as those related to land zoning and planning, protected areas or air quality (among others) may also apply, depending on each specific case.

With respect to sector-specific environmental regulation, section III of the National Directorate of Rail Transport's Principles of Rail Regulation sets forth certain environmental policies to be complied with by all participants of the Rail System. Among others, article 63 provides that all participants of the Rail System must have environmental management systems, which should be based on national laws in force and ISO 14001 certificate in force.

Law stated - 6 agosto 2024

UPDATE AND TRENDS

Key developments of the past year

Are there any emerging trends or hot topics in your jurisdiction?

The Uruguayan government recently inaugurated the Ferrocarril Central Project in April 2024. The project was implemented through a public-private partnership agreement, executed in 2019, which involved the design, construction, financing, rehabilitation and maintenance (for a 15-year term) of 273 kilometres of rail line between the city of Paso de los Toros and the country's capital city, Montevideo. The project involved an investment of more than US\$1.1 billion, transforming it into the largest infrastructure project in the history of Uruguay. The rail line connects a private pulp plant recently inaugurated, which, according to sources, its construction included an investment exceeding US\$3 billion, with the port of Montevideo.

The Ferrocarril Central Project is expected to revive rail transport in the country (both passenger and freight), which has been marginal in the last decades. In this sense, the Ministry of Transport has recently issued a licence to operate to the private company, which will be providing freight rail services to the mentioned pulp plant, making it the second company currently holding this license in the country. Other relevant local logistic companies have also expressed publicly their intention to commence to provide freight rail services. Moreover, after the increased interest of private companies in this means of transport, authorities from the Ministry of Transport have revealed that the government is evaluating the rehabilitation of other rail lines that have been inactive for some decades (eg, the rail track connecting the cities of Salto and Minas with Montevideo).

In addition, authorities from the national government and from the departments of Montevideo and its neighbouring department Canelones, have also revealed plans to construct a tram-train that would connect the increasingly populated east outskirts of Montevideo with the city's centre. According to sources, relevant local and international construction companies are already carrying out feasibility studies in regard to this project.

Law stated - 6 agosto 2024