

**Declaration by the directors
of a holding company in
relation to assistance for the
acquisition of shares**

155(6)b

Please do not
write in
this margin

Pursuant to section 155(6) of the Companies Act 1985

Please complete
legibly, preferably
in black type, or
bold block lettering

To the Registrar of Companies
(Address overleaf - Note 5)

For official use

Company number

03164272

Name of company

*Insert full name
of company

* Boreal & Austral Railfreight Limited

Note
Please read the
notes on page 3
before completing
this form

†Insert name(s) and
address(es) of all
the directors

We†

Carl Ferenbach of 87 Pinckney Street, Boston, Massachusetts, USA MA 02114, Sean Finn of 935 De la Gauchetiere Street West, Floor 16, Montreal Quebec H3B 2M9, Canada, Lord Griffiths of Fforestfach of Peterborough Court, 133 Fleet Street, London EC4A 2BB, Keith Heller of 277 Front Street West, Suite 503, Toronto, Ontario M5V 2X7, Canada, Richard Lubin of 17 Ascenta Terrace, West Newton, Massachusetts, USA 02165, Claude Mongeau of 935 De la Gauchetiere W, 16th Floor, Montreal, Quebec H3B 2M9 and David M. Richwhite of Fay Richwhite & CIE SA, 10 Cours de Rive, Geneva 1204, Switzerland.

§Delete as
appropriate

~~We, the sole director~~ [all the directors]§ of the above company (hereinafter called 'this company') do solemnly and sincerely declare that:

The business of this company is:

‡Delete whichever
is inappropriate

~~We are a company recognised as a bank, licensed institution within the meaning of the Banking Act 1979, or a person licensed under section 2 of 1 of the Insurance Companies Act 1982 to carry on the business of insurance in the United Kingdom~~

(c) something other than the above ‡

This company is [the]§ holding company of* English Welsh & Scottish Railway Limited

which is

proposing to give financial assistance in connection with the acquisition of shares

in ~~this company~~

the holding company of this company.]§

Presenter's name address and
reference (if any):

FRESHFIELDS BRUCKHAUS
DERINGER
65 FLEET STREET, LONDON
ENGLAND EC4Y 1HS
DX 23 LONDON/CHANCERY LANE

For official use
General Section

Post room



A29
COMPANIES HOUSE

0666
23/12/03

Please do not
write in
this margin

Please complete legibly, preferably in black type, or bold block lettering

The assistance is to be given to: (note 2)

UK Railway Holdings (BVI) Limited of Craigmuir Chambers, PO Box 71, Road Town, Tortola, British Virgin Islands, MJ UK Railroad Holdings LLP of 9E. Loockerman Street, Suite 1B, Dover, DE 19901, County of Kent, USA and Mr Allen Johnson of Brynestyn, Rusper Road, Ifield, Crawley, West Sussex, RH11 0LR, United Kingdom

The assistance will take the form of:

See Appendix 1

The person who ~~has acquired~~ [will acquire]* the shares is:

*Delete as appropriate

UK Railway Holdings (BVI) Limited of Craigmuir Chambers, PO Box 71, Road Town, Tortola, British Virgin Islands, MJ UK Railroad Holdings LLP of 9E. Loockerman Street, Suite 1B, Dover, DE 19901, County of Kent, USA and Mr Allen Johnson of Brynystyn, Rusper Road, Ifield, Crawley, West Sussex, RH11 0LR, United Kingdom

The principal terms on which the assistance will be given are:

See Appendix 2

The amount (if any) by which the net assets of the company which is giving the assistance will be reduced by giving it is nil

up to

The amount of cash to be transferred to the person assisted is £ 650,000

The value of any asset to be transferred to the person assisted is £ nil

Please do not
write in
this margin

The date on which the assistance is to be given is See Appendix 3

Please complete
legibly, preferably
in black type, or
bold block lettering

~~X~~We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

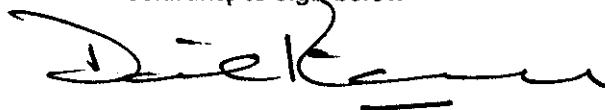
(a) ~~X~~We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date] † (note 3)

(b) ~~X~~X intended to commence the winding up of this company within ~~X~~ months of the date ~~X~~ and ~~X~~ we have formed the opinion that this company will be able to pay its debts in full within ~~X~~ months of the commencement of the winding up. † (note 3)

And ~~X~~we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at

Declarants to sign below



on

Day		Month		Year		
1	5	1	2	2	0	3

before me francesca Smedley, Solicitor, NSW, Australia

A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths.

Notes

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account see section 156(3) of the Companies Act 1985.
- 4 The auditors' report required by section 156(4) of the Companies Act 1985 must be annexed to this form.
- 5 The address for companies registered in England and Wales or Wales is:-
The Registrar of Companies
Companies House
Crown Way
Cardiff CF14 3UZ
or, for companies registered in Scotland:-
The Registrar of Companies
37 Castle Terrace
Edinburgh
EH1 2EB

BOREAL & AUSTRAL RAILFREIGHT LIMITED (THE COMPANY)
(AS THE HOLDING COMPANY OF ENGLISH WELSH & SCOTTISH RAILWAY LIMITED
(EWSR))

The assistance will take the form of:

- (a) an intercompany loan agreement to be made between English Welsh and Scottish Railway Holdings Limited (*EWS*) and EWSR (the *Upstream Loan Agreement*);
- (b) a prepayment agreement to be made between EWSR and EWS (the *Prepayment Agreement*);
- (c) a £125 million reducing revolving credit facility and overdraft and letter of credit facility agreement to be entered into by EWSR as borrower (the *Borrower*), EWS, English Welsh & Scottish Railway International Ltd (*EWSI*), and Rail Express Systems Ltd (*RES*), as original guarantors (the *Original Guarantors*), Barclays Capital, Lloyds TSB Capital Markets and The Royal Bank of Scotland plc (*RBS*) as the mandated lead arrangers (the *Mandated Lead Arrangers*), Barclays Bank PLC (*Barclays*), Lloyds TSB Bank plc (*Lloyds TSB*) and RBS as original lenders (the *Original Lenders*), RBS as overdraft and letter of credit bank (the *Original Overdraft and LC Bank*), Barclays as agent (the *Agent*) and as security agent (the *Security Agent*) (the *Facility Agreement*);
- (d) certain fee letters to be made pursuant to the Facility Agreement by EWSR and the Agent (for the account of the Lenders), EWSR and the Overdraft and LC Bank, EWSR and the Agent and EWSR and the Security Agent (collectively, the *Fee Letters*);
- (e) a debenture to be made not later than 31 January 2004 pursuant to the Facility Agreement by EWS, EWSR, RES, EWSI and the Security Agent (the *Debenture*);
- (f) a loan agreement to be made by EWSR and Mr Allen Johnson (the *Johnson Loan Agreement*); and
- (g) any other document as the directors of the Company consider necessary in connection with the above.

Fiona Louise Smedley
Solicitor NSW Australia

APPENDIX 2 – PRINCIPAL TERMS ON WHICH THE ASSISTANCE WILL BE GIVEN

- (a) Pursuant to the Upstream Loan Agreement, EWSR will agree to lend EWS up to £103 million which will be repayable on 31 March 2008 unless extended at the request of EWS and which will bear interest at a rate equal to EWSR's cost of funds plus 0.125 per cent;
- (b) Pursuant to the Prepayment Agreement, EWSR will agree to prepay £35 million of the amount due from EWSR to EWS under a loan agreement between EWSR, as borrower and EWS, as lender dated 31 December 2002;
- (c) Pursuant to the Facility Agreement, EWSR will pay a commitment fee to the Agent (for the account of each Lender) and the Overdraft and LC Bank and a letter of credit fee to the Overdraft and LC Bank. Pursuant to the Fee Letters, EWSR will pay:
 - (i) an arrangement fee to the Agent (for the account of the Lenders) and the Overdraft and LC Bank;
 - (ii) an agency fee to the Agent; and
 - (iii) a security agency fee to the Security Agent,in each case in the amount and at the times agreed in the Fee Letters;
- (d) Pursuant to the Debenture which will be entered into pursuant to the Facility Agreement, EWSR (together with EWS, EWSI and RES):
 - (i) will covenant to pay to the Security Agent all Liabilities when due in accordance with its terms or, if they do not specify a time for payment, immediately on demand by the Security Agent;
 - (ii) will create fixed and floating charges over its assets and undertakings as security for their respective liabilities under the Finance Documents;
 - (iii) will undertake to do all such acts or execute all such documents as the Security Agent requires to:
 - (A) perfect or protect the Charges or the priority of the Charges; or
 - (B) facilitate the realisation of the Charged Assets or the exercise of any rights vested in the Security Agent or any receiver; and
 - (iv) will promptly execute and deliver to the Security Agent such legal charge of such of its real property from time to time in England and/or Wales as the Security Agent requires,

in each case on the terms agreed;

Fiona Louise Snedley
Solicitor NSW Australia

- (e) Pursuant to the Johnson Loan Agreement, EWSR will agree to lend to Mr Allen Johnson an amount equal to the tax liability he would incur if and when he surrenders his holding of options over shares in EWS in consideration of the issue to him of partnership units in MJ UK Railroad Holdings LLP (*MJLLP*) and shares in UK Railway Holdings (BVI) Limited (*BVICO*). The terms of the Johnson Loan Agreement will provide that the loan shall be made by EWSR on the date that Mr Johnson is required to account to the Inland Revenue for such tax, and that the loan shall bear interest at a rate of 6% per annum, accruing daily and payable to EWSR annually in arrears. The Johnson Loan Agreement will further provide that the loan will become repayable if at any time prior to the fifth anniversary of the date that the loan is made Mr Johnson sells or otherwise realises value from his partnership units in MJLLP or BVICO shares or if he ceases to be an employee of EWS other than as a Good Leaver (as defined in the Johnson Loan Agreement). The terms will further provide that the loan will not be repayable on or at any time after the fifth anniversary thereof.

