Railways: Channel Tunnel Rail Link (HS1)

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The *Channel Tunnel Rail Link Act 1996* received Royal Assent on 18 December 1996. It provided for a high speed railway between London and the Channel Tunnel for both international and domestic passenger services. Details of the Act and the policies leading up to it can be found in HC Library Note SN70.

Work on the CTRL began in October 1998. Section 1 of the railway opened in September 2003 and section 2 to the newly-restored St Pancras Station opened in November 2007. The project is now often called 'HS1' or 'High Speed 1'; recent proposals for a new high speed rail line connecting HS1 to the North of England and Scotland are generally referred to as 'HS2'. Further information on HS2 can be found in HC Library Note SN316.

It was announced in February 1996 that London and Continental Railways (LCR) had been selected as the winning consortium to construct the CTRL under a PFI agreement. In January 1998 LCR announced that it had failed to find the necessary money for the project and in June 1998 the Labour Government announced a rescue for the project via a public private partnership (PPP). The total cost of the project is estimated at £5.8 billion. The previous government announced its intention to sell LCR (i.e. the right to manage and operate HS1), in preparation for which the company was restructured in mid-2009. In November 2010 the Coalition Government announced the successful bidder to operate the 30-year concession.

The National Audit Office published a report on CTRL in 2005; this was followed by a 2006 report by the Commons Public Accounts Committee.

Further information can be found on the HS1 website.

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1 Channel Tunnel Rail Link Act 1996

The *Channel Tunnel Rail Link Bill* was introduced in November 1994 and received Royal Assent on 18 December 1996. It provided for a high speed railway between London and the Channel Tunnel for both international and domestic passenger services. It was intended that new stations at Stratford in East London and Ebbsfleet in Kent, along with the restoration and redevelopment of St. Pancras Station in North London would stimulate regeneration in the surrounding areas.

In February 1996 the then Conservative Government announced that London and Continental Railways (LCR) had been selected as the winning consortium to construct the CTRL.[1] The intention was that LCR would finance, build and operate the link under a Private Finance Initiative (PFI) agreement, drawing revenue primarily from Eurostar UK and from use of the link by domestic train services. The government agreed to provide LCR with direct grants totalling £1.7 billion for the construction of the link and its use by domestic train services.[2] It was expected that construction would start in 1998 and that the CTRL would open in 2003. Originally, the intention was that Stratford would be the main London stop for services going north of London to Birmingham and Manchester. The then Secretary of State for Transport, Sir George Young, explained:

> London and Continental's plans will also extend the benefits of the channel tunnel rail link beyond the south-east. In particular, it proposes to construct a short length of new railway within the King's Cross railway lands, which will provide a direct twin-track connection between the channel tunnel rail link and the west coast main line. That will allow direct and frequent international services from cities such as Manchester and Birmingham, bypassing St. Pancras and calling at Stratford. That will cut journey times by up to an hour: for instance, Birmingham will be just four hours from Paris, and Manchester five hours.[3]

1 HC Deb 29 February 1996, cc 999-1016

2 section 42 of the *Channel Tunnel Act 1987* stipulates that no Government grant or subsidy can be paid for international rail passenger services; the Government can, however, support domestic services run on a rail link, as set out in sections 31 and 32 of the Act

3 HC Deb 29 February 1996, cc 999

The new railway line and the international station at Stratford were promoted under the *Transport and Works Act 1992* (TWA) as the details had come too late to be included in the CTRL Act itself. An application was made for an Order under the TWA to provide the new station at Stratford and an improved connection near St Pancras between the CTRL and the North London Line to connect with the West Coast Main Line (WCML). Parliament agreed the proposal in 1997[4] and a Public Inquiry began later that year. In September 1998 the then Deputy Prime Minister, John Prescott, announced that he was 'minded to approve' the Stratford project, subject to some outstanding concerns.[5]

2 Government rescue and restructure, 1998-2003

At the end of 1997 it had become clear that overly optimistic forecasts for the operating performance of Eurostar UK had prevented LCR from raising all the money it needed from private investors to build the Link. The restructured deal retained the same route but split construction into two sections: section 1, from the Channel Tunnel to Ebbsfleet in North Kent and section 2, from Ebbsfleet to St Pancras. Railtrack was brought in both to manage construction and, when it was completed, to purchase section 1.

2.1 Rescue package

John Prescott was both Deputy Prime Minister and Secretary of State for Environment, Transport and the Regions in the new Labour Government that took office in May 1997. In his memoirs he recalled the position in which he found the project when he took office:

> [LCR] came to see me and said they needed £1.5 billion from the Government (which we didn't have) in the next two months, or they would go bust [...] I realised the only way to move forward was to take the Rail Link back somehow into public ownership, and therefore be in control. It was too late to put it out to tender and find a new company who might complete it – that could have taken as much as three years. So I kept the existing company but got new people to run it and new engineers. The company already had debts of £2 billion, which we realised we would have to take on ... The Treasury agreed on a system of bond financing ... to get the project up and running again.[6]

On 28 January 1998 Mr Prescott, announced that LCR had failed to find the necessary money for the project and that they had 30 days to come to an agreement on how to proceed:

