

# Concession Agreements

## Full Description

### **Standard Concession (or Franchise) Agreement**

The right to use tracks during a defined term can also be part of a concession (or franchise) agreement. These agreements usually combine construction, maintenance and operation of a railway network and involve major investment. Therefore they award the right to operate defined networks or individual lines for a longer period in time than [track access agreements](#) and often grant exclusivity to the railway operator.

For more information on Concessions, see [Concessions, Build-Operate-Transfer \(BOT\) and Design-Build-Operate \(DBO\) Projects](#).

### **Concessions Providing for Shared Track Use**

Concessions (or franchise) agreements can also be relevant for the broader topic of “track access” if they require the concessionaire to provide access to other operators against the payment of an access fee.

### **Eastern Europe and Central Asia**

Example 1: Armenia - [Concession Agreement on the Transfer of the Armenian Railway System to the “South-Caucasian Railway” Closed Joint-Stock Company Created by “Russian Railways” Closed Open Joint-Stock Company](#) - Concession agreement between the Republic of Armenia (“Concedent”), the South-Caucasian Railway (“Concessionaire”) and the Russian Railways (“Guarantor”) to modernize and operate the Armenian Railway. The concession agreement stipulates that the Concessionaire must provide access to the railway network for other operators in accordance with the laws of Armenia.

### **European Union (EU)**

Example 2: France/United Kingdom – [Channel Tunnel Fixed Link](#) - Concession agreement between the United Kingdom and France and the Concessionaires (The Channel Tunnel Group Limited and France-Manche S.A.) regarding the development, financing, construction and operation of a fixed link across the English Channel between the United Kingdom and France. The [Regulation of the Intergovernmental Commission on the Use of the Channel Tunnel](#) (English and French) mandates third-party track access. The website of the [Channel Tunnel Intergovernmental Commission \(IGC\)](#) provides more information on the legal framework for the Channel Tunnel.

Example 3: United Kingdom - [Channel Tunnel Railway Link \(High Speed 1\)](#) - Concession agreement between the Secretary of State for Transport and High Speed 1 Limited (HS 1 Limited). The agreement regards the design, construction, financing, operation, repair and maintenance of the high-speed railway link from St. Pancras Station in London to the Channel Tunnel that connects with the international high-speed routes between London and Paris, and London and Brussels. European Union and national legislation mandate third-party track access.

HS 1 Ltd. provides on its website [Model Framework Track Access Agreements](#) for international passenger and freight services.

### **Latin America and the Caribbean**

Example 4: Argentina – [\*Contrato de Concesión Ferroviaria \(430/94\) and Addenda \(167/01\)\*](#), Grupo de Servicio 6, Línea Belgrano Norte (Spanish) – Concession agreement between the Argentinian state and a private entity (Ferrovias Sociedad Anonimas Concessionarios) regarding the railway line Belgrano Norte (from Villa Rosa to Retira - Buenos Aires Metropolitan Area) with addendum. Concession regards a railway line dedicated to public passenger transport (concesión de servicio público). Concessionaire is granted the right to use all assets conferred, including rolling stock. Concessionaire is obliged to operate the railway system, maintain the railway infrastructure and make the investments specified in the concession contract. Asset ownership remains with the conceding authority. Assets revert to the conceding authority at the end of the concession period, including assets purchased by the concessionaire (exceptions apply for rolling stock). The term of the contract is 24 years (extendable). The concessionaire has the obligation to grant track access to railway companies specified in the agreement or other concessionaires on the basis of track access agreements against track access charges. The conditions for track access and the track access charges need to be fair and reasonable (clause 6.3 of the concession contract). Details are specified in annexes to the contract (not published yet).

Example 5: Brazil - Mining-Related Railway Concession (Portuguese with summary in English) - Concession agreement between the Brazilian state and a consortium of several mining companies. The concession agreement grants the Concessionaire a 30-year concession to develop and operate a 1,674 km railway line that serves as a freight transportation link to the region's main ports. The concession agreement mandates access of a specific volume of intercity passenger service (9.1 XX). The Concessionaire is also required to operate “mutual traffic” (i.e., grant access rights to other railway operators on the basis of reciprocity). If the Concessionaire cannot operate “mutual traffic” it must enter into track access agreements with third-party users. These contracts must be submitted to the conceding authority to prevent the abuse of economic power (9.1 XXII).

Example 6: Peru - [\*Contrato de Concesión de los Ferrocarriles del Sur y Sur Oriente\*](#) (Spanish) - Concession agreement between Peruvian state and a private entity (Ferrocaril Transandino S.A.) that carries out the concession of the southern (Matarani/Mollendo to Cusco) and the southeastern (Cusco to Machu Pichu) railway lines. The term of the concession is 30 years (extendable). The conceding authority transfers the right to use fixed assets and rolling stock for passenger and freight services to the concessionaire. Main obligations of the concessionaire include the upgrading and rehabilitation of the railway infrastructure (including signaling and telecommunication systems), rehabilitation of rolling stock, and improvement of the operational performance. The concessionaire has the obligation to provide open access to other railway operators on a non-discriminatory basis and upon payment of a track access charge. Track access charges need to be approved by the [regulator](#). Find more information on the [track access agreement](#) drafted for this railway network.

## **Sub-Saharan Africa**

Example 7: [\*Sub-Saharan Africa: Concessioning of the Ifrikyia Railway - a Case Study\*](#) by Karim-Jacques Budin, SSATP Working Paper No. 64, World Bank, 2003 (English and [French](#)). The case study includes a sample railway concession agreement (section 3) drafted for a state in Sub-Saharan Africa. This sample contract stipulates that the use of railway infrastructure operated by the concessionaire may be opened to other railway transport operators under circumstances specified in Article 6 of the concession agreement. Third-party use would be based on specific track access agreements between the concessionaire and the operator in question subject to an infrastructure usage fee.

Example 8: [Review of Selected Railway Concessions in Sub-Saharan Africa](#) - World Bank Report, 2006 - Annex C of the report contains a comparative review of contractual clauses dealing with third-party track access for different concession/affermage agreements [Camrail (Cameroon), Sitarail (Côte d'Ivoire – Burkina Faso), Madarail (Madagascar) and Transrail (Senegal and Mali)].

## Concessions Granting Haulage Rights

The contractual form of a concession agreement can also be used to award haulage rights for a longer period in time. One example is the [Model Concession Agreement \(MCA\) for PPP in Container Train Operation](#)

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