For the purposes of this Statutory Declaration:

Charged Assets means the assets from time to time subject, or expressed to be subject, to the Charges or any part of those assets;

Charges means all or any of the security created or expressed to be created by or pursuant to the Debenture;

Finance Documents means the Facility Agreement, any Fee Letter, any accession letter, any resignation letter, any Overdraft Document, any Security Document and any Hedging Document;

Hedging Document means any interest rate, currency management or fuel hedging agreement entered into between the Borrower and a Hedging Counterparty;

Hedging Counterparty means any Lender or affiliate of a Lender who becomes a hedging counterparty in accordance with the Facility Agreement;

Lender means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become party to the Facility Agreement;

Liabilities of a chargor under the Debenture means all present and future moneys, debts and liabilities due, owing or incurred by it to any Secured Party under or in connection with any Finance Document (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently and whether as principal, surety or otherwise);

Overdraft and LC Bank means:

- (a) any Original Overdraft and LC Bank; and

- (b) any bank, financial institution, trust, fund or other entity which has become a party to the Facility Agreement;

Overdraft Document means any bank account mandate and related standard terms of banking business entered into between the Borrower and an Overdraft and LC Bank pursuant to the Facility Agreement;

Security Document means the Debenture and any other security document that may be given as security for any of the Liabilities pursuant to or in connection with any Finance Document;

Secured Party means a Finance Party or a Hedging Counterparty.

References in this form 155(6)B to any person or party shall include their successors, transferees and assignees and in relation to the Mandated Lead Arrangers, the Agent and the Security Agent any substitute or additional person appointed pursuant to the Facility Agreement.

**APPENDIX 3 – DATE ON WHICH FINANCIAL ASSISTANCE IS TO BE
GIVEN**

A date being not later than eight weeks from the date hereof.

Fiona Louise Smedley
Solicitor NSW Australia

**Declaration by the directors
of a holding company in
relation to assistance for the
acquisition of shares**

155(6)b

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Pursuant to section 155(6) of the Companies Act 1985

Please complete
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bold block lettering

To the Registrar of Companies
(Address overleaf - Note 5)

For official use

Company number

--	--	--

03164272

Name of company

*Insert full name
of company

* Boreal & Austral Railfreight Limited

Note
Please read the
notes on page 3
before completing
this form

~~XX~~We†

Carl Ferenbach of 87 Pinckney Street, Boston, Massachusetts, USA MA 02114, Sean Finn of 935 De la Gauchetiere Street West, Floor 16, Montreal Quebec H3B 2M9, Canada, Lord Griffiths of Fforestfach of Peterborough Court, 133 Fleet Street, London EC4A 2BB, Keith Heller of 277 Front Street West, Suite 503, Toronto, Ontario M5V 2X7, Canada, Richard Lubin of 17 Ascenta Terrace, West Newton, Massachusetts, USA 02165, Claude Mongeau of 935 De la Gauchetiere W, 16th Floor, Montreal, Quebec H3B 2M9 and David M. Richwhite of Fay Richwhite & CIE SA, 10 Cours de Rive, Geneva 1204, Switzerland.

†Insert name(s) and
address(es) of all
the directors

§Delete as
appropriate

~~XXXXXXXXXX~~ [all the directors]§ of the above company (hereinafter called 'this company') do solemnly and sincerely declare that:

The business of this company is:

†Delete whichever
is inappropriate

~~XXXXXX~~ a recognised bank licensed institution within the meaning of the Banking Act 1979†
~~XXXXXX~~ a person authorised under section 2 of 4 of the Insurance Companies Act 1982 to carry on insurance business in the United Kingdom†
~~XXXXXX~~

(c) something other than the above†

This company is [the] ~~XX~~ holding company of* English Welsh & Scottish Railway Limited

which is

proposing to give financial assistance in connection with the acquisition of shares
in ~~XXXXXXXXXX~~

the holding company of this company.]§

Presentor's name address and
reference (if any):
FRESHFIELDS BRUCKHAUS
DERINGER
65 FLEET STREET, LONDON
ENGLAND EC4Y 1HS
DX 23 LONDON/CHANCERY LANE

For official use
General Section

Post room

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Please complete
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UK Railway Holdings (BVI) Limited of Craigmuir Chambers, PO Box 71, Road Town, Tortola, British Virgin Islands, MJ UK Railroad Holdings LLP of 9E. Loockerman Street, Suite 1B, Dover, DE 19901, County of Kent, USA and Mr Allen Johnson of Brynestyn, Rusper Road, Ifield, Crawley, West Sussex, RH11 0LR, United Kingdom

The assistance will take the form of:

See Appendix 1

The person who ~~has acquired~~ [will acquire]* the shares is:

*Delete as appropriate

UK Railway Holdings (BVI) Limited of Craigmuir Chambers, PO Box 71, Road Town, Tortola, British Virgin Islands, MJ UK Railroad Holdings LLP of 9E. Loockerman Street, Suite 1B, Dover, DE 19901, County of Kent, USA and Mr Allen Johnson of Brynestyn, Rusper Road, Ifield, Crawley, West Sussex, RH11 0LR, United Kingdom

The principal terms on which the assistance will be given are:

See Appendix 2

The amount (if any) by which the net assets of the company which is giving the assistance will be reduced by giving it is nil

The amount of cash to be transferred to the person assisted is £ up to 650,000

The value of any asset to be transferred to the person assisted is £ nil

Please do not
write in
this margin

Please complete
legibly, preferably
in black type, or
bold block lettering

The date on which the assistance is to be given is See Appendix 3

~~X~~We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

† Delete either (a) or
(b) as appropriate

(a) ~~X~~We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date] † (note 3)

(b) ~~X~~We have formed the opinion that this company will be able to pay its debts in full within 12 months of the winding-up of the company. † (note 3)

And ~~X~~we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at 133 Fleet Street, London
EC4A 3BB, ENGLAND, by Lord
Griffiths of Fforestfach

Day Month Year

on

1	5	1	2	2	0	0	3
---	---	---	---	---	---	---	---

J. KERR MILLIGAN

Notary Public of London, England

before me

A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths.

Declarants to sign below

Brian Griffiths



Notes

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account see section 156(3) of the Companies Act 1985.
- 4 The auditors' report required by section 156(4) of the Companies Act 1985 must be annexed to this form.
- 5 The address for companies registered in England and Wales or Wales is:-

The Registrar of Companies
Companies House
Crown Way
Cardiff CF14 3UZ

or, for companies registered in Scotland:-

The Registrar of Companies
37 Castle Terrace
Edinburgh
EH1 2EB

BOREAL & AUSTRAL RAILFREIGHT LIMITED (THE COMPANY)
(AS THE HOLDING COMPANY OF ENGLISH WELSH & SCOTTISH RAILWAY LIMITED
(EWSR))

The assistance will take the form of:

- (a) an intercompany loan agreement to be made between English Welsh and Scottish Railway Holdings Limited (*EWS*) and EWSR (the *Upstream Loan Agreement*);
- (b) a prepayment agreement to be made between EWSR and EWS (the *Prepayment Agreement*);
- (c) a £125 million reducing revolving credit facility and overdraft and letter of credit facility agreement to be entered into by EWSR as borrower (the *Borrower*), EWS, English Welsh & Scottish Railway International Ltd (*EWSI*), and Rail Express Systems Ltd (*RES*), as original guarantors (the *Original Guarantors*), Barclays Capital, Lloyds TSB Capital Markets and The Royal Bank of Scotland plc (*RBS*) as the mandated lead arrangers (the *Mandated Lead Arrangers*), Barclays Bank PLC (*Barclays*), Lloyds TSB Bank plc (*Lloyds TSB*) and RBS as original lenders (the *Original Lenders*), RBS as overdraft and letter of credit bank (the *Original Overdraft and LC Bank*), Barclays as agent (the *Agent*) and as security agent (the *Security Agent*) (the *Facility Agreement*);
- (d) certain fee letters to be made pursuant to the Facility Agreement by EWSR and the Agent (for the account of the Lenders), EWSR and the Overdraft and LC Bank, EWSR and the Agent and EWSR and the Security Agent (collectively, the *Fee Letters*);
- (e) a debenture to be made not later than 31 January 2004 pursuant to the Facility Agreement by EWS, EWSR, RES, EWSI and the Security Agent (the *Debenture*);
- (f) a loan agreement to be made by EWSR and Mr Allen Johnson (the *Johnson Loan Agreement*); and
- (g) any other document as the directors of the Company consider necessary in connection with the above.