> In March 1996, the development agreement to build the channel tunnel rail link was awarded to London and Continental Railways, known as LCR. LCR also took control of the European passenger services railway company, Eurostar UK, operating services from London Waterloo to Paris and Brussels.
>
> The agreement provided for a taxpayer contribution worth £1.8 billion, due to be paid after 68 per cent. of the scheme by value had been built. LCR planned to raise the project finance through a flotation and major debt-raising exercise, towards the end of 1997.
>
> LCR has recently explained that it has reassessed projections for Eurostar passenger traffic, and has concluded that its original forecasts were far too optimistic. As a result,

4 HC Deb 12 June 1997, cc1299-1320; and HL Deb 24 June 1997, cc1540-55

5 DETR press notice, "Channel tunnel rail link - Prescott minded to approve proposals for new Stratford station", 8 September 1998 [PN 725]

6 John Prescott, *Prezza My Story: Pulling No Punches* (2008), pp280-281

> LCR has now informed me that it would not be able to attract project finance from the debt and equity markets, as planned.
>
> LCR said that it needed a further contribution worth £1.2 billion from the taxpayer over the next 10 years. That was in addition to the £1.8 billion already committed, making a total of £3 billion of taxpayers' money. I have told the board tonight that that was not acceptable.
>
> I regret to tell the House that, at 8 o'clock tonight, the board informed me of its decision to issue me with a formal notice under clause 7.7 of the agreement, to confirm that it cannot fulfil its obligations under the agreement.
>
> The agreement now provides for a 30-day period, during which there will be urgent discussions to reassess the situation and explore any revised proposals for completing the current agreement on the agreed route. I have assured the board that my Department stands ready to discuss, at the earliest opportunity, any revised proposals that it may have to complete the agreement. At the same time, preparations will be made for an orderly handover of the business to the public sector.[7]

After four months of discussions and negotiations, Mr Prescott announced to the House a revised agreement for the funding and construction of the CTRL on 3 June 1998. It did not involve a material increase in the direct grants to be paid to LCR but it did involve a radical restructuring of the project and the role of LCR:

> Today, I signed with LCR and Railtrack a statement of principles which meets all our requirements and which fulfils the contract agreed by the previous [Government]. Under this public-private partnership, LCR has been strengthened. A new management team is in place, and LCR has agreed to raise more equity to support the project. Railtrack has agreed to take a key role in building the link. It will manage construction for the railway to north Kent, and will commit to purchase it upon completion. Railtrack will have an option to build and buy the remainder of the link.
>
> LCR has secured a strong partner to operate Eurostar. Two very strong bids were considered--one from Virgin, the other from a consortium comprising British Airways, National Express and the national railways of France and Belgium. LCR today agreed to award the contract to the consortium. LCR has an obligation to build the entire 68 miles of railway from the channel tunnel to St. Pancras in London, via Ebbsfleet and Stratford, in accordance with the 1996 Act endorsed by the House.
>
> [...]
>
> I have always made it clear that the Government required a fair deal for the taxpayer, consistent with the Government's existing obligations under the contract, and this deal most certainly achieves that. The basic grant remains at £1.8 billion. There will be no requirement for additional Government support before 2010. Moreover, following intensive negotiations, the extent of the Government's additional contribution will not be the £1.2 billion requested in January, nor the £700 million about which hon. Members may have read in the press this week. It will be £140 million. After 2020, our share in the benefits will probably more than compensate for the extra money that we are asked to provide in 2010.
>
> All the parties have contributed to that improvement: LCR, Railtrack, the consortium and the Government. Recognising the unique features of the project and our commitment to strengthen international rail transport links, we have agreed that the

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7 HC Deb 28 January 1998, c461

> Government's credit will stand behind £3.7 billion of bonds issued by LCR privately in the City to fund the project ... That debt will be repaid out of the proceeds of the sale of the completed link. The risk of the Government incurring liability under the guarantees is therefore remote. The Government will support the financing package, which will allow this project to proceed now and at the minimum financing cost.
>
> [...]
>
> The Government believe that, in a real public-private partnership, not only costs but benefits are shared. The Government are sharing the risk, so it is only right that the taxpayer should share the benefits. I have therefore agreed with the parties that the Government will take a public stakeholder share in LCR, yielding a 35 per cent. share of the company's pre-tax surplus after 2020. The Government will also have a 5 per cent. stake in the Eurostar management company. That will be a public-private partnership with strong public accountability. Moreover, if LCR decides to sell the business--it cannot do so without the Government's agreement, as we shall hold a golden share in the company--the taxpayer will share at least 35 per cent of the proceeds. [8]

The new agreement, described as a public private partnership (PPP), retained the original route and (with amendment) the CTRL Development Agreement concluded by the Conservative Government in February 1996. LCR would build the CTRL and for this, it would set up two subsidiaries, Union Railways (South) and Union Railways (North), each of which would be responsible for one of the two phases of construction. The construction project would be managed for LCR by Railtrack and Bechtel. Phase 1 would run from the Channel Tunnel to Fawkham Junction in Kent. Work began in late 1998 and was completed by 2003. Phase 2 consisted of the more technically difficult section of the route, from Fawkham Junction, via the new station at Ebbsfleet, and then running north of the Thames into St Pancras. Railtrack and LCR agreed a target cost for Phase 1 of £1.7 billion and a target cost for Phase 2 of £2.5 billion (in January 1997 prices).

