

AGREED REVISED GUIDANCE
**CHANNEL TUNNEL INTERGOVERNMENTAL
COMMISSION**

Regulation of the Intergovernmental Commission on the
safety of the

Channel Fixed Link (as amended)

The Channel Tunnel (Safety) (Amendment) Order 2013

Guidelines on the Bi-national regulations transposing to the Channel Fixed Link the provisions of Directive 2004/49 on the safety of the community's railways (as amended by 2008/110/EC of 16 December 2008 on safety on the Community's railways (Railway Safety Directive); and 2009/149/EC of 27 November 2009 - amending 2004/49/EC as regards Common Safety Indicators and common methods to calculate accident costs); including guidance for

- applicants for Part B safety certificates (railway undertakings) and safety authorisation (infrastructure manager);
- applicants for authorisation to place vehicles into service within the fixed link; and
- entities in charge of maintenance of vehicles operated only within the boundaries of the fixed link.

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Foreword

This guide provides a summary of the amended bi-national regulation transposing to the Channel Fixed Link that should allow you to understand the duties and responsibilities of the Intergovernmental Commission; the Concessionaires; and the railway undertakings who wish to access the Tunnel.

Introduction

1. The amended bi-national regulation transposing the EC Directive 2004/49/EC was signed on 6 February 2013 and became law in Britain and France on 26 March 2013. While they were enacted in law in different ways in the two countries, the wording of the regulation is the same (allowing for translation) in the British and French versions. These regulations, a consolidated version of which are included at annex 1 to this document, establish obligations on the channel tunnel Concessionaires, as infrastructure manager, and the railway undertakings that use the tunnel. This guidance is the guidance that the IGC is required to prepare by virtue of article 29 of the regulations.

2. The guidance is also updated to make reference, where relevant, to Common Safety Methods developed by the European Railway Agency that have been enacted since the guidance was first published.

The Main Parties and their Role

3. The Intergovernmental Commission (IGC), set up by Article 10 of the Treaty of Canterbury 1986, is the Safety Authority (SA) for the Channel Fixed Link within the meaning of Articles 3(g) and 16 of Directive 2004/49/EC, and articles 2 and 4 of the regulations. The IGC will be responsible for the issuing of safety certificates to railway undertakings, the safety authorisation of the Concessionaires, and authorisation to place into service in the fixed link vehicles that are already authorised in other Member States. IGC is also responsible for ensuring that an entity in charge of maintenance is assigned to all vehicles operated only within the boundaries of the Fixed Link. The Channel Tunnel Safety Authority (CTSA), established by Article 11 of the Treaty of Canterbury, will provide the IGC with expert assistance with processing of applications for authorisation and certification.

4. The duties and responsibilities of the IGC are set out in chapter 2 of the regulations. The IGC will ensure, in accordance with articles 17 to 21 of the regulations, that the unified safety rules that apply to the operation of the Fixed Link are published in French and English on IGC's website; are made available to Concessionaires, adjacent infrastructure managers, railway undertakings, applicants for a vehicle authorisation, applicants for a safety certificate and applicants for safety authorisation and are notified to the European Commission.

5. The responsibilities of the infrastructure manager (the Concessionaires) are set out in articles 12 and 13 and those of railway undertakings using the Common Section in articles 14 and 15.

6. The role of the accident investigation bodies is set out in articles 67 and 68, supplementing the information on their role already established in national law in France and the UK (The Railways (Accident Investigation and Reporting)

Regulations 2005). Reference to article 70 should be noted because it requires notification of accidents and incidents to one or other of the investigating bodies (see Annex 5).