APPENDIX 2 – PRINCIPAL TERMS ON WHICH THE ASSISTANCE WILL BE GIVEN

- (a) Pursuant to the Upstream Loan Agreement, EWSR will agree to lend EWS up to £103 million which will be repayable on 31 March 2008 unless extended at the request of EWS and which will bear interest at a rate equal to EWSR's cost of funds plus 0.125 per cent;
- (b) Pursuant to the Prepayment Agreement, EWSR will agree to prepay £35 million of the amount due from EWSR to EWS under a loan agreement between EWSR, as borrower and EWS, as lender dated 31 December 2002;
- (c) Pursuant to the Facility Agreement, EWSR will pay a commitment fee to the Agent (for the account of each Lender) and the Overdraft and LC Bank and a letter of credit fee to the Overdraft and LC Bank. Pursuant to the Fee Letters, EWSR will pay:
 - (i) an arrangement fee to the Agent (for the account of the Lenders) and the Overdraft and LC Bank;
 - (ii) an agency fee to the Agent; and
 - (iii) a security agency fee to the Security Agent,in each case in the amount and at the times agreed in the Fee Letters;
- (d) Pursuant to the Debenture which will be entered into pursuant to the Facility Agreement, EWSR (together with EWS, EWSI and RES):
 - (i) will covenant to pay to the Security Agent all Liabilities when due in accordance with its terms or, if they do not specify a time for payment, immediately on demand by the Security Agent;
 - (ii) will create fixed and floating charges over its assets and undertakings as security for their respective liabilities under the Finance Documents;
 - (iii) will undertake to do all such acts or execute all such documents as the Security Agent requires to:
 - (A) perfect or protect the Charges or the priority of the Charges; or
 - (B) facilitate the realisation of the Charged Assets or the exercise of any rights vested in the Security Agent or any receiver; and
 - (iv) will promptly execute and deliver to the Security Agent such legal charge of such of its real property from time to time in England and/or Wales as the Security Agent requires,in each case on the terms agreed;

- (e) Pursuant to the Johnson Loan Agreement, EWSR will agree to lend to Mr Allen Johnson an amount equal to the tax liability he would incur if and when he surrenders his holding of options over shares in EWS in consideration of the issue to him of partnership units in MJ UK Railroad Holdings LLP (*MJLLP*) and shares in UK Railway Holdings (BVI) Limited (*BVICO*). The terms of the Johnson Loan Agreement will provide that the loan shall be made by EWSR on the date that Mr Johnson is required to account to the Inland Revenue for such tax, and that the loan shall bear interest at a rate of 6% per annum, accruing daily and payable to EWSR annually in arrears. The Johnson Loan Agreement will further provide that the loan will become repayable if at any time prior to the fifth anniversary of the date that the loan is made Mr Johnson sells or otherwise realises value from his partnership units in MJLLP or BVICO shares or if he ceases to be an employee of EWS other than as a Good Leaver (as defined in the Johnson Loan Agreement). The terms will further provide that the loan will not be repayable on or at any time after the fifth anniversary thereof.

For the purposes of this Statutory Declaration:

Charged Assets means the assets from time to time subject, or expressed to be subject, to the Charges or any part of those assets;

Charges means all or any of the security created or expressed to be created by or pursuant to the Debenture;

Finance Documents means the Facility Agreement, any Fee Letter, any accession letter, any resignation letter, any Overdraft Document, any Security Document and any Hedging Document;

Hedging Document means any interest rate, currency management or fuel hedging agreement entered into between the Borrower and a Hedging Counterparty;

Hedging Counterparty means any Lender or affiliate of a Lender who becomes a hedging counterparty in accordance with the Facility Agreement;

Lender means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become party to the Facility Agreement;

Liabilities of a chargor under the Debenture means all present and future moneys, debts and liabilities due, owing or incurred by it to any Secured Party under or in connection with any Finance Document (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently and whether as principal, surety or otherwise);

Overdraft and LC Bank means:

- (a) any Original Overdraft and LC Bank; and

- (b) any bank, financial institution, trust, fund or other entity which has become a party to the Facility Agreement;

Overdraft Document means any bank account mandate and related standard terms of banking business entered into between the Borrower and an Overdraft and LC Bank pursuant to the Facility Agreement;

Security Document means the Debenture and any other security document that may be given as security for any of the Liabilities pursuant to or in connection with any Finance Document;

Secured Party means a Finance Party or a Hedging Counterparty.

References in this form 155(6)B to any person or party shall include their successors, transferees and assignees and in relation to the Mandated Lead Arrangers, the Agent and the Security Agent any substitute or additional person appointed pursuant to the Facility Agreement.

**APPENDIX 3 – DATE ON WHICH FINANCIAL ASSISTANCE IS TO BE
GIVEN**

A date being not later than eight weeks from the date hereof.

**Declaration by the directors
of a holding company in
relation to assistance for the
acquisition of shares**

155(6)b

Please do not
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Pursuant to section 155(6) of the Companies Act 1985

Please complete
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bold block lettering

To the Registrar of Companies
(Address overleaf - Note 5)

For official use

Company number

--	--	--	--

03164272

Name of company

*Insert full name
of company

* Boreal & Austral Railfreight Limited

Note
Please read the
notes on page 3
before completing
this form

†Insert name(s) and
address(es) of all
the directors

We†

Carl Ferenbach of 87 Pinckney Street, Boston, Massachusetts, USA MA 02114, Sean Finn of 935 De la Gauchetiere Street West, Floor 16, Montreal Quebec H3B 2M9, Canada, Lord Griffiths of Fforestfach of Peterborough Court, 133 Fleet Street, London EC4A 2BB, Keith Heller of 277 Front Street West, Suite 503, Toronto, Ontario M5V 2X7, Canada, Richard Lubin of 17 Ascenta Terrace, West Newton, Massachusetts, USA 02165, Claude Mongeau of 935 De la Gauchetiere W, 16th Floor, Montreal, Quebec H3B 2M9 and David M. Richwhite of Fay Richwhite & CIE SA, 10 Cours de Rive, Geneva 1204, Switzerland.

§Delete as
appropriate

~~We, the directors~~ [all the directors]§ of the above company (hereinafter called 'this company') do solemnly and sincerely declare that:

The business of this company is:

‡Delete whichever
is inappropriate

~~(a) that of a recognised bank licensed institution within the meaning of the Banking Act 1979~~
~~(b) that of a person authorised under section 2 or 4 of the Insurance Companies Act 1982 to carry on insurance business in the United Kingdom~~
(c) something other than the above‡

This company is [the] [a] holding company of* English Welsh & Scottish Railway Limited

which is

proposing to give financial assistance in connection with the acquisition of shares
in ~~this company~~

the holding company of this company.1§

Presenter's name address and
reference (if any):
FRESHFIELDS BRUCKHAUS
DERINGER
65 FLEET STREET, LONDON
ENGLAND EC4Y 1HS
DX 23 LONDON/CHANCERY LANE

For official use
General Section

Please do not
write in
this margin

**Please complete
legibly, preferably
in black type, or
bold block lettering**

Cog 155(6)(b)-2/3

Please complete legibly, preferably in black type, or bold block lettering

~~X~~We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

(a) ~~W~~We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date] † (note 3)

[illegible]

And ~~I~~we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at One Boston Place, Boston, MA 02108 Declarants to sign below

Kind of Kulu

	Day		Month		Year			
on	1	5	1	2	2	0	0	3

before me

Chas. H. V. Adams

A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths.

Notes

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BOREAL & AUSTRAL RAILFREIGHT LIMITED (THE COMPANY)
(AS THE HOLDING COMPANY OF ENGLISH WELSH & SCOTTISH RAILWAY LIMITED
(EWSR))

The assistance will take the form of:

- (a) an intercompany loan agreement to be made between English Welsh and Scottish Railway Holdings Limited (*EWS*) and EWSR (the *Upstream Loan Agreement*);
- (b) a prepayment agreement to be made between EWSR and EWS (the *Prepayment Agreement*);
- (c) a £125 million reducing revolving credit facility and overdraft and letter of credit facility agreement to be entered into by EWSR as borrower (the *Borrower*), EWS, English Welsh & Scottish Railway International Ltd (*EWSI*), and Rail Express Systems Ltd (*RES*), as original guarantors (the *Original Guarantors*), Barclays Capital, Lloyds TSB Capital Markets and The Royal Bank of Scotland plc (*RBS*) as the mandated lead arrangers (the *Mandated Lead Arrangers*), Barclays Bank PLC (*Barclays*), Lloyds TSB Bank plc (*Lloyds TSB*) and RBS as original lenders (the *Original Lenders*), RBS as overdraft and letter of credit bank (the *Original Overdraft and LC Bank*), Barclays as agent (the *Agent*) and as security agent (the *Security Agent*)) (the *Facility Agreement*);
- (d) certain fee letters to be made pursuant to the Facility Agreement by EWSR and the Agent (for the account of the Lenders), EWSR and the Overdraft and LC Bank, EWSR and the Agent and EWSR and the Security Agent (collectively, the *Fee Letters*);
- (e) a debenture to be made not later than 31 January 2004 pursuant to the Facility Agreement by EWS, EWSR, RES, EWSI and the Security Agent (the *Debenture*);
- (f) a loan agreement to be made by EWSR and Mr Allen Johnson (the *Johnson Loan Agreement*); and
- (g) any other document as the directors of the Company consider necessary in connection with the above.

R1a

**APPENDIX 2 – PRINCIPAL TERMS ON WHICH THE ASSISTANCE WILL
BE GIVEN**

- (a) Pursuant to the Upstream Loan Agreement, EWSR will agree to lend EWS up to £103 million which will be repayable on 31 March 2008 unless extended at the request of EWS and which will bear interest at a rate equal to EWSR's cost of funds plus 0.125 per cent;
- (b) Pursuant to the Prepayment Agreement, EWSR will agree to prepay £35 million of the amount due from EWSR to EWS under a loan agreement between EWSR, as borrower and EWS, as lender dated 31 December 2002;
- (c) Pursuant to the Facility Agreement, EWSR will pay a commitment fee to the Agent (for the account of each Lender) and the Overdraft and LC Bank and a letter of credit fee to the Overdraft and LC Bank. Pursuant to the Fee Letters, EWSR will pay:
 - (i) an arrangement fee to the Agent (for the account of the Lenders) and the Overdraft and LC Bank;
 - (ii) an agency fee to the Agent; and
 - (iii) a security agency fee to the Security Agent,in each case in the amount and at the times agreed in the Fee Letters;
- (d) Pursuant to the Debenture which will be entered into pursuant to the Facility Agreement, EWSR (together with EWS, EWSI and RES):
 - (i) will covenant to pay to the Security Agent all Liabilities when due in accordance with its terms or, if they do not specify a time for payment, immediately on demand by the Security Agent;
 - (ii) will create fixed and floating charges over its assets and undertakings as security for their respective liabilities under the Finance Documents;
 - (iii) will undertake to do all such acts or execute all such documents as the Security Agent requires to:
 - (A) perfect or protect the Charges or the priority of the Charges; or
 - (B) facilitate the realisation of the Charged Assets or the exercise of any rights vested in the Security Agent or any receiver; and
 - (iv) will promptly execute and deliver to the Security Agent such legal charge of such of its real property from time to time in England and/or Wales as the Security Agent requires,in each case on the terms agreed;

Rla

- (e) Pursuant to the Johnson Loan Agreement, EWSR will agree to lend to Mr Allen Johnson an amount equal to the tax liability he would incur if and when he surrenders his holding of options over shares in EWS in consideration of the issue to him of partnership units in MJ UK Railroad Holdings LLP (*MJLLP*) and shares in UK Railway Holdings (BVI) Limited (*BVICO*). The terms of the Johnson Loan Agreement will provide that the loan shall be made by EWSR on the date that Mr Johnson is required to account to the Inland Revenue for such tax, and that the loan shall bear interest at a rate of 6% per annum, accruing daily and payable to EWSR annually in arrears. The Johnson Loan Agreement will further provide that the loan will become repayable if at any time prior to the fifth anniversary of the date that the loan is made Mr Johnson sells or otherwise realises value from his partnership units in MJLLP or BVICO shares or if he ceases to be an employee of EWS other than as a Good Leaver (as defined in the Johnson Loan Agreement). The terms will further provide that the loan will not be repayable on or at any time after the fifth anniversary thereof.