Railtrack was committed to acquire the Phase 1 infrastructure (on completion) for the actual cost of construction, less certain grant payments received by LCR, together with accrued interest; it had an option to acquire the Phase 2 assets by 2003 (and there were inbuilt incentives for it to do so). It was hoped that this would give rise to a purchase price for Phase 1 and Phase 2 of £1.5 billion and £1.8 billion respectively. Eurostar would pay access charges to Railtrack. The concession for the CTRL would expire in 2086 (previously 999 years), when the assets would return to the government. Eurostar (UK) Ltd, owned by LCR, would run the trains on the CTRL, but would also return to public ownership in 2086.

2.2 Finance

The financing of the restructured project was fundamentally different to that envisaged in 1996, and so was the distribution of risk among the various parties now involved with the deal. The estimated construction cost (at 1997 prices) was £1.67 billion for Phase 1 and £2.5 billion for Phase 2. The government continued to be committed to provide grant support worth £1.8 billion as agreed in the original Development Agreement, to be split between the two phases, roughly one third for the Phase 1 and two-thirds for Phase 2. In addition, the government agreed to stand behind the payment of track access charges in the event that these could not be met by Eurostar.

[8] HC Deb 3 June 1998, cc367-370

In addition, the project was to be financed by a combination of commercial debt and bonds totalling approximately £5.8 billion. The government agreed to guarantee £3.75 billion of debt. The first element (£2.65 billion) was raised in February 1999 to ensure funding was available for both the financial and construction of Phase 1 and to cover forecast losses on Eurostar. The remaining £1.1 billion was to help fund the second phase.[9]

The first of these 'eurosterling' bond issues, described as Government Guaranteed Bonds (GGBs),[10] was issued on 10 February 1999, with the longer bonds issued first, because of market conditions.[11] The second and final tranche of short term bonds was issued on 17 February. The total issued was as follows:

- 10 February – £1.225 billion of 4.5% GGBs maturing in 2028 and a further £425 million of 4.5% GGBs maturing in 2038

- 17 February – £1 billion of 4.75% GGBs maturing in 2010

Mr Prescott forecast that, because of the success of the bond issue, the government's commitment to lend money to Eurostar might fall from the previous estimate of £140 million to less than £100 million. The loan would be repaid as part of the stake which the government had taken in LCR. Mr Prescott also announced a modification in the terms of the concession:

> The concession has been reduced from 999 years to only 90, we have negotiated a 35% public stakeholder share in LCR's pre-tax cashflow after 2020, and, in an improvement on the terms I announced last June, the Government will be eligible to receive the vast majority of the proceeds of any future sale of LCR.[12]

The National Audit Office (NAO) published a report on the CTRL on 28 March 2001; it was considered by the House of Commons Public Accounts Committee the following year.[13] The Committee's key recommendations were addressed by the Government in its Treasury Minute issued in response to the report, One of the Committee's recommendations was on the management and monitoring of taxpayer exposure following the bond issue:

> **PAC Recommendation**
>
> In deciding to restructure the deal rather than pull the plug, the Department put in place complex arrangements that will expose the taxpayer to substantial risk for many years to come. For instance, some £4 billion of bonds were issued by London & Continental, subject to Government guarantees, and in addition it is likely that further substantial sums of taxpayer's money will have to be lent directly to the company to keep it afloat. The Department will need to ensure that the substantial risks to which the taxpayer remains exposed are monitored and managed carefully throughout the life of the project.
>
> **Treasury Minute**

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9 HC Deb 19 May 1999, c354W

10 a hybrid between gilts and corporate Eurobonds

11 DETR press notice, "Prescott launches £1.65bn Channel Tunnel Rail Link bond", 10 February 1999

12 DETR press notice, "Prescott announces completion of Channel Tunnel Rail Link rescue package", 18 February 1998

13 NAO, *Channel Tunnel Rail Link* (session 2000-2001), HC 302, 28 March 2001; and: PAC, *Channel Tunnel Rail Link* (twenty-second report of session 2001-02), HC 630, 21 March 2002

> We agree that this is a very important part of the project risk management process, and have put in place the necessary rigorous procedures in order to monitor the project throughout its life.
>
> DTLR does not consider that there is substantial risk associated with the bonds issued to LCR; these are expected to be repaid through project cashflows. In addition, under the terms of the restructuring the amount of support available to LCR is capped. In the event that this cap is reached (or expected to be reached), Government would have the option to terminate the arrangements with LCR.[14]

In November 2003 LCR issued a further £1.25 billion of bonds, secured against future income (£750 million of fixed-rate bonds maturing in 2035 and £500 million of index-linked bonds maturing in 2051). In 2005 the Office of National Statistics confirmed that these bonds would be classified as government borrowing.[15]

Taking all this into consideration, HS1 states on its website that the line cost a total of £5.8 billion to construct (£1.9 billion on Section 1 and £3.9 billion on Section 2). LCR estimate that the regeneration value of the project is "at least £9 billion".[16]

2.3 Assets

The assets transferred to LCR in 1996 totalled around £600 million and included rolling stock; depots in Manchester and North Pool; Waterloo, St Pancras and Ashford stations; and railway lands at King's Cross and Stratford.[17] The assets were transferred into LCR's wholly-owned subsidiary Eurostar (UK) Ltd (EUKL). The assets could not be sold out of EUKL without the Government's agreement. LCR contracted the management of Eurostar (UK) Ltd to a consortium of National Express Group, British Airways, SNCF and SNCB. The contract would last initially until 2010.