Safety Management Systems (SMS)

7. The Concessionaires shall draw up and put into effect an SMS that shows their ability to assume responsibility for safety. The SMS shall meet the requirements and contain the elements set out in the unified safety rules and Annex 1 of this Regulation, The SMS shall have the following characteristics:

- it must set out the methods used by the Concessionaires to control the risks associated with all their safety-related activities
- it must take account of the effects of the activities of the different railway companies operating simultaneously within the railway system
- it must cover all of the elements listed in annex 1 of the regulations (these are taken from Directive 2004/49) and the "assessment criteria set out in the common safety method (CSM) for assessing conformity with the requirements for obtaining railway safety certificates" specified by the IGC (which are included below as annex 2 to this guidance)
- it must be a document that can be used within the company as a reference document on the principles of safe operation
- it must be an honest reflection of the realities of practices followed, and will subsequently be a basis for external audits and inspection activities to check that this is so
- it must be sufficiently detailed to be comprehensible, but should be a document elaborating principles with the detailed procedures, which may change over time without need to change the principles set out in the SMS, in supporting documents.

8. The SMS document submitted will be assessed by experts advising the IGC to verify that the " assessment criteria set out in the Common Safety Method on risk evaluation and assessment (EC Regulation 352/2009/EC) with the requirements for obtaining railway safety certificates " set out in annex 2 below are adequately dealt with and that the requirements elaborated in articles 22 to 26 of the regulations are met. The requirements of Articles 22 – 26 stress the acceptability of measures to manage modification and measures to give an assurance that the railway undertakings using the Common Section can do so in accordance with the applicable TSIs and unified and notified safety rules.

Safety Authorisation for the Concessionaires

9. The regulations require that the Concessionaires obtain from the IGC an authorisation to operate the Fixed Link railway system (article 27). This authorisation will cover all their safety-related activities namely the maintenance and operation of the infrastructure and also the maintenance and operation of shuttle services which are part of the Concession. The authorisation will confirm that the IGC has accepted that the Concessionaires' safety management system (SMS) establishes an acceptable basis for safe operation, and that the measures taken by the Concessionaires to comply with any specific requirements for the safe design, maintenance and operation of the railway system are adequate.

10.. The application for safety authorisation should include the SMS document and any other necessary supporting documents where the SMS contains insufficient information, which demonstrates that the specific measures taken by the Concessionaires are adequate.

11. The Concessionaires are required to renew their authorisation at least every five years and will need to make formal application to the IGC for an authorisation in good time. The application should be made to either of the addresses at the end of this guidance. The application will need to be supported by the SMS document and other documents demonstrating the adequacy of the specific measures taken by the Concessionaires. Documents provided should normally be in both English and French, but the IGC may agree to formal requests that some supporting documents are only provided in the language of origin. It is envisaged that the application will be followed by discussions between the Concessionaires and experts advising the IGC. This may result in requests for further information. The IGC will take a decision on the application without delay and at all events within four months of all requested information being provided. The authorisation will be for a specified period of not more than five years.

Procedures Subsequent to the Granting of the Safety Authorisation

12. It is recognised that during the period of validity of a safety authorisation substantial changes could be made to the infrastructure, signalling, energy supply or rolling stock, or the principles and methods involved in operation and maintenance. It is important to ensure that, should such changes be made, there is opportunity to re-examine the authorisation. The Concessionaires' procedure for identifying changes, deciding whether or not they are substantial and assessing the associated risks is part of their safety management system.

13. Subsequent to the granting of the safety authorisation, the Concessionaires should advise the IGC if "substantial changes" are proposed to the way they operate, significant enough to have important implications for the safety management system of the Concessionaires, the safety principles or safety processes applied by them within the Fixed Link, or to the level of safety of the Fixed Link, as described in documentation on the basis of which the safety authorisation was granted.

14. "Substantial change" means a change that could significantly affect the safety of the Fixed Link. A substantial change could be:

- introduction of a completely new type of activity, type of rolling stock or type of technical system never authorised within the Fixed Link,
- significant changes to existing equipment, existing technical systems, rolling stock in use, operational or maintenance processes in use or current arrangements to manage safety and to the activities for which the authorisation has been granted.