For the purposes of this Statutory Declaration:

Charged Assets means the assets from time to time subject, or expressed to be subject, to the Charges or any part of those assets;

Charges means all or any of the security created or expressed to be created by or pursuant to the Debenture;

Finance Documents means the Facility Agreement, any Fee Letter, any accession letter, any resignation letter, any Overdraft Document, any Security Document and any Hedging Document;

Hedging Document means any interest rate, currency management or fuel hedging agreement entered into between the Borrower and a Hedging Counterparty;

Hedging Counterparty means any Lender or affiliate of a Lender who becomes a hedging counterparty in accordance with the Facility Agreement;

Lender means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become party to the Facility Agreement;

Liabilities of a chargor under the Debenture means all present and future moneys, debts and liabilities due, owing or incurred by it to any Secured Party under or in connection with any Finance Document (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently and whether as principal, surety or otherwise);

Overdraft and LC Bank means:

- (a) any Original Overdraft and LC Bank; and

Rid

- (b) any bank, financial institution, trust, fund or other entity which has become a party to the Facility Agreement;

Overdraft Document means any bank account mandate and related standard terms of banking business entered into between the Borrower and an Overdraft and LC Bank pursuant to the Facility Agreement;

Security Document means the Debenture and any other security document that may be given as security for any of the Liabilities pursuant to or in connection with any Finance Document;

Secured Party means a Finance Party or a Hedging Counterparty.

References in this form 155(6)B to any person or party shall include their successors, transferees and assignees and in relation to the Mandated Lead Arrangers, the Agent and the Security Agent any substitute or additional person appointed pursuant to the Facility Agreement.

RKL

**APPENDIX 3 – DATE ON WHICH FINANCIAL ASSISTANCE IS TO BE
GIVEN**

A date being not later than eight weeks from the date hereof.

Rid

**Declaration by the directors²⁴
of a holding company in
relation to assistance for the
acquisition of shares**

155(6)b

Please do not
write in
this margin

Pursuant to section 155(6) of the Companies Act 1985

Please complete
legibly, preferably
in black type, or
bold block lettering

To the Registrar of Companies
(Address overleaf - Note 5)

For official use Company number

--	--	--

03164272

Name of company

*Insert full name
of company

* Boreal & Austral Railfreight Limited

Note
Please read the
notes on page 3
before completing
this form

†Insert name(s) and
address(es) of all
the directors

~~We†~~

Carl Ferenbach of 87 Pinckney Street, Boston, Massachusetts, USA MA 02114, Sean Finn of 935 De la Gauchetiere Street West, Floor 16, Montreal Quebec H3B 2M9, Canada, Lord Griffiths of Fforestfach of Peterborough Court, 133 Fleet Street, London EC4A 2BB, Keith Heller of 277 Front Street West, Suite 503, Toronto, Ontario M5V 2X7, Canada, Richard Lubin of 17 Ascenta Terrace, West Newton, Massachusetts, USA 02165, Claude Mongeau of 935 De la Gauchetiere W, 16th Floor, Montreal, Quebec H3B 2M9 and David M. Richwhite of Fay Richwhite & CIE SA, 10 Cours de Rive, Geneva 1204, Switzerland.

⁵Delete as
appropriate

~~We†~~ [all the directors]⁵ of the above company (hereinafter called 'this company') do
solemnly and sincerely declare that:

The business of this company is:

‡Delete whichever
is inappropriate

~~(a) that of a recognised bank, licensed institution with the meaning of the Banking Act 1979~~
~~(b) that of a person authorised under section 3 of the Insurance Companies Act 1982 to carry~~
~~on insurance business in the United Kingdom~~

(c) something other than the above ‡

This company is [the] ~~(a)~~ holding company of* English Welsh & Scottish Railway Limited

which is

proposing to give financial assistance in connection with the acquisition of shares

in ~~this company~~

the holding company of this company.]⁵

Presentor's name address and
reference (if any):
FRESHFIELDS BRUCKHAUS
DERINGER
65 FLEET STREET, LONDON
ENGLAND EC4Y 1HS
DX 23 LONDON/CHANCERY LANE

For official
General Sec

COMPANIES HOUSE

Please do not
write in
this margin

**Please complete
legibly, preferably
in black type, or
bold block lettering**

UK Railway Holdings (BVI) Limited of Craigmuir Chambers, PO Box 71, Road Town, Tortola, British Virgin Islands, MJ UK Railroad Holdings LLP of 9E. Loockerman Street, Suite 1B, Dover, DE 19901, County of Kent, USA and Mr Allen Johnson of Brynestyn, Rusper Road, Ifield, Crawley, West Sussex, RH11 0LR, United Kingdom

See Appendix 1

*Delete as appropriate

See Appendix 2

The amount of cash to be transferred to the person assisted is £ ^{up to} 650,000

Cog 155(6)(b)-2/3

Please do not
write in
this margin

Please complete
legibly, preferably
in black type, or
bold block lettering

† Delete either (a) or
(b) as appropriate

The date on which the assistance is to be given is See Appendix 3

~~†~~We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

(a) ~~†~~We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date] † (note 3)

(b) ~~†~~ We have formed the opinion that this company will be able to pay its debts in full with ~~the proceeds of the winding up of the company~~ † (note 3)

And ~~†~~we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at One Bevan Place, Bevan, Walsley Declarants to sign below

on

Day	Month	Year
15	12	2003

before me

[Signature]
A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths.

Notes

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account see section 156(3) of the Companies Act 1985.
- 4 The auditors' report required by section 156(4) of the Companies Act 1985 must be annexed to this form.
- 5 The address for companies registered in England and Wales or Wales is:-

The Registrar of Companies
Companies House
Crown Way
Cardiff CF14 3UZ

or, for companies registered in Scotland:-

The Registrar of Companies
37 Castle Terrace
Edinburgh
EH1 2EB

9

BOREAL & AUSTRAL RAILFREIGHT LIMITED (THE COMPANY)
(AS THE HOLDING COMPANY OF ENGLISH WELSH & SCOTTISH RAILWAY LIMITED
(EWSR))

The assistance will take the form of:

- (a) an intercompany loan agreement to be made between English Welsh and Scottish Railway Holdings Limited (*EWS*) and EWSR (the *Upstream Loan Agreement*);
- (b) a prepayment agreement to be made between EWSR and EWS (the *Prepayment Agreement*);
- (c) a £125 million reducing revolving credit facility and overdraft and letter of credit facility agreement to be entered into by EWSR as borrower (the *Borrower*), EWS, English Welsh & Scottish Railway International Ltd (*EWSI*), and Rail Express Systems Ltd (*RES*), as original guarantors (the *Original Guarantors*), Barclays Capital, Lloyds TSB Capital Markets and The Royal Bank of Scotland plc (*RBS*) as the mandated lead arrangers (the *Mandated Lead Arrangers*), Barclays Bank PLC (*Barclays*), Lloyds TSB Bank plc (*Lloyds TSB*) and RBS as original lenders (the *Original Lenders*), RBS as overdraft and letter of credit bank (the *Original Overdraft and LC Bank*), Barclays as agent (the *Agent*) and as security agent (the *Security Agent*)) (the *Facility Agreement*);
- (d) certain fee letters to be made pursuant to the Facility Agreement by EWSR and the Agent (for the account of the Lenders), EWSR and the Overdraft and LC Bank, EWSR and the Agent and EWSR and the Security Agent (collectively, the *Fee Letters*);
- (e) a debenture to be made not later than 31 January 2004 pursuant to the Facility Agreement by EWS, EWSR, RES, EWSI and the Security Agent (the *Debenture*);
- (f) a loan agreement to be made by EWSR and Mr Allen Johnson (the *Johnson Loan Agreement*); and
- (g) any other document as the directors of the Company consider necessary in connection with the above.