Land, needed to build the track, was compulsory purchased by the Secretary of State who retains the freehold in perpetuity. The Secretary of State granted a licence to LCR for the use of the land for the period of construction. It was envisioned that, once completed, the Secretary of State would grant a lease to LCR for use of the land and Railtrack would enter into a binding contract with LCR to acquire a lease over the assets comprising Phase 1 of the works on completion of the work. As stated above, this lease would run to 2086, at which point it would revert to the Secretary of State.

2.4 The administration of Railtrack

On 7 October 2001, the then Secretary of State for Transport, Stephen Byers, petitioned a High Court judge to put Railtrack plc into administration under section 60 of the *Railways Act 1993*.[18] On 15 October 2001, the Secretary of State said:

> If we can ensure that the channel tunnel rail link section 1 continues on time, on schedule and on budget, we will do so. There will need to be detailed negotiations about any value that the project might have, and there are differing views about that value" (c 965). On section 2, he said, "Section 2 will be completed.[19]

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14 *Treasury Minute*, Cmnd 5512, 1 May 2002

15 ONS, *National Accounts Classifications: LCR securitised bonds*, 2 August 2005 [NACC decisions – NACC case 2001/5]

16 from the HS1 website

17 HC Deb 4 February 1998, cc650-51W

18 DTLR press notice, "Railtrack placed in administration", 7 October 2001

19 HC Deb 15 October 2001, c971

In June 2002 the then Secretary of State, Alistair Darling, gave a further statement setting out how Network Rail would assume Railtrack's responsibilities for the CTRL:

> Railtrack Group and Network Rail have now concluded a sale and purchase agreement to acquire Railtrack plc. I would like to set out in some detail the terms of that agreement. In line with its original offer, Network Rail will pay £500 million—of which £300 million will be provided by the Government—as well as taking over Railtrack's debt, which now stands at £7.1 billion. This includes loans from the European investment bank and the German bank, KfW, totalling just over £1 billion, which Network Rail plans to assume.
>
> In parallel, London and Continental Railways is acquiring from Railtrack its interest in the first phase of the channel tunnel rail link for £295 million. At a cost of £80 million, Network Rail will acquire the right to operate, manage and maintain the channel tunnel rail link and the concession to manage St. Pancras station. (…)[20]

3 Restructure and sale of LCR, 2007-2010

After Labour won a third term in 2005 there were indications from the government, LCR and the financial press that LCR would be restructured and sold off. There was some speculation about this in 2006[21] and then in November 2007 the government confirmed its intention to see off LCR, alongside the publication of the *Channel Tunnel Rail Link (Supplementary Provisions) Bill 2007-08*:

> A separation of LCR's three different businesses is planned—the infrastructure, including the track and stations, the land interests and the UK stake in Eurostar. Ultimately, as the Secretary of State said last year, we anticipate that there will be an open, competitive process for any sale, to secure best value for the taxpayer. The Bill is the first step towards that. Outside the Bill, a number of regulatory approvals must be granted … any restructuring process—indeed, any wider policy of the Department—will make the interests of the travelling public an absolute priority.[22]

Following the announcement there were reports that LCR would face a "multi-billion pound privatisation" in 2008 via a government-run auction.[23]

The Bill received Royal Assent on 22 May 2008. The *Channel Tunnel Rail Link (Supplementary Provisions) Act 2008* made relatively minor changes and clarifications to the regulatory and financial regimes as they relate to the operation of the CTRL, preparing the way for its sale and restructure. In the 2008 Pre-Budget Report the government confirmed that this was their intention:

> Following the passing of the Channel Tunnel Rail Link (Supplementary Provisions) Act 2008 **it is the Government's intention (depending on prevailing market conditions) to proceed with the restructuring of London and Continental Railways Ltd and eventual sale of key assets such as High Speed 1** (the rail link between London St Pancras and the Channel Tunnel), to deliver best value for the taxpayer.[24]

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20 HC Deb 27 June 2002, cc971-989

21 e.g. HC Deb 30 March 2006, c111WS; and "Decision looms on future for high-speed rail link company", *Financial Times*, 15 November 2006

22 HC Deb 20 November 2007, c1121

23 "Rail link provider is on track for privatisation", *The Times*, 2 November 2007; and "High-speed rail line set to be sold in auction", *Financial Times*, 3 November 2007

24 HM Treasury *Pre-Budget Report 2008*, Cm 7484, 24 November 2008, para 4.60 [emphasis in the original]

In June 2009 Lord Adonis, then Secretary of State for Transport, confirmed that the restructuring of LCR was complete. He explained the arrangements for the financial restructuring, and the writing off of the debt as follows:

> As part of this restructuring LCR is transferring ownership of its finance subsidiaries, which together are liable for £5.169 billion of debt in the form of bonds and securitised notes, to the Government. This debt is already supported by a range of Government guarantees. Separately, the Government are purchasing, for a nominal sum, the shares of LCR, taking it into direct government ownership. The Government have held a special share in LCR since 1999 which has given them a wide range of controls over the company. LCR and its liabilities are already accounted to the public debt; consequently, there is no change to existing public borrowing requirements [...]
>
> [LCR's] success has been enabled by substantial public investment, represented in the debt now held by LCR and its subsidiaries and which is already underwritten by the Government. The Government therefore want to see the taxpayer benefit from the value which has been created in these companies, as well as realising further benefits to passengers in terms of more and new products and services [...]
>
> On 14 May this year the Government received state aid clearance from the European Commission to undertake a financial restructuring of LCR. In announcing its approval, the Commission said:
>
> "The operation notified by the United Kingdom involves public support mainly in the form of debt cancellation and puts in place a sustainable financial structure for the high-speed rail link...It will benefit competition and users in view of the forthcoming liberalisation of international passenger transport by rail in 2010."
>
> The Commission also said that it:
>
> "...regarded positively the unbundling of operation and infrastructure activities and the future significant reduction of access charges."
>
> The purpose of the restructuring is to separate HS1 Limited and Eurostar from their past construction liabilities. This will enable HS1 Limited to charge a commercial rate for access to the line and thereby attract more trains and a wider choice of operators. Being charged a proper market rate also offers Eurostar the best chance to develop its customer products and services on a sustainable commercial basis. It is for this reason that the Government have taken separate ownership of the finance subsidiaries currently within LCR that hold these past liabilities. This recognises the existing underwriting by the Government of these debts and will see the cancellation of all the associated guarantees and future liabilities from the Government to LCR and its operating subsidiaries.
>
> Doing so returns considerable value to LCR and its operating subsidiaries. The Government are determined that value accrues in full amount to the taxpayer. The simplest and most direct way of securing this is for the Government to take ownership of LCR, making comprehensive the extensive rights already held in the company by virtue of the Government's existing special share.[25]

The government took formal control of LCR and its financial subsidiaries, paving the way for the sale of a long-term concession in HS1, the value of which would be used towards offsetting public investment in CTRL's construction. It was envisioned that the new owner would open up the route to competition: Deutsche Bahn and Air France had previously

[25] HL Deb 8 June 2009, cc25-26WS

expressed an interest in the route.[26] In an October 2009 speech to Bloomberg the then Prime Minister, Gordon Brown, mentioned LCR as part of his planned programme of asset sales. The financial press subsequently reported that LCR could fetch between £1.5 and £2 billion.[27] Later in 2009 the Labour Government published its asset portfolio which set out its future plans for a number of government-run and -owned entities, including CTRL, or HS1. It stated:

> **Objectives**
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> To support national economic competitiveness and growth, by delivering reliable and efficient transport networks. To deliver value for money for the UK taxpayer by maximising proceeds generated from a sale of HS1, based on an agreed commercial proposition (including the balance of opportunity/risk transfer).
>
> **Policy considerations**
>
> The purchaser of HS1 will need to take into consideration the need for ongoing compliance with the concession, and with safety and economic regulation and contractual commitments under existing track access arrangements.
>
> **Private Sector Opportunity**
>
> LCR intends to complete a sale of the rail infrastructure operator HS1 by the end of fiscal year 2010-11. Bids will be sought from interested parties through an auction sale process which will lead to the transfer of ownership from LCR of HS1 and its operating concession for the high speed line from St. Pancras International to the Channel Tunnel.[28]

The Conservative-Liberal Democrat Coalition Government that took office in May 2010 announced its intention to proceed with the planned auction and on 21 June 2010 the Secretary of State for Transport, Philip Hammond invited bids for a 30-year concession to run HS1's 68-mile track and its attendant stations.[29] Bidders interested in purchasing HS1 Ltd were asked to respond to the pre-qualification questionnaire by 9 July 2010. The sale was being managed on behalf of the government by LCR, who were advised by UBS.

On 5 November 2010 the government announced that the concession had been awarded to a consortium comprising Borealis Infrastructure and Ontario Teachers' Pension Plan for a total concession value of £2.1 billion.[30] In a statement to the House, the Secretary of State for Transport, Philip Hammond, said:

> The successful bidder is a consortium comprising of "Borealis Infrastructure" and "Ontario Teachers' Pension Plan", each with a 50% stake. The acquisition value is just under £2.1 billion. The sale receipts will be paid on completion of the contract, which is expected to happen later this month. At that point, the consortium will become the owner of HS1 Ltd which has a 30-year concession to manage the High Speed 1 line and stations. Under the terms of the concession, HS1 has the rights to sell access to track and stations on a commercial basis while having to preserve the nature and capacity of the high-speed railway and to maintain and renew it to modem standards. Compliance with these terms is overseen by the Office of Rail Regulation.