15. Some examples of what would be considered to be substantial changes to infrastructure are new sidings, platforms, bridges, level crossings or tunnels; new signalling systems; new track-bed construction; new electronic control systems or significant changes to existing control systems; new energy supply systems or significant changes to existing energy supply systems. Some examples of what would be considered substantial changes to operation and

maintenance are notable changes in the maintenance intervals for safety critical infrastructure; the introduction of new systems of automated working in respect of safety critical operations or maintenance.

16. If there is doubt as to whether a change is of sufficient consequence to come within the "substantial change" category this should be discussed with the IGC.

17. When the Concessionaires propose such changes they should apply the CSM on risk evaluation and assessment to ensure that the overall level of safety is not reduced and, where reasonably practicable, is improved.

18. The objective of this requirement to notify the IGC of substantial changes is to ensure that only the affected part of the safety authorisation is reconsidered if there are significant changes in the operation (the safety-related activities) that was authorised and not the whole dossier. The IGC may request the Concessionaires to submit a revised application for authorisation if it considers the changes are substantial enough to require this.

19. If the proposed substantial change requires an authorisation to be placed in service, the application for such authorisation has to be carried out by the Concessionaires independently of the submission for a revised application for their safety authorisation.

20. The IGC may also require a revised application if there are changes to the safety regulatory framework that are of such significance as to require reconsideration of the authorisation (see article 35). The Concessionaires will need to take into account the new regulatory framework and consequently adapt the documents on which the original authorisation was based. If this happens, the revised application will be considered in the same way as the original application. In granting a revised authorisation the IGC will consider whether the period for which the authorisation runs should be the same as the period specified for the original authorisation.

21. Following authorisation, the IGC will monitor the performance of the Concessionaires and, should it find that the conditions associated with the safety authorisation are not being met, may take action (see article 36). Such action would be preceded by discussion with the Concessionaires but could include modifying, restricting, suspending or revoking the authorisation. The railway undertakings will be informed as appropriate of any such action.

Safety Certification

22. No railway undertaking may use the Fixed Link unless it holds a safety certificate. The railway undertakings will need to obtain two certifications to enable it to use the Common Section - a Part A certificate from the Safety Authority in the Member State where the railway undertaking first established its operation and a Part B certificate from the IGC.

23. Part A certification granted to a railway undertaking is valid throughout the Community for equivalent rail transport systems. Railway undertakings applying for certification to operate through the Common Section should already have applied for or be in possession of a Part A certificate. There is no need to wait until a part A certificate is granted before making a Part B application.

However, the Part B certificate provided by the IGC will be dependent on the Part A certification being obtained and remaining valid. The Part B certificate can only be for railway operations equivalent to those for which a Part A certificate is held.

24. Part B certification granted by the IGC to a railway undertaking confirms acceptance of the provisions adopted by that undertaking to meet the specific requirements necessary for the safe operation through the Common Section.

25. The European Union has published regulation 653/2007 of 13 June 2007 which requires railway undertakings throughout Europe to use a common form when applying for safety certificates. This regulation was published on 14 June 2007 in the EU official journal under reference L 153 pages 9-24. This common form is available and must be used in making applications to the IGC. The IGC's process for formally recording safety certification and safety authorisation is at annex 4. The IGC will consider applications made electronically or on paper. It is preferable if long documents are provided electronically as well as on paper. The application should be made to either of the addresses at the end of this guidance.

26. In making an application, a railway undertaking must provide proof that it holds, or has applied for, a Part A certificate. But before granting the part B certificate the IGC will require a copy (not original) of the part A certificate, and information that the existing Part A covers the proposed operations under Part B. Railway undertakings must also provide evidence of measures taken to comply with the specific requirements necessary for the safe use of the Common Section including:

- information on relevant TSIs, or parts of the TSIs, and, where relevant, the unified safety rules and other rules applicable to the operations of the railway undertaking, its staff and its rolling stock, indicating how compliance with them is achieved by the safety management system of the applicant
- information on the categories of staff employed or contracted, evidence as to how their performance will meet the requirements of relevant safety rules and TSIs, and evidence that they have been certified (if that is a legal requirement for that category of staff)
- information on the different types of rolling stock in use or proposed for use, evidence that they meet the requirements of the relevant safety rules and TSIs, and (if applicable) evidence that they have been granted any certification required to meet legal requirements
- information on the training of train drivers, on-board staff and any other staff performing tasks important for safe operation, indicating their knowledge of the relevant safety rules, TSIs and specific emergency procedures for the channel tunnel.