6

**APPENDIX 2 – PRINCIPAL TERMS ON WHICH THE ASSISTANCE WILL
BE GIVEN**

- (a) Pursuant to the Upstream Loan Agreement, EWSR will agree to lend EWS up to £103 million which will be repayable on 31 March 2008 unless extended at the request of EWS and which will bear interest at a rate equal to EWSR's cost of funds plus 0.125 per cent;
- (b) Pursuant to the Prepayment Agreement, EWSR will agree to prepay £35 million of the amount due from EWSR to EWS under a loan agreement between EWSR, as borrower and EWS, as lender dated 31 December 2002;
- (c) Pursuant to the Facility Agreement, EWSR will pay a commitment fee to the Agent (for the account of each Lender) and the Overdraft and LC Bank and a letter of credit fee to the Overdraft and LC Bank. Pursuant to the Fee Letters, EWSR will pay:
 - (i) an arrangement fee to the Agent (for the account of the Lenders) and the Overdraft and LC Bank;
 - (ii) an agency fee to the Agent; and
 - (iii) a security agency fee to the Security Agent,in each case in the amount and at the times agreed in the Fee Letters;
- (d) Pursuant to the Debenture which will be entered into pursuant to the Facility Agreement, EWSR (together with EWS, EWSI and RES):
 - (i) will covenant to pay to the Security Agent all Liabilities when due in accordance with its terms or, if they do not specify a time for payment, immediately on demand by the Security Agent;
 - (ii) will create fixed and floating charges over its assets and undertakings as security for their respective liabilities under the Finance Documents;
 - (iii) will undertake to do all such acts or execute all such documents as the Security Agent requires to:
 - (A) perfect or protect the Charges or the priority of the Charges; or
 - (B) facilitate the realisation of the Charged Assets or the exercise of any rights vested in the Security Agent or any receiver; and
 - (iv) will promptly execute and deliver to the Security Agent such legal charge of such of its real property from time to time in England and/or Wales as the Security Agent requires,in each case on the terms agreed;

- 9
- (e) Pursuant to the Johnson Loan Agreement, EWSR will agree to lend to Mr Allen Johnson an amount equal to the tax liability he would incur if and when he surrenders his holding of options over shares in EWS in consideration of the issue to him of partnership units in MJ UK Railroad Holdings LLP (*MJLLP*) and shares in UK Railway Holdings (BVI) Limited (*BVICO*). The terms of the Johnson Loan Agreement will provide that the loan shall be made by EWSR on the date that Mr Johnson is required to account to the Inland Revenue for such tax, and that the loan shall bear interest at a rate of 6% per annum, accruing daily and payable to EWSR annually in arrears. The Johnson Loan Agreement will further provide that the loan will become repayable if at any time prior to the fifth anniversary of the date that the loan is made Mr Johnson sells or otherwise realises value from his partnership units in MJLLP or BVICO shares or if he ceases to be an employee of EWS other than as a Good Leaver (as defined in the Johnson Loan Agreement). The terms will further provide that the loan will not be repayable on or at any time after the fifth anniversary thereof.

For the purposes of this Statutory Declaration:

Charged Assets means the assets from time to time subject, or expressed to be subject, to the Charges or any part of those assets;

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Finance Documents means the Facility Agreement, any Fee Letter, any accession letter, any resignation letter, any Overdraft Document, any Security Document and any Hedging Document;

Hedging Document means any interest rate, currency management or fuel hedging agreement entered into between the Borrower and a Hedging Counterparty;

Hedging Counterparty means any Lender or affiliate of a Lender who becomes a hedging counterparty in accordance with the Facility Agreement;

Lender means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become party to the Facility Agreement;

Liabilities of a chargor under the Debenture means all present and future moneys, debts and liabilities due, owing or incurred by it to any Secured Party under or in connection with any Finance Document (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently and whether as principal, surety or otherwise);

Overdraft and LC Bank means:

- (a) any Original Overdraft and LC Bank; and

- 9
- (b) any bank, financial institution, trust, fund or other entity which has become a party to the Facility Agreement;

Overdraft Document means any bank account mandate and related standard terms of banking business entered into between the Borrower and an Overdraft and LC Bank pursuant to the Facility Agreement;

Security Document means the Debenture and any other security document that may be given as security for any of the Liabilities pursuant to or in connection with any Finance Document;

Secured Party means a Finance Party or a Hedging Counterparty.

References in this form 155(6)B to any person or party shall include their successors, transferees and assignees and in relation to the Mandated Lead Arrangers, the Agent and the Security Agent any substitute or additional person appointed pursuant to the Facility Agreement.

9

**APPENDIX 3 – DATE ON WHICH FINANCIAL ASSISTANCE IS TO BE
GIVEN**

A date being not later than eight weeks from the date hereof.

**Declaration by the directors
of a holding company in
relation to assistance for the
acquisition of shares**

155(6)b

Please do not
write in
this margin

Pursuant to section 155(6) of the Companies Act 1985

Please complete
legibly, preferably
in black type, or
bold block lettering

To the Registrar of Companies
(Address overleaf - Note 5)

For official use

Company number

--	--	--	--

03164272

Name of company

*Insert full name
of company

* Boreal & Austral Railfreight Limited

Note
Please read the
notes on page 3
before completing
this form

†Insert name(s) and
address(es) of all
the directors

We†

Carl Ferenbach of 87 Pinckney Street, Boston, Massachusetts, USA MA 02114, Sean Finn of 935 De la Gauchetiere Street West, Floor 16, Montreal Quebec H3B 2M9, Canada, Lord Griffiths of Fforestfach of Peterborough Court, 133 Fleet Street, London EC4A 2BB, Keith Heller of 277 Front Street West, Suite 503, Toronto, Ontario M5V 2X7, Canada, Richard Lubin of 17 Ascenta Terrace, West Newton, Massachusetts, USA 02165, Claude Mongeau of 935 De la Gauchetiere W, 16th Floor, Montreal, Quebec H3B 2M9 and David M. Richwhite of Fay Richwhite & CIE SA, 10 Cours de Rive, Geneva 1204, Switzerland.

§Delete as
appropriate

~~We the sole directors~~ [all the directors]§ of the above company (hereinafter called 'this company') do solemnly and sincerely declare that:

The business of this company is:

†Delete whichever
is inappropriate

~~We are a recognised bank licensed institution with the meaning of the Banking Act 1978~~
~~We are a person licensed under section 2 of the Insurance Companies Act 1982 to carry on insurance business in the United Kingdom~~

(c) something other than the above†

This company is [the]§ holding company of* English Welsh & Scottish Railway Limited

which is

proposing to give financial assistance in connection with the acquisition of shares

in ~~XXXXXX~~

the holding company of this company.]§

Presentor's name address and
reference (if any):
FRESHFIELDS BRUCKHAUS
DERINGER
65 FLEET STREET, LONDON
ENGLAND EC4Y 1HS
DX 23 LONDON/CHANCERY LANE

For official use

General Section

Post room

Please do not
write in
this margin

**Please complete
legibly, preferably
in black type, or
bold block lettering**

UK Railway Holdings (BVI) Limited of Craigmuir Chambers, PO Box 71, Road Town, Tortola, British Virgin Islands, MJ UK Railroad Holdings LLP of 9E. Loockerman Street, Suite 1B, Dover, DE 19901, County of Kent, USA and Mr Allen Johnson of Brynestyn, Rusper Road, Ifield, Crawley, West Sussex, RH11 0LR, United Kingdom

See Appendix I

*Delete as appropriate

UK Railway Holdings (BVI) Limited of Craigmuir Chambers, PO Box 71, Road Town, Tortola, British Virgin Islands, MJ UK Railroad Holdings LLP of 9E, Loockerman Street, Suite 1B, Dover, DE 19901, County of Kent, USA and Mr Allen Johnson of Brynystyn, Rusper Road, Ifield, Crawley, West Sussex, RH11 0LR, United Kingdom

See Appendix 2

The amount of cash to be transferred to the person assisted is £ ^{up to} 650,000

Cog 155(6)(b)-2/3

Please complete legibly, preferably in black type, or bold block lettering

~~X~~We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

† Delete either (a) or (b) as appropriate

(a) ~~We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date~~ † (note 3)

(b) ~~XXXXX~~ XXXX intended to continue the winding up of this company with the intention of the directors and have formed the opinion that this company will be able to pay its debts in full with the assets of the company available for the winding up of the company (note 3)

And I/we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at Ottawa, Canada

Declarants to sign below

Sean Finn

	Day	Month	Year
on	1 5	1 2	2 0 0 3

before me

A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths.

Notes

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account see section 156(3) of the Companies Act 1985.
- 4 The auditors' report required by section 156(4) of the Companies Act 1985 must be annexed to this form.
- 5 The address for companies registered in England and Wales or Wales is:-

The Registrar of Companies
Companies House
Crown Way
Cardiff CF14 3UZ

or, for companies registered in Scotland:-

The Registrar of Companies
37 Castle Terrace
Edinburgh
EH1 2EB

BOREAL & AUSTRAL RAILFREIGHT LIMITED (THE COMPANY)
(AS THE HOLDING COMPANY OF ENGLISH WELSH & SCOTTISH RAILWAY LIMITED
(EWSR))

The assistance will take the form of:

- (a) an intercompany loan agreement to be made between English Welsh and Scottish Railway Holdings Limited (*EWS*) and EWSR (the *Upstream Loan Agreement*);
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- (c) a £125 million reducing revolving credit facility and overdraft and letter of credit facility agreement to be entered into by EWSR as borrower (the *Borrower*), EWS, English Welsh & Scottish Railway International Ltd (*EWSI*), and Rail Express Systems Ltd (*RES*), as original guarantors (the *Original Guarantors*), Barclays Capital, Lloyds TSB Capital Markets and The Royal Bank of Scotland plc (*RBS*) as the mandated lead arrangers (the *Mandated Lead Arrangers*), Barclays Bank PLC (*Barclays*), Lloyds TSB Bank plc (*Lloyds TSB*) and RBS as original lenders (the *Original Lenders*), RBS as overdraft and letter of credit bank (the *Original Overdraft and LC Bank*), Barclays as agent (the *Agent*) and as security agent (the *Security Agent*)) (the *Facility Agreement*);
- (d) certain fee letters to be made pursuant to the Facility Agreement by EWSR and the Agent (for the account of the Lenders), EWSR and the Overdraft and LC Bank, EWSR and the Agent and EWSR and the Security Agent (collectively, the *Fee Letters*);
- (e) a debenture to be made not later than 31 January 2004 pursuant to the Facility Agreement by EWS, EWSR, RES, EWSI and the Security Agent (the *Debenture*);
- (f) a loan agreement to be made by EWSR and Mr Allen Johnson (the *Johnson Loan Agreement*); and
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**APPENDIX 2 – PRINCIPAL TERMS ON WHICH THE ASSISTANCE WILL
BE GIVEN**