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26 DfT press notice, "London & Continental Railways restructured", 8 June 2009

27 "Channel tunnel rail link", *Financial Times*, 13 October 2009

28 HMG, *Operational Efficiency Programme: Asset Portfolio*, 2009, p20

29 DfT press notice, "High Speed Rail sale to raise money for public purse", 21 June 2010

30 DfT press notice, "UK Government sells right to operate its first High Speed Railway for £2.1bn", 5 November 2010

> The Secretary of State for Transport will continue to own the infrastructure of the railway and the freehold to the associated land. On expiry of the concession, the Government will once more take unencumbered ownership of the railway with the opportunity to let a further concession. In addition, the Government retain a 40% stake in Eurostar International Ltd and development rights on the major associated regeneration sites at Kings Cross and Stratford.[31]

4 Domestic services

Govia was awarded the contract to run the Integrated Kent Franchise (IKF) from 1 April 2006 and operates as Southeastern (it is also referred to in some places as London & South Eastern Railway Limited (LSER)).[32] The IKF includes routes throughout Kent, parts of East Sussex and South East London. It will include new high speed commuter services from St Pancras using the CTRL from December 2009. Details of changes to services resulting from the introduction of new high speed services using CTRL were confirmed in the Stakeholder Briefing Document. The document provides a summary of the outcome of the consultation on the proposed service specification undertaken during 2004. A number of revisions to the proposed services were made to "take into account the primary themes emerging from the consultation responses". It states:

> From the introduction of CTRL DS [domestic services], resources and rights to enable the IKF franchisee to operate services and stations on the South Eastern network, together with domestic services on the new CTRL. The CTRL DS will operate between London St Pancras and Stratford International, Ebbsfleet and Ashford International, as well as extending to other destinations on the South Eastern network via CTRL connections at Ebbsfleet and Ashford ... Currently the SRA anticipates the full CTRL DS and hence changes to classic services associated with SLC2 to be implemented with the December 2009 timetable.[33]

Appendix B of the document summarises the proposed service provision on the CTRL line. Southeastern's current timetable for high speed services can be viewed on their website.

The media reported that passengers would face increased fares to use the high-speed commuter line at the heart of the franchise. For example, *The Times* reported that the shortlisted bidders for the IKF had been "ordered to consider 'a fares regime that allows tickets to be priced at RPI +3 per cent for the first five years of the franchise'".[34] Similarly, *The Independent* reported:

> Domestic services with Japanese Bullet-style trains are due to be used in the high-speed link from Kent in 2009. The services will operate from Ebbsfleet near Gravesend, where the premium fare will be 35 per cent extra, from Birchington (30 per cent) and from Ashford (20 per cent).[35]

The London Transport Users' Council (now London TravelWatch) was highly critical of the IKF and made the following comments about the domestic services on the CTRL:

> …the SRA believes that large numbers of passengers from East Kent and Medway will quickly transfer to CTRL DS [domestic service] … LTUC does not believe this will happen.

[31] HC Deb 9 November 2010, c14WS
[32] DfT press notice, "Department for Transport announces integrated Kent franchise", 30 November 2005
[33] SRA, *Integrated Kent Franchise: Stakeholder Briefing Document*, January 2005, section 2.4
[34] "Rail deal to force fares up by 15%", *The Times*, 29 January 2005
[35] "Passengers must pay an extra 35% to use high-speed rail link", *The Independent*, 18 January 2005

However, whatever the outcome there will be problems. If the SRA is right, there will be serious interchange congestion problems at St. Pancras / Kings Cross because neither Thameslink 2000 nor the LUL Kings Cross northern ticket hall will be in place.

If LTUC is right and passengers do not transfer in large numbers, the reduced level of classic services in the peak from East Kent and Medway will not cope with the traffic As well as posing problems for passengers from these areas (whose interests are primarily championed by the Rail Passengers Committee for Southern England), there will be a serious knock-on effect on users of LTUC stations served by these trains, such as Sevenoaks and Bromley South. The likely outcome will be somewhere in the middle, and thus inconvenience and upset everybody – congestion at St. Pancras / Kings Cross and congestion on the SRA's reduced level of classic services.

… To be an attractive service for Docklands passengers, all CTRL DS trains should call at Stratford International. Also, this station must be provided with proper interchange facilities to the domestic station - a travelator as well as the proposed DLR extension.

Pursuit of this strategy will also provide journey options which will attract some passengers from the classic network, with calls at Stratford being useful for City commuters who might find it convenient to go to Liverpool St.[36]

More recently, in 2009 LCR published a report it had commissioned on the anticipated benefits of HS1 and its domestic services.[37] The *Financial Times* reported:

High-speed domestic services are due to start in December, cutting journey times to the capital. For example, Ashford to London will take 37 minutes compared with the current 83 minutes.

The report, produced by transport consultancy Colin Buchanan and economic consultants Volterra, details the property hotspots along the route. It predicts prices will rise across the Kent towns of Gravesend, Chatham, Rochester, Gillingham, Sittingbourne, Faversham and Dover as a result of the new rail services. In addition, the report - which also looks at economic benefits over a 60-year span and so beyond the current recession - says the prospect of higher house prices is more likely to encourage developers to invest in those areas and provide additional housing and employment capacity.

Overall, it predicts the total benefits to the economy of High Speed 1, which cost a total of £7.3bn including the new commuter services, will be more than £17.6bn over 60 years. The report, produced for London & Continental Railways, which operates the line from St Pancras to the Channel tunnel, says the rail line will generate huge time savings, create economic benefits from enabling more people to commute to better paid jobs in London and boost regeneration schemes along the route.

"HS1 will change the geography of Kent. This report gives us a sense of the shift in economic activity that will happen because of the infrastructure," said David Joy, LCR's development and planning director.

The report assumes £3.8bn of transport benefits based on time savings according to Department for Transport guidelines - the traditional way that such infrastructure projects are valued. But it says those are dwarfed by other gains and details a further £3.8bn of wider economic benefits as the line helps to relieve the capacity constraint on central London employment growth.

