

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE GOVERNMENT OF FINLAND
AND
THE GOVERNMENT OF ESTONIA
ON COMMON TRANSPORT INITIATIVE CO-OPERATION
INCLUDING THE HELSINKI-TALLINN RAILWAY TUNNEL PROJECT

The Government of Finland and the Government of Estonia, hereafter referred to as "the Participants",
DESIRING to approve a joint understanding on sharing their resources, experience and expertise with regard to common transport initiatives including the Helsinki-Tallinn railway tunnel;

TAKING INTO ACCOUNT that on 7 February 2018, the FinEst Link feasibility study of the Helsinki-Tallinn fixed link, done by the authorities of both of the countries, was published;

RECALLING that in March 2018, a Helsinki-Tallinn tunnel Task Force, hereafter referred to as the "Tunnel Task Force", was established consisting of representatives from the Finnish Ministry of Transport and Communications, the Estonian Ministry of Economic Affairs and Communications and the cities of Helsinki and Tallinn, with the purpose to analyse the main findings of the FinEstLink feasibility study and to present suggestions concerning further steps on the tunnel project;

TAKING INTO ACCOUNT that on 7 May 2018, in a joint session, the Governments of the Republic of Finland and the Republic of Estonia recognized the tunnel between Helsinki and Tallinn as an infrastructure project having an impact over the 21st century and enabling the region to become a globally visible innovation node. The tunnel would be a unique project requiring innovative actions and diversified funding sources. Together with the renewed Rail Baltic/Rail Baltica, hereafter the "Rail Baltica" connection, it would form a quick access to Central Europe. Involving private capital can be seen as an option in developing the process forward rapidly and in establishing a solid financial case;

NOTING the Agreement on Environmental Impact Assessment in a Transboundary Context between the Government of Finland and the Government of Estonia signed on 21 February 2002, and the Joint Commission on Environmental Impact Assessment in Transboundary Context, hereafter the "Joint Commission on transboundary EIA", established for the implementation of the provisions of the said Agreement;

TAKING INTO ACCOUNT that the tunnel railway will fall under Directive 2012/34 of the European Parliament and of the Council, establishing a single European railway area, and will be considered as a publicly available railway infrastructure, including the obligation for the states involved to ensure the balance of profit and loss account of the infrastructure manager;

NOTING also the possibility for the Joint Commission on transboundary EIA to propose to the competent authorities of the Parties to the Agreement possible activities for joint environmental impact assessments as well as to establish ad hoc working groups for overseeing and following up transboundary environmental assessments in individual cases;

RECALLING that the Transport, Telecommunications and Energy Council (TTE) of the European Union reached a partial General Approach on the Regulation on the Connecting Europe Facility (CEF) on 11 March 2019. This approach supports all key objectives that the Commission of the European Union proposed for CEF in the transport sector, for the period 2010-2027. Thanks to investment, this proposal will support the completion of the Trans-European Transport Networks (TEN-T) core network by 2030, with priority on the ongoing TEN-T projects as well as cross-border links and the missing links and to ensure, where applicable, that the supported actions are consistent with the overall network development regarding performance and interoperability;

RECOGNIZING the Participants' obligation to apply national legislation and European Union law as well as international law;

RESPECTING the Participants' national planning, environmental assessments, permitting and decision-making procedures, including the competence of the Participants' national authorities;

Have reached the following understanding:

SECTION 1

Objective

1. The objective of this Memorandum of Understanding is to initiate and facilitate co-operation between Participants on common transport initiatives, such as the Helsinki-Tallinn railway tunnel project (hereinafter "the tunnel project"), Rail Baltica connection, North Sea – Baltic Sea core network corridor and other relevant projects within and outside the Trans-European Transport Network and to agree on the main principles in their preparation, with the aim to meet the interests of both countries and the larger Baltic Sea Region in exploring the possibilities to enhance the tunnel project and/or other common transport initiatives.

2. Within the context of this Memorandum of Understanding, the Participants will share their resources, experience and expertise within common transport initiatives, including the tunnel project with due consideration should be given to:
 - a) The connection with Rail Baltica¹ is seen as a precondition of the tunnel project together with seamless connection of the existing and proposed infrastructure in both countries.
 - b) The seamless connection between the tunnel and the Participants' existing infrastructure and Rail Baltica will increase even more the social and economic benefits of the tunnel.
 - c) The use of the tunnel will be foreseen for both freight and passenger transport, and the tunnel will be considered as infrastructure of strategic importance/part of critical infrastructure.