- (a) Pursuant to the Upstream Loan Agreement, EWSR will agree to lend EWS up to £103 million which will be repayable on 31 March 2008 unless extended at the request of EWS and which will bear interest at a rate equal to EWSR's cost of funds plus 0.125 per cent;
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- (c) Pursuant to the Facility Agreement, EWSR will pay a commitment fee to the Agent (for the account of each Lender) and the Overdraft and LC Bank and a letter of credit fee to the Overdraft and LC Bank. Pursuant to the Fee Letters, EWSR will pay:
 - (i) an arrangement fee to the Agent (for the account of the Lenders) and the Overdraft and LC Bank;
 - (ii) an agency fee to the Agent; and
 - (iii) a security agency fee to the Security Agent,in each case in the amount and at the times agreed in the Fee Letters;
- (d) Pursuant to the Debenture which will be entered into pursuant to the Facility Agreement, EWSR (together with EWS, EWSI and RES):
 - (i) will covenant to pay to the Security Agent all Liabilities when due in accordance with its terms or, if they do not specify a time for payment, immediately on demand by the Security Agent;
 - (ii) will create fixed and floating charges over its assets and undertakings as security for their respective liabilities under the Finance Documents;
 - (iii) will undertake to do all such acts or execute all such documents as the Security Agent requires to:
 - (A) perfect or protect the Charges or the priority of the Charges; or
 - (B) facilitate the realisation of the Charged Assets or the exercise of any rights vested in the Security Agent or any receiver; and
 - (iv) will promptly execute and deliver to the Security Agent such legal charge of such of its real property from time to time in England and/or Wales as the Security Agent requires,in each case on the terms agreed;

- (e) Pursuant to the Johnson Loan Agreement, EWSR will agree to lend to Mr Allen Johnson an amount equal to the tax liability he would incur if and when he surrenders his holding of options over shares in EWS in consideration of the issue to him of partnership units in MJ UK Railroad Holdings LLP (*MJLLP*) and shares in UK Railway Holdings (BVI) Limited (*BVICO*). The terms of the Johnson Loan Agreement will provide that the loan shall be made by EWSR on the date that Mr Johnson is required to account to the Inland Revenue for such tax, and that the loan shall bear interest at a rate of 6% per annum, accruing daily and payable to EWSR annually in arrears. The Johnson Loan Agreement will further provide that the loan will become repayable if at any time prior to the fifth anniversary of the date that the loan is made Mr Johnson sells or otherwise realises value from his partnership units in MJLLP or BVICO shares or if he ceases to be an employee of EWS other than as a Good Leaver (as defined in the Johnson Loan Agreement). The terms will further provide that the loan will not be repayable on or at any time after the fifth anniversary thereof.

For the purposes of this Statutory Declaration:

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Charges means all or any of the security created or expressed to be created by or pursuant to the Debenture;

Finance Documents means the Facility Agreement, any Fee Letter, any accession letter, any resignation letter, any Overdraft Document, any Security Document and any Hedging Document;

Hedging Document means any interest rate, currency management or fuel hedging agreement entered into between the Borrower and a Hedging Counterparty;

Hedging Counterparty means any Lender or affiliate of a Lender who becomes a hedging counterparty in accordance with the Facility Agreement;

Lender means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become party to the Facility Agreement;

Liabilities of a chargor under the Debenture means all present and future moneys, debts and liabilities due, owing or incurred by it to any Secured Party under or in connection with any Finance Document (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently and whether as principal, surety or otherwise);

Overdraft and LC Bank means:

- (a) any Original Overdraft and LC Bank; and

- (b) any bank, financial institution, trust, fund or other entity which has become a party to the Facility Agreement;

Overdraft Document means any bank account mandate and related standard terms of banking business entered into between the Borrower and an Overdraft and LC Bank pursuant to the Facility Agreement;

Security Document means the Debenture and any other security document that may be given as security for any of the Liabilities pursuant to or in connection with any Finance Document;

Secured Party means a Finance Party or a Hedging Counterparty.

References in this form 155(6)B to any person or party shall include their successors, transferees and assignees and in relation to the Mandated Lead Arrangers, the Agent and the Security Agent any substitute or additional person appointed pursuant to the Facility Agreement.

**APPENDIX 3 – DATE ON WHICH FINANCIAL ASSISTANCE IS TO BE
GIVEN**

A date being not later than eight weeks from the date hereof.

**Declaration by the directors
of a holding company in
relation to assistance for the
acquisition of shares**

155(6)b

Please do not
write in
this margin

Pursuant to section 155(6) of the Companies Act 1985

Please complete
legibly, preferably
in black type, or
bold black lettering

To the Registrar of Companies
(Address overleaf - Note 5)

For official use

Company number

--	--	--	--	--	--

03164272

Name of company

*Insert full name
of company

* Boreal & Austral Railfreight Limited

Note
Please read the
notes on page 3
before completing
this form

†Insert name(s) and
address(es) of all
the directors

We†

Carl Ferenbach of 87 Pinckney Street, Boston, Massachusetts, USA MA 02114, Sean Finn of 935 De la Gauchetiere Street West, Floor 16, Montreal Quebec H3B 2M9, Canada, Lord Griffiths of Fforestfach of Peterborough Court, 133 Fleet Street, London EC4A 2BB, Keith Heller of 277 Front Street West, Suite 503, Toronto, Ontario M5V 2X7, Canada, Richard Lubin of 17 Ascenta Terrace, West Newton, Massachusetts, USA 02165, Claude Mongeau of 935 De la Gauchetiere W, 16th Floor, Montreal, Quebec H3B 2M9 and David M. Richwhite of Fay Richwhite & CIE SA, 10 Cours de Rive, Geneva 1204, Switzerland.

§Delete as
appropriate

~~We, the directors~~ [all the directors]§ of the above company (hereinafter called 'this company') do solemnly and sincerely declare that:

The business of this company is:

‡Delete whichever
is inappropriate

~~the business of this company is to act as a bank or to exercise any of the powers conferred on a bank by or under the Banking Act 1979 or to act as a person authorised under section 31 of the Insurance Companies Act 1982 to carry on the business of an insurance company or to exercise any of the powers conferred on such a person by or under the Insurance Companies Act 1982~~

(c) something other than the above‡

This company is [the]§ holding company of* English Welsh & Scottish Railway Limited

which is

proposing to give financial assistance in connection with the acquisition of shares

in ~~the company~~

the holding company of this company.]§

Presentor's name address and
reference (if any):

FRESHFIELDS BRUCKHAUS
DERINGER
65 FLEET STREET, LONDON
ENGLAND EC4Y 1HS
DX 23 LONDON/CHANCERY LANE

For official use
General Section

Post room

The assistance is for the purpose of [that acquisition] ~~for the purpose of that acquisition~~ * (note 1)

Please do not
write in
this margin

The number and class of the shares acquired or to be acquired is:
up to 10,584,187 ordinary shares of £1.00 each in the holding company of this company.

Please complete
legibly, preferably
in black type, or
bold block lettering

The assistance is to be given to: (note 2)

UK Railway Holdings (BVI) Limited of Craigmuir Chambers, PO Box 71, Road Town, Tortola, British Virgin Islands, MJ UK Railroad Holdings LLP of 9E. Loockerman Street, Suite 1B, Dover, DE 19901, County of Kent, USA and Mr Allen Johnson of Brynestyn, Rusper Road, Ifield, Crawley, West Sussex, RH11 0LR, United Kingdom

The assistance will take the form of:

See Appendix 1

The person who ~~has acquired~~ [will acquire]* the shares is:

*Delete as
appropriate

UK Railway Holdings (BVI) Limited of Craigmuir Chambers, PO Box 71, Road Town, Tortola, British Virgin Islands, MJ UK Railroad Holdings LLP of 9E. Loockerman Street, Suite 1B, Dover, DE 19901, County of Kent, USA and Mr Allen Johnson of Brynestyn, Rusper Road, Ifield, Crawley, West Sussex, RH11 0LR, United Kingdom

The principal terms on which the assistance will be given are:

See Appendix 2

The amount (if any) by which the net assets of the company which is giving the assistance will be reduced by giving it is nil

The amount of cash to be transferred to the person assisted is £ ^{up to} 650,000

The value of any asset to be transferred to the person assisted is £ nil

Cog 155(6)(b)-2/3

Please do not
write in
this margin

Please complete
legibly, preferably
in black type, or
bold block lettering

† Delete either (a) or
(b) as appropriate

The date on which the assistance is to be given is See Appendix 3

~~X~~We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

(a) ~~X~~We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date] † (note 3)

(b) ~~X~~We have formed the opinion that this company will be able to pay its debts in full within 12 months of the commencement of the winding up. † (note 3)

And ~~X~~we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at MONTREAL, QUEBEC

Declarants to sign below

C Mongeau

CLAUDE MONGEAU

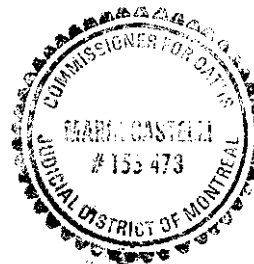
on

Day	Month	Year
1	5	1
2	0	0
3		

before me

Maria Castelli

A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths.