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[36] LTUC, *Integrated Kent Franchise – Train Service Specification*, April 2004, paras 27-33
[37] Colin Buchanan for LCR, *Economic Impact of High Speed 1: Final report*, January 2009

> In addition, it says a "conservative estimate" of the benefits to gross domestic product flowing from large regeneration schemes associated with the rail line would be £10bn over 60 years.
>
> The three large development schemes of King's Cross, Stratford and Ebbsfleet include proposals for a combined total of more than 15,000 homes and 70,000 jobs.
>
> The report says that at least 7,500 more people will be able to commute to London as a result of HS1, pushing up their earning potential.[38]

There have been other issues about domestic or so-called 'regional Eurostar' services. For example, in 2006 Eurostar announced plans to cut direct services from Ashford to Brussels and reduce direct services to Paris from the same station from November 2007. The Government has no formal powers over Eurostar's operational decisions. Article 12 of the *Treaty concerning the Construction and Operation by Private Concessionaires of a Channel Fixed Link* between the British and French governments, signed on 12 February 1986, explicitly states that: "The two Governments shall ensure that the Concessionaires are free, within the framework of national and Community laws, to determine their commercial policy, their tariffs and the type of service to be offered, during the term of the Concession".[39] The Railways Minister explained Eurostar's planned changes in some detail in a Westminster Hall debate in October 2006.[40] There was a further debate on the issue in March 2007.[41]

As to 'regional Eurostar', the benefits to the north-west from the Channel Tunnel depend on the links between the tunnel and the north. The plans for Stratford International and the improved connection with the north were not part of the original legislation but were made under a TWA order. They were, however, included in the Development Agreement with LCR, signed in February 1996, which covered not just the building of the CTRL, but also other details such as the responsibility to seek the necessary permissions for these developments. St Pancras is the London terminal specified in both the 1996 Act and the Development Agreement with LCR as it would provide ready access to the north and north-west of England. It was also planned that through-international services to the WCML should go via Stratford. Although LCR was contractually obliged to promote a TWA Order for a link between the WCML and the CTRL to be used by regional services, it was not obliged either under the provisions of the 1996 Act or under the Development Agreement to provide any services other than those between London and the Channel Tunnel.

Section 40 of the *Channel Tunnel Act 1987* placed a duty on the British Railways Board to prepare and publish a plan setting out measures which the Board proposed to take and also proposals for measures which it considered others should take, to provide through-services from the Channel Tunnel to the UK regions; and to increase the share of international traffic carried by such services. The Board published its plan in December 1989 as *International Rail Services for the United Kingdom*; this was revised in 2001.[42] Section 40 of the 1987 Act was subsequently repealed by section 274 and Schedule 31 of the *Transport Act 2000.* However, under section 206(4) of the 2000 Act the Strategic Rail Authority (SRA) (now the Department for Transport) has a duty to produce a strategy for facilitating the carriage of

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38 "Rail link lifts property value hopes", *Financial Times*, 21 March 2009; the report is available online: Colin Buchanan/Volterra for LCR, *Economic Impact of High Speed 1: Final report*, January 2009

39 *Treaty concerning the Construction and Operation by Private Concessionaires of a Channel Fixed Link* (Cm 1827), 12 February 1986, Article 12(1)

40 HC Deb 25 October 2006, cc444-445WH

41 HC Deb 7 March 2007, cc1641-1642

42 British Railways Board, *Channel Tunnel Act 1987: Review and revisions of the 1989 plan for international services,* January 2000

passengers by rail through the Channel Tunnel. The House of Commons Environment, Transport and Regional Affairs committee, when it came to consider the 1999 *Railways Bill*, was concerned that the wording about the CTRL, now in section 206, did not provide such a definite commitment as that contained in the original section 40.[43] However, the 'shadow' SRA, in its evidence to the Committee, was of the view that having a specific strategy with regard to through services might be a rather stronger requirement than having a plan which from time to time had to be revised.[44]

In October 1994 the then Secretary of State for Transport, instructed Railtrack "to make sure the infrastructure is in place to allow rail services from the regions to continental capitals to begin by the start of 1996". He said:

> The Eurostar will speed passengers from the Midlands, the North and Scotland to the Continent with sleeper services also connecting the west country and Wales. These services help to ensure that the economic and social benefits are extended beyond London and the south east and offer daytime services beyond the national capital.[45]

The introduction of the sleeper services planned from Glasgow, Manchester, Swansea and Plymouth was cancelled in July 1997 on commercial grounds as LCR did not consider the services would be financially viable. The plan for the daytime services was for the East Coast Main Line (ECML) to follow the existing railway line and go via Newcastle, Edinburgh and Glasgow and the WCML to go as far as Manchester.