SECTION 2

Areas of co-operation

1. The Participants will co-operate, exchange information and discuss common transport initiatives, such as the tunnel project, Rail Baltica, North Sea – Baltic Sea core network corridor and other relevant projects within and outside the Trans-European Transport Network.
2. The Participants will co-operate in the tunnel project by exchanging information and discussing the alignment for the tunnel, considering also the objectives of the Helsinki-Tallinn twin city initiative.
3. The Participants will co-operate for the purpose of extending the TEN-T core network to the fixed link between Estonia and Finland in order to facilitate the extension of Rail Baltica connection along the relevant TEN-T corridor to the High North.
4. The Participants will co-operate in order to identify a viable organisational model and approach to the financing options of the tunnel project by analysing the possibilities for combined financing from public and private capital, including from the European Union. Related reliability, safety and security considerations as well as national and European Union accounting principles will be taken into account.
5. The Participants will agree upon transparent set of criteria and preconditions in relation to potential private capital involvement, inter alia taking into account the framework related to foreign investment screening regulation (Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union.

¹ Rail Baltica is a new fast, conventional double-track electrified and ERTMS-equipped railway line with maximum design speed of 249 km/h on the route from Tallinn through Pärnu – Rīga – Panevėžys – Kaunas to the Lithuanian-Polish border, with a connection from Kaunas to Vilnius. The new railway line will be designed with 1435 mm gauge thus conforming to all requirements of the Technical Specifications for Interoperability.

6. The Participants will co-operate towards synchronized environmental assessment processes to acquire a unified view of the tunnel project's overall impacts on the environment and aim for simultaneous public hearings in relevant phases of these processes, taking into account national legislation and European Union law as well as international law.
7. As the tunnel will be a potential high security risk infrastructure, the Participants will co-operate in the fields of security, safety and environment in order to ensure all possible measures and actions to prevent, reduce and control adverse impacts will be taken in due time.
8. The Participants will take into consideration any financial and country specific national security risks of the tunnel and perform, when needed in co-operation, comprehensive risk assessments.
9. The Participants will, to the extent necessary, examine matters related to the law of the sea and maritime navigation, including maritime safety, as well as matters relating to operating train traffic in the tunnel, such as rescue services and border control.

SECTION 3

Public and private sector involvement

1. The Participants emphasize the role of the public sector in developing and upholding the international connection of strategic importance. The Participants will consider options for involving private investment in the implementation of the tunnel connection. In case private investment would be involved, this should be done in ways that secure the Participants full possibilities to control the development and operation of the tunnel connection, principles of which would need to be agreed upon between the Participants.
2. The Participants, taking into account the differences in the official proceedings in their countries that precede the construction of the tunnel, will share with each other any relevant information on internal proceedings that may affect the proceedings in the other country.

SECTION 4

Exchange of information

1. All information provided or generated pursuant to this Memorandum of Understanding will be safeguarded, used, transmitted, stored and handled in accordance with the Participants' national laws and regulations.
2. The Participants will take all lawful steps available to them to ensure that all classified information provided or generated pursuant to this Memorandum of Understanding will be treated in accordance with the Agreement between the Government of the Republic of Estonia and the Government of the Republic of Finland on the Mutual Protection of Classified Information done on 5th June 2007².

² <https://www.riigiteataja.ee/akt/12987709>

3. Relevant information will be exchanged through authorized representatives of the Participants, the Tunnel Task Force and Joint Commission on transboundary EIA and relevant ad hoc working groups and through other relevant means.
4. For the purposes of overall coordination regarding this Memorandum of Understanding the authorized representatives of the Participants are the Estonian Ministry of Economic Affairs and Communications and the Finnish Ministry of Transport and Communications

SECTION 5

Financial contributions

Each Participant will bear its own expenses in connection with the co-operation carried out in accordance with this Memorandum of Understanding.

SECTION 6

Disputes

Any dispute arising from the interpretation or implementation of this Memorandum of Understanding will be resolved amicably between the Participants through negotiations and consultations, and will not be referred to any national or international tribunal or third party for settlement.

SECTION 7

Amendments

The Memorandum of Understanding may be amended at any time by the mutual written consent of the Participants.

SECTION 8

Duration and effective date

The Memorandum of Understanding will come into effect on [the date of its signature] and will remain in effect until 31st December 2030 and thereafter will automatically be renewed for consecutive periods of 10 year unless terminated by either Participant in accordance with section 9 of this Memorandum of Understanding.

SECTION 9

Termination

This Memorandum of Understanding may be terminated by either Participant giving six months' written notice. The Participants will consult to determine how any outstanding matter should be dealt with. Termination will not affect the validity of any contract made under this Memorandum of Understanding.

SECTION 10

Relationship with national and international law

1. This Memorandum of Understanding is not legally binding and is not intended to supersede national law or international obligations by which the Participants are bound. The Participants will notify each other in case of any conflict arising from this Memorandum of Understanding.
2. This Memorandum of Understanding is not eligible for registration under Article 102 of the Charter of the United Nations.

The foregoing represents the understanding reached between the Participants on the matters referred to in this Memorandum of Understanding.

Signed in on the 26th day of April, 2021, in duplicate, in the English language.

On behalf of the Government
of Finland



Timo Harakka

Minister of Transport and Communications

On behalf of the Government
of Estonia



Taavi Aas

Minister of Economic Affairs and Infrastructure