Notes

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account see section 156(3) of the Companies Act 1985.
- 4 The auditors' report required by section 156(4) of the Companies Act 1985 must be annexed to this form.
- 5 The address for companies registered in England and Wales or Wales is:-
The Registrar of Companies
Companies House
Crown Way
Cardiff CF14 3UZ
or, for companies registered in Scotland:-
The Registrar of Companies
37 Castle Terrace
Edinburgh
EH1 2EB

BOREAL & AUSTRAL RAILFREIGHT LIMITED (THE COMPANY)
(AS THE HOLDING COMPANY OF ENGLISH WELSH & SCOTTISH RAILWAY LIMITED
(EWSR))

The assistance will take the form of:

- (a) an intercompany loan agreement to be made between English Welsh and Scottish Railway Holdings Limited (*EWS*) and EWSR (the *Upstream Loan Agreement*);
- (b) a prepayment agreement to be made between EWSR and EWS (the *Prepayment Agreement*);
- (c) a £125 million reducing revolving credit facility and overdraft and letter of credit facility agreement to be entered into by EWSR as borrower (the *Borrower*), EWS, English Welsh & Scottish Railway International Ltd (*EWSI*), and Rail Express Systems Ltd (*RES*), as original guarantors (the *Original Guarantors*), Barclays Capital, Lloyds TSB Capital Markets and The Royal Bank of Scotland plc (*RBS*) as the mandated lead arrangers (the *Mandated Lead Arrangers*), Barclays Bank PLC (*Barclays*), Lloyds TSB Bank plc (*Lloyds TSB*) and RBS as original lenders (the *Original Lenders*), RBS as overdraft and letter of credit bank (the *Original Overdraft and LC Bank*), Barclays as agent (the *Agent*) and as security agent (the *Security Agent*)) (the *Facility Agreement*);
- (d) certain fee letters to be made pursuant to the Facility Agreement by EWSR and the Agent (for the account of the Lenders), EWSR and the Overdraft and LC Bank, EWSR and the Agent and EWSR and the Security Agent (collectively, the *Fee Letters*);
- (e) a debenture to be made not later than 31 January 2004 pursuant to the Facility Agreement by EWS, EWSR, RES, EWSI and the Security Agent (the *Debenture*);
- (f) a loan agreement to be made by EWSR and Mr Allen Johnson (the *Johnson Loan Agreement*); and
- (g) any other document as the directors of the Company consider necessary in connection with the above.

**APPENDIX 2 – PRINCIPAL TERMS ON WHICH THE ASSISTANCE WILL
BE GIVEN**

- (a) Pursuant to the Upstream Loan Agreement, EWSR will agree to lend EWS up to £103 million which will be repayable on 31 March 2008 unless extended at the request of EWS and which will bear interest at a rate equal to EWSR's cost of funds plus 0.125 per cent;
- (b) Pursuant to the Prepayment Agreement, EWSR will agree to prepay £35 million of the amount due from EWSR to EWS under a loan agreement between EWSR, as borrower and EWS, as lender dated 31 December 2002;
- (c) Pursuant to the Facility Agreement, EWSR will pay a commitment fee to the Agent (for the account of each Lender) and the Overdraft and LC Bank and a letter of credit fee to the Overdraft and LC Bank. Pursuant to the Fee Letters, EWSR will pay:
 - (i) an arrangement fee to the Agent (for the account of the Lenders) and the Overdraft and LC Bank;
 - (ii) an agency fee to the Agent; and
 - (iii) a security agency fee to the Security Agent,in each case in the amount and at the times agreed in the Fee Letters;
- (d) Pursuant to the Debenture which will be entered into pursuant to the Facility Agreement, EWSR (together with EWS, EWSI and RES):
 - (i) will covenant to pay to the Security Agent all Liabilities when due in accordance with its terms or, if they do not specify a time for payment, immediately on demand by the Security Agent;
 - (ii) will create fixed and floating charges over its assets and undertakings as security for their respective liabilities under the Finance Documents;
 - (iii) will undertake to do all such acts or execute all such documents as the Security Agent requires to:
 - (A) perfect or protect the Charges or the priority of the Charges; or
 - (B) facilitate the realisation of the Charged Assets or the exercise of any rights vested in the Security Agent or any receiver; and
 - (iv) will promptly execute and deliver to the Security Agent such legal charge of such of its real property from time to time in England and/or Wales as the Security Agent requires,in each case on the terms agreed;

- (e) Pursuant to the Johnson Loan Agreement, EWSR will agree to lend to Mr Allen Johnson an amount equal to the tax liability he would incur if and when he surrenders his holding of options over shares in EWS in consideration of the issue to him of partnership units in MJ UK Railroad Holdings LLP (*MJLLP*) and shares in UK Railway Holdings (BVI) Limited (*BVICO*). The terms of the Johnson Loan Agreement will provide that the loan shall be made by EWSR on the date that Mr Johnson is required to account to the Inland Revenue for such tax, and that the loan shall bear interest at a rate of 6% per annum, accruing daily and payable to EWSR annually in arrears. The Johnson Loan Agreement will further provide that the loan will become repayable if at any time prior to the fifth anniversary of the date that the loan is made Mr Johnson sells or otherwise realises value from his partnership units in MJLLP or BVICO shares or if he ceases to be an employee of EWS other than as a Good Leaver (as defined in the Johnson Loan Agreement). The terms will further provide that the loan will not be repayable on or at any time after the fifth anniversary thereof.

For the purposes of this Statutory Declaration:

Charged Assets means the assets from time to time subject, or expressed to be subject, to the Charges or any part of those assets;

Charges means all or any of the security created or expressed to be created by or pursuant to the Debenture;

Finance Documents means the Facility Agreement, any Fee Letter, any accession letter, any resignation letter, any Overdraft Document, any Security Document and any Hedging Document;

Hedging Document means any interest rate, currency management or fuel hedging agreement entered into between the Borrower and a Hedging Counterparty;

Hedging Counterparty means any Lender or affiliate of a Lender who becomes a hedging counterparty in accordance with the Facility Agreement;

Lender means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become party to the Facility Agreement;

Liabilities of a chargor under the Debenture means all present and future moneys, debts and liabilities due, owing or incurred by it to any Secured Party under or in connection with any Finance Document (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently and whether as principal, surety or otherwise);

Overdraft and LC Bank means:

- (a) any Original Overdraft and LC Bank; and

- (b) any bank, financial institution, trust, fund or other entity which has become a party to the Facility Agreement;

Overdraft Document means any bank account mandate and related standard terms of banking business entered into between the Borrower and an Overdraft and LC Bank pursuant to the Facility Agreement;

Security Document means the Debenture and any other security document that may be given as security for any of the Liabilities pursuant to or in connection with any Finance Document;

Secured Party means a Finance Party or a Hedging Counterparty.

References in this form 155(6)B to any person or party shall include their successors, transferees and assignees and in relation to the Mandated Lead Arrangers, the Agent and the Security Agent any substitute or additional person appointed pursuant to the Facility Agreement.

**APPENDIX 3 – DATE ON WHICH FINANCIAL ASSISTANCE IS TO BE
GIVEN**

A date being not later than eight weeks from the date hereof.

**Declaration by the directors
of a holding company in
relation to assistance for the
acquisition of shares**

155(6)b

Please do not
write in
this margin

Pursuant to section 155(6) of the Companies Act 1985

Please complete
legibly, preferably
in black type, or
bold block lettering

To the Registrar of Companies
(Address overleaf - Note 5)

For official use

Company number

For official use

03164272

*Insert full name
of company

Name of company

* Boreal & Austral Railfreight Limited

Note
Please read the
notes on page 3
before completing
this form

†Insert name(s) and
address(es) of all
the directors

We†

Carl Ferenbach of 87 Pinckney Street, Boston, Massachusetts, USA MA 02114, Sean Finn of 935 De la Gauchetiere Street West, Floor 16, Montreal Quebec H3B 2M9, Canada, Lord Griffiths of Fforestfach of Peterborough Court, 133 Fleet Street, London EC4A 2BB, Keith Heller of 277 Front Street West, Suite 503, Toronto, Ontario M5V 2X7, Canada, Richard Lubin of 17 Ascenta Terrace, West Newton, Massachusetts, USA 02165, Claude Mongeau of 935 De la Gauchetiere W, 16th Floor, Montreal, Quebec H3B 2M9 and David M. Richwhite of Fay Richwhite & CIE SA, 10 Cours de Rive, Geneva 1204, Switzerland.

§Delete as
appropriate

~~XXXXXX~~ [all the directors]§ of the above company (hereinafter called 'this company') do solemnly and sincerely declare that:

The business of this company is:

†Delete whichever
is inappropriate

~~XXXXXX~~ a company registered in the United Kingdom with the meaning of the Banking Act 1979†
~~XXXXXX~~ a person authorised under section 10 of the Insurance Companies Act 1982 to carry on business as an insurer in the United Kingdom†
~~XXXXXX~~ a company registered in the United Kingdom†

(c) something other than the above†

This company is [the]§ holding company of* English Welsh & Scottish Railway Limited

which is

proposing to give financial assistance in connection with the acquisition of shares

in ~~XXXXXX~~

the holding company of this company.}§

Presentor's name address and
reference (if any):
FRESHFIELDS BRUCKHAUS
DERINGER
65 FLEET STREET, LONDON
ENGLAND EC4Y 1HS
DX 23 LONDON/CHANCERY LANE

For official use
General Section

Post room

The assistance is for the purpose of [that acquisition] ~~for the purpose of that acquisition~~ * (note 1)

Please do not write in this margin

The number and class of the shares acquired or to be acquired is:
up to 10,584,187 ordinary shares of £1.00 each in the holding company of this company.

Please complete legibly, preferably in black type, or bold block lettering

The assistance is to be given to: (note 2)

UK Railway Holdings (BVI) Limited of Craigmuir Chambers, PO Box 71, Road Town, Tortola, British Virgin Islands, MJ UK Railroad Holdings LLP of 9E. Loockerman Street, Suite 1B, Dover, DE 19901, County of Kent, USA and Mr Allen Johnson of Brynestyn, Rusper Road, Ifield, Crawley, West Sussex, RH11 0LR, United Kingdom

The assistance will take the form of:

See Appendix 1

The person who ~~has acquired~~ [will acquire]* the shares is:

*Delete as appropriate

UK Railway Holdings (BVI) Limited of Craigmuir Chambers, PO Box 71, Road Town, Tortola, British Virgin Islands, MJ UK Railroad Holdings LLP of 9E. Loockerman Street, Suite 1B, Dover, DE 19901, County of Kent, USA and Mr Allen Johnson of Brynestyn, Rusper Road, Ifield, Crawley, West Sussex, RH11 0LR, United Kingdom

The principal terms on which the assistance will be given are:

See Appendix 2

The amount (if any) by which the net assets of the company which is giving the assistance will be reduced by giving it is nil

The amount of cash to be transferred to the person assisted is £ ^{up to} 650,000

The value of any asset to be transferred to the person assisted is £ nil

**Please complete
legibly, preferably
in black type, or
bold block lettering**

~~X~~We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

† Delete either (a) or (b) as appropriate.