EUKL presented a review of regional Eurostar services to Mr Prescott in November 1998 but he was not happy with it and announced he would commission "a thorough independent review".[46] The ETRA Committee reported on the consortium's review on 20 January 1999. The Committee was unhappy that the consortium's study said the regional services would not attract enough passengers to make it commercially viable and urged the Government to take account of the economic impact on the regions in its review.[47]

On 28 January 1999 Mr Prescott announced he was going to appoint consultants to review the various proposals for the Eurostar services.[48] Arthur D. Little was appointed on 17 June and reported in February 2000.[49] It concluded that on purely financial grounds regional Eurostar would not be viable:

> On purely financial grounds, we conclude that Regional Eurostar would not be viable. Journey times by train from the regions to continental destinations are longer than journeys by air and, in many cases, longer than by domestic rail links to Inter-Capital Eurostar. Fares on the service would need to be low to attract the leisure passengers most likely to use it, but the Regional service could not easily compete on price with lower cost alternatives, in particular the increasing number of low cost airlines. The service is unlikely to attract many business passengers, most of whom are already well served by air (...)
>
> Introducing a Regional service would offer some non-financial benefits. In the opinion of the regional groups we consulted, for example, acquiring an address on the

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43 ETRA Committee, *Railways Bill* (twenty-first report of session 1998-99), HC 827, 4 November 1999, para 53
44 ibid., Q429
45 DETR press notice, "Continental rail services from regions by 1996", 11 October 1994
46 HC Deb 8 December 1998, c135W
47 ETRA Committee, *Regional Eurostar Services* (fifth report of session 1998-99), HC 89, 20 January 1999; the report was debated in the House later in the year, see: HC Deb 19 May 1999, cc1000-21
48 HC Deb 28 January 1999, cc340-341W
49 HC Deb 8 July 1999, c591W

European rail network would be of value. We conclude, however, that any social, environmental or other non-financial benefits from the introduction of a Regional service would be too small to compensate for failure to make a profit.

> Leasing the Regional Eurostar trainsets and paths for domestic use would be more cost effective than operating the Regional Eurostar service, and would benefit travellers by providing additional capacity on the congested West Coast and East Coast Main Lines. On balance, therefore, leasing the Regional Eurostar trains to a domestic operator and returning the train paths is a more attractive way forward.[50]

5 Freight

The CTRL was designed primarily as a high speed passenger railway. Its main role in taking express trains from existing routes was intended to release capacity on the domestic rail network to carry other services including freight services.[51] The Project Brief for the CTRL published in October 1998 by Union Railways said:

> The Channel Tunnel Rail Link's major role of taking Eurostar and Kent express trains from existing rail routes will release capacity on the rail network to carry other services, including international freight trains servicing the whole of the UK.
>
> The new railway is designed primarily as a high-speed passenger railway. However, special high-speed freight trains for fast-delivery freight and parcels will also be well suited to the new line, and it will be able to carry slower international freight trains if the demand justifies. Passing loops to allow passenger trains to overtake slower freight services will be provided at Singlewell and Charing in Kent. There will be a freight junction with the Railtrack network near Dagenham, and a connection to the Dollands Moor Freight Yard near the Channel Tunnel.

Since then, however, there has been great interest in facilitating better freight movements using the CTRL either directly or indirectly. In February 2007, for example, during a debate on Eurotunnel in the House of Lords, Lord Berkeley, Chairman of the Rail Freight Group, said:

> As other noble Lords have said, the trucks trundling up the M20 could fill 200 trains a day, and probably half that number from the trucks on the M1 and M6, which would mean that the motorways were a great deal more pleasant to drive on. There would be a great deal less pollution, noise and everything else. There is plenty of capacity on the lines—on the Channel Tunnel rail link and on existing lines in this country. Even if there were only 100 trains a day, compared with four at the moment, that would save quite a lot.[52]

Also in February 2007 Labour MP Kelvin Kopkins outlined the concept of a 'Eurorail freight route':

> The concept has been described as a rolling motorway, and that is what it would be—and an international motorway too. It would take more than 5 million lorry journeys off our roads every year as well as providing a dedicated rail freight route for much of the north-south rail freight traffic currently using the east coast and west coast main lines. Our route would not only take large volumes of freight traffic off Britain's roads, but

[50] Arthur D. Little Ltd., *Review of Regional Eurostar Services*, February 2000, executive summary, pp7-8; the Government's response was given in a written answer, see: HC Deb 17 February 2000, cc637-638W

[51] HC Deb 25 February 1998, c224W

[52] HL Deb 8 February 2007, c830

> would free up the east coast and west coast main lines for faster and more frequent passenger use.
>
> As a spin-off from our scheme, we also suggest that the east coast main line in particular could and should be upgraded, with the quadrupling of the track at Welwyn and a new viaduct, as well as other improvements further north to permit 140 mph non-stop passenger trains from London to Edinburgh. Similar services to 135 mph could be made possible on the west coast main line to Glasgow, provided that much of the north-south freight traffic is transferred to the new freight line. The Eurorail freight route would, we suggest, be an integral part of Network Rail's future network.
>
> As for the construction of our route, its main attraction is that it would be built on existing corridors—either underutilised existing lines or old track bed—for all but 14 miles of its 470-mile length. Indeed, only 4 miles of new track across open farmland would be required, the other new track being in tunnels. The terminals would also be constructed either at existing sites or on new sites well away from human habitation, thus minimising any negative environmental impact. The construction would therefore be simple and easy, minimising both planning constraints and also, crucially, the cost.[53]

In January 2009 the Minister confirmed that no significant freight had been moved on the CTRL since 2007.[54] Further information on this issue, including the charges to freight for using the Channel Tunnel, can be found in section 5 of HC Library Note SN/BT/151, available on the Parliament website.

[53] HC Deb 19 February 2007, c126
[54] HC Deb 19 January 2009, cc1056-57W