The information should cover the " assessment criteria set out in the CSM for risk evaluation and assessing conformity with the requirements for obtaining railway safety certificates" specified by the IGC (which are included below as annex 3 to this guidance).

27. The railway undertakings will need to make formal application to the IGC for Part B certification in good time. The application will need to be supported by the documents specified in paragraph 25 above. Documents provided should

normally be in both English and French, but the IGC may agree to requests that some supporting documents are only provided in the language of origin provided it is English or French. It is envisaged that the application will be followed by discussions between the railway undertakings and experts advising the IGC. This may result in requests for further information. The IGC will take a decision on the application without delay and at all events within four months of all requested information being provided. The IGC will expect to see evidence that the Concessionaires and other affected parties have been consulted on the application. The Part B certification will be for a specified period of not more than five years. Railway undertakings are obliged to show the Part B certification to the Concessionaires if so requested, to demonstrate that they are certified to operate through the Common Section (see article 45).

Procedures Subsequent to the Granting of the Safety Certificate

28. It is recognised that railway undertakings may wish to change their method of operation over time. Railway undertakings procedure for identifying changes, deciding whether or not they are major and assessing the associated risks are part of their safety management systems. When a railway undertaking proposes such changes it should apply the Common Safety Method on risk assessment (Regulation 352/2009/EC) to ensure that the overall level of safety is not reduced and, where reasonably practicable, is improved. Subsequent to the granting of the Part B safety certificate, the railway undertaking should advise the IGC if "major changes" are proposed to way they operate, significant enough to have important implications for the documentation on the basis of which the certificate was granted.

29. Article 51 of the regulations directs railway undertakings, holding a Channel tunnel Part B certificate, to inform the IGC of all major changes to the condition of their Part A certificate. "Major changes" include the introduction of new types of rolling stock passing through the Fixed Link or the introduction of new categories of staff. The introduction of new rolling stock will require the procedure described in paragraphs 36 and 37 below being followed, but is likely to also require some changes to the documentation that was the basis of the Part B safety certificate and thus also requires consideration as a "major change." Article 52(a) of the regulations directs railway undertakings, holding a Channel tunnel Part B certificate, to inform the IGC and propose appropriate modifications to their Part B certificate whenever they propose to alter substantially the type and extent of their operations, changes to the type or extent of operations on the Common Section could be, for example, a freight operator who did not normally transport dangerous goods would need to apply for an amended safety certificate if the scope of the operation was changing to include the transportation of dangerous goods. If there is doubt as to whether a change is of sufficient consequence to come within the "major change" or the "altering substantially" category this should be discussed with the IGC.

30. The objective of the requirement to notify the IGC of such changes is to ensure that the Part B safety certification is reconsidered if there are significant changes in the operation that was the subject of the safety certificate. The IGC may request the railway undertaking to submit a revised application for Part B certification if it considers the changes are significant enough to require this. The railway undertaking will need to provide details of the proposed change and of

consequential changes to the documents on which the original certificate was based.

31. The IGC may also require a revised application if there are changes to the safety regulatory framework that are of such significance as to require reconsideration of the Part B certification (see article 53). If this happens, the revised application will be considered in the same way as the original application. In granting a revised Part B certification the IGC will consider whether the period for which the safety certificate runs should be the same as the period specified for the original Part B certification.

32. The railway undertaking should also advise the IGC of any changes in the conditions relating to its Part A certificate if they affect the Part B certificate and particularly if the Part A certificate is revoked. Revocation of the Part A certificate would automatically lead to revocation of the Part B certificate, since holding a Part A certificate is a condition of granting a Part B certificate. If the railway undertaking does not make use of the certificate to operate for a year after its issue, the certificate will be revoked.

33. The IGC will monitor the performance of the railway undertaking and, should it find that the conditions associated with the safety certificate are not being met, may take action to, for example, modify or revoke the certificate (see article 54). Such action would be preceded by discussion with the railway undertaking but could include modifying, restricting, suspending or revoking the certificate. The Concessionaires and the Safety Authority that granted the Part A certificate would be informed of any such action.

34. There is an obligation on the Concessionaires (see article 13.ix.) to advise the IGC of serious or repeated failures by the railway undertakings to observe the safety rules. This could trigger action by the IGC as envisaged in paragraph 32 above to re-consider the safety certification of the relevant railway undertaking.

Entities in charge of maintenance (ECM) of a vehicle operated only within the boundaries of the Fixed Link

35. Articles 55A and 55B require anyone placing a vehicle in service or using it on the fixed link must make sure that:

- An entity in charge of maintenance has been assigned to the vehicle;
- The details of the ECM are registered on the national vehicle register (NVR); and
- The ECM holds an ECM certificate if the vehicle is a freight wagon.

36. An ECM is: anyone responsible for the safe maintenance of a vehicle; and registered as the ECM in the NVR. The ECM does not have to carry out the maintenance of the vehicle itself, it can subcontract the actual maintenance of the vehicle but it is still responsible for making sure that the vehicle is safe to run on the network. The ECM needs to manage the contract and make sure the contractor is competent to carry out the work. The registration holder is responsible for assigning an ECM to a vehicle.

37. It should be noted that vehicles which operate on the fixed link *and* outside it (i.e. all vehicles other than Eurotunnel Shuttle vehicles) will already be registered in the relevant NVR with an ECM assigned. Operators of these

vehicles do not need to take any specific new action in relation to the Channel Tunnel. Eurotunnel is required to register its Shuttle vehicles, which are not freight wagons, on the NVR of either France or the UK as Article 33 of the Interoperability of the rail system within the Community Directive (2008/57/EC) does not allow the possibility of a separate vehicle register for the Channel Tunnel.

Training of Staff

38. Articles 56 to 60 deal with access to training facilities. Where training is required by the staff of railway undertakings in order for them to obtain a Part B certification, the Concessionaires shall provide such training on a fair and non-discriminatory basis. If such training is only provided by one supplier, it should be made available to all parties who require it at a reasonable and non-discriminatory price, related to cost but which might include a profit margin. Article 57 specifies what such training should cover - knowledge of the relevant aspects of the railway system, knowledge of the route, operating rules, operating procedures, the signalling system, the control system and emergency procedures. It also specifies that, if there is no certification arrangement for those taking the training and such certification is necessary to obtain the Part B certificate, the IGC will ensure that a certification arrangement exists.

39. Article 60 makes provision for staff that have been trained to have a right to obtain documentation certifying their training, experience and qualifications. Employers and training providers should provide such documentation if it is requested by one of their staff or someone they have trained.

Authorisation for placing in service of vehicles already authorised in another Member State

40. Articles 61 to 66 make provisions for additional authorisation to transit the Fixed Link of vehicles that are already authorised in another Member State. Provisions requiring IGC to authorise vehicles placed into service for the first time on the Fixed Link (i.e. vehicles not previously authorised by another Safety Authority) are contained within domestic legislation transposing Directive 2008/57/EC. (Chapter 2 of the regulations makes provision for IGC to authorise the Concessionaires' Shuttle vehicles which are only used on the Fixed Link).

41. Article 61 requires authorised vehicles to be additionally authorised by the IGC before they can transit the Fixed Link.

42. Article 62 prevents the IGC from requiring additional authorisation of fully TSI-conforming vehicles in the event that the Channel Tunnel infrastructure becomes compliant with the TSIs. As the Channel Tunnel infrastructure does not currently conform with several of the TSIs this is essentially a future-proofing requirement.

43. Articles 63 and 64 make it clear that applications to the IGC for additional authorisation are made and considered in accordance with the relevant provisions of Directive 2008/57. In particular, IGC's consideration is limited to the applicant's evidence demonstrating compliance with the specific requirements of the fixed link. On matters of compliance with requirements set out in the TSIs or other national rules equivalent to those of the fixed link, the IGC only requires confirmation of the previously issued authorisation(s).

44. It should be noted that when the IGC does not answer an application in accordance with the deadlines set out in Article 5A (which copy exactly the deadlines in Directive 2008/57/EC) then the vehicle concerned is deemed to be authorised to transit the Fixed Link.

45. Article 64 requires the Concessionaires to take reasonable steps to ensure that any on-track tests or trials of vehicles can take place within three months of a request by applicants. The Article also allows the Concessionaires to apply charges to applicants to cover any costs or losses incurred by the need to provide infrastructure capacity for such trials or tests.

46. Article 65 requires IGC to confirm its authorisation of any vehicle in the European register of authorised vehicle types.

47. Article 66 provides that vehicles previously authorised by IGC in accordance with Chapter 5 of the 2007 bi-national regulation do not need to be re-authorised again as a consequence of the new regulations being introduced.

48. IGC's procedure for processing applications for additional authorisation for vehicles can be found at Annex 4 to this guidance.

Annual Safety Reports

49. The Concessionaires and the railway undertakings using the Fixed Link are required to prepare an annual safety report and submit it to the IGC by 30 June each year. These arrangements commenced with reports due by 30 June 2007 which contained information on the whole of the calendar year for 2006. Article 16 specifies the minimum content for such reports. This includes information about the common safety indicators set out in Annex 1 to Directive 2009/149/EC.

Accident Investigation

50. Serious accidents and those incidents and accidents that, under slightly different conditions, might have led to serious accidents may be investigated by the British and French investigating bodies acting on the basis of a co-operation agreement between them. Recommendations arising from such investigations will be considered by the IGC, which will report back at least annually on the measures taken to or planned as a consequence. Details of the two investigation bodies and a list of accidents and incidents to be notified is at Annex 5. While there is only a legal requirement to notify the investigating body on whose territory an accident or incident occurs, it is recommended that for convenience both bodies are notified of all accidents or incidents that occur throughout the Concession Area.

Further Information

51. Further information can be obtained from the secretariat of the IGC at either of the addresses below:

French Secretariat:

Secrétariat général au tunnel sous la manche

Ministere de l'Ecologie, du Développement durable et de l'Energie

29th Floor - Grande Arche de la Défense

92055 Cedex

France

Tel: +33 (0) 14 08 17 871

Email address: tunnelmanche@developpement-durable.gouv.fr

UK Secretariat:

Channel Tunnel Safety Authority Secretariat

Office of Rail Regulation

One Kemble Street

London. WC2B 4AN

England

Tel: + 44 (0) 207 282 2047

Email address: ctsa@orr.gsi.gov.uk

Network Rail Infrastructure Limited (responsible for GB National Vehicle Register)

Room 279

Derwent House

RTC Business Park

London Road

Derby, DE24 8UP

Tel: + 44 (0) 1332 263858

Email address: nvr@networkrail.co.uk

ANNEXES

ANNEX 1 - The Bi-national Regulations

ANNEX 2 - The assessment criteria to be included in the Safety Management System of the Infrastructure Manager (Annex II of CSM for risk evaluation and assessment conformity with the requirements for obtaining railway safety certificates 1158/2010)

ANNEX 3 - The assessment criteria to be included in any application from a railway undertaking for safety certification (Annex III of CSM for risk evaluation and assessment conformity with the requirements for obtaining railway safety certificates 1158/2010)

ANNEX 4 – The IGC’s process for safety authorisation; safety certification; and additional authorisation of vehicles

ANNEX 5 - Independent