(b) ~~NOT~~ INTENDED TO CONFUSE THE WINDING UP OF THIS COMPANY WITH THAT OF THE OTHER
AND HAVE FORMED THE OPINION THAT THIS COMPANY WILL BE ABLE TO PAY ITS DEBTS IN FULL WITHIN
XX MONTHS OF THE COMPENSATION OF THE WINDING UP † (note 3)

And ~~I~~we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at MONTREAL, QUEBEC

Declarants to sign below

on

Day		Month		Year			
1	5	1	2	2	0	0	3

Keith Heller

before me

A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths.

Notes

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account see section 156(3) of the Companies Act 1985.
- 4 The auditors' report required by section 156(4) of the Companies Act 1985 must be annexed to this form.
- 5 The address for companies registered in England and Wales or Wales is:-

The Registrar of Companies
Companies House
Crown Way
Cardiff CF14 3UZ

or, for companies registered in Scotland:-

The Registrar of Companies
37 Castle Terrace
Edinburgh
EH1 2EB

BOREAL & AUSTRAL RAILFREIGHT LIMITED (THE COMPANY)
(AS THE HOLDING COMPANY OF ENGLISH WELSH & SCOTTISH RAILWAY LIMITED
(EWSR))

The assistance will take the form of:

- (a) an intercompany loan agreement to be made between English Welsh and Scottish Railway Holdings Limited (*EWS*) and EWSR (the *Upstream Loan Agreement*);
- (b) a prepayment agreement to be made between EWSR and EWS (the *Prepayment Agreement*);
- (c) a £125 million reducing revolving credit facility and overdraft and letter of credit facility agreement to be entered into by EWSR as borrower (the *Borrower*), EWS, English Welsh & Scottish Railway International Ltd (*EWSI*), and Rail Express Systems Ltd (*RES*), as original guarantors (the *Original Guarantors*), Barclays Capital, Lloyds TSB Capital Markets and The Royal Bank of Scotland plc (*RBS*) as the mandated lead arrangers (the *Mandated Lead Arrangers*), Barclays Bank PLC (*Barclays*), Lloyds TSB Bank plc (*Lloyds TSB*) and RBS as original lenders (the *Original Lenders*), RBS as overdraft and letter of credit bank (the *Original Overdraft and LC Bank*), Barclays as agent (the *Agent*) and as security agent (the *Security Agent*) (the *Facility Agreement*);
- (d) certain fee letters to be made pursuant to the Facility Agreement by EWSR and the Agent (for the account of the Lenders), EWSR and the Overdraft and LC Bank, EWSR and the Agent and EWSR and the Security Agent (collectively, the *Fee Letters*);
- (e) a debenture to be made not later than 31 January 2004 pursuant to the Facility Agreement by EWS, EWSR, RES, EWSI and the Security Agent (the *Debenture*);
- (f) a loan agreement to be made by EWSR and Mr Allen Johnson (the *Johnson Loan Agreement*); and
- (g) any other document as the directors of the Company consider necessary in connection with the above.

**APPENDIX 2 – PRINCIPAL TERMS ON WHICH THE ASSISTANCE WILL
BE GIVEN**

- (a) Pursuant to the Upstream Loan Agreement, EWSR will agree to lend EWS up to £103 million which will be repayable on 31 March 2008 unless extended at the request of EWS and which will bear interest at a rate equal to EWSR's cost of funds plus 0.125 per cent;
- (b) Pursuant to the Prepayment Agreement, EWSR will agree to prepay £35 million of the amount due from EWSR to EWS under a loan agreement between EWSR, as borrower and EWS, as lender dated 31 December 2002;
- (c) Pursuant to the Facility Agreement, EWSR will pay a commitment fee to the Agent (for the account of each Lender) and the Overdraft and LC Bank and a letter of credit fee to the Overdraft and LC Bank. Pursuant to the Fee Letters, EWSR will pay:
 - (i) an arrangement fee to the Agent (for the account of the Lenders) and the Overdraft and LC Bank;
 - (ii) an agency fee to the Agent; and
 - (iii) a security agency fee to the Security Agent,in each case in the amount and at the times agreed in the Fee Letters;
- (d) Pursuant to the Debenture which will be entered into pursuant to the Facility Agreement, EWSR (together with EWS, EWSI and RES):
 - (i) will covenant to pay to the Security Agent all Liabilities when due in accordance with its terms or, if they do not specify a time for payment, immediately on demand by the Security Agent;
 - (ii) will create fixed and floating charges over its assets and undertakings as security for their respective liabilities under the Finance Documents;
 - (iii) will undertake to do all such acts or execute all such documents as the Security Agent requires to:
 - (A) perfect or protect the Charges or the priority of the Charges; or
 - (B) facilitate the realisation of the Charged Assets or the exercise of any rights vested in the Security Agent or any receiver; and
 - (iv) will promptly execute and deliver to the Security Agent such legal charge of such of its real property from time to time in England and/or Wales as the Security Agent requires,in each case on the terms agreed;

- (e) Pursuant to the Johnson Loan Agreement, EWSR will agree to lend to Mr Allen Johnson an amount equal to the tax liability he would incur if and when he surrenders his holding of options over shares in EWS in consideration of the issue to him of partnership units in MJ UK Railroad Holdings LLP (**MJLLP**) and shares in UK Railway Holdings (BVI) Limited (**BVICO**). The terms of the Johnson Loan Agreement will provide that the loan shall be made by EWSR on the date that Mr Johnson is required to account to the Inland Revenue for such tax, and that the loan shall bear interest at a rate of 6% per annum, accruing daily and payable to EWSR annually in arrears. The Johnson Loan Agreement will further provide that the loan will become repayable if at any time prior to the fifth anniversary of the date that the loan is made Mr Johnson sells or otherwise realises value from his partnership units in MJLLP or BVICO shares or if he ceases to be an employee of EWS other than as a Good Leaver (as defined in the Johnson Loan Agreement). The terms will further provide that the loan will not be repayable on or at any time after the fifth anniversary thereof.

For the purposes of this Statutory Declaration:

Charged Assets means the assets from time to time subject, or expressed to be subject, to the Charges or any part of those assets;

Charges means all or any of the security created or expressed to be created by or pursuant to the Debenture;

Finance Documents means the Facility Agreement, any Fee Letter, any accession letter, any resignation letter, any Overdraft Document, any Security Document and any Hedging Document;

Hedging Document means any interest rate, currency management or fuel hedging agreement entered into between the Borrower and a Hedging Counterparty;

Hedging Counterparty means any Lender or affiliate of a Lender who becomes a hedging counterparty in accordance with the Facility Agreement;

Lender means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become party to the Facility Agreement;

Liabilities of a chargor under the Debenture means all present and future moneys, debts and liabilities due, owing or incurred by it to any Secured Party under or in connection with any Finance Document (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently and whether as principal, surety or otherwise);

Overdraft and LC Bank means:

- (a) any Original Overdraft and LC Bank; and

- (b) any bank, financial institution, trust, fund or other entity which has become a party to the Facility Agreement;

Overdraft Document means any bank account mandate and related standard terms of banking business entered into between the Borrower and an Overdraft and LC Bank pursuant to the Facility Agreement;

Security Document means the Debenture and any other security document that may be given as security for any of the Liabilities pursuant to or in connection with any Finance Document;

Secured Party means a Finance Party or a Hedging Counterparty.

References in this form 155(6)B to any person or party shall include their successors, transferees and assignees and in relation to the Mandated Lead Arrangers, the Agent and the Security Agent any substitute or additional person appointed pursuant to the Facility Agreement.

**APPENDIX 3 – DATE ON WHICH FINANCIAL ASSISTANCE IS TO BE
GIVEN**

A date being not later than eight weeks from the date hereof.



8 Salisbury Square
London
EC4Y 8BB
United Kingdom

Tel +44 (0) 20 7311 1000
Fax +44 (0) 20 7311 4121
DX 38050 Blackfriars

The Directors
Boreal & Austral Railfreight Limited
McBeath House
310 Goswell Road
London
EC1V 7LL

Our ref agm/592

15 December 2003

Dear Sirs

Auditors' report to the directors of Boreal & Austral Railfreight Limited pursuant to Section 156(4) of the Companies Act 1985

We have examined the attached statutory declaration of the directors dated 15 December 2003 in connection with the proposal that English Welsh & Scottish Railway Limited, of which this company is a holding company, should give financial assistance for the purchase of the company's ultimate holding company's ordinary shares.

This report is made solely to the company's directors as a body in accordance with section 156(4) of the Companies Act 1985. Our work has been undertaken so that we as the company's auditors might state to the company's directors those matters we are required to state to them in a report under section 156(4) of that Act and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company and the company's directors as a body for our work under section 156(4) of that Act or for this report.

We have enquired into the state of the company's affairs in order to review the bases for the statutory declaration.

We are not aware of anything to indicate that the opinion expressed by the directors in their declaration as to any of the matters mentioned in Section 156(2) of the Companies Act 1985 is unreasonable in all the circumstances.

Yours faithfully

KPMG LLP



KPMG LLP
KPMG LLP, a UK limited liability partnership,
is a member of KPMG International,
a Swiss non operating association

Registered in England No OC301540
Registered office:
8 Salisbury Square,
London EC4Y 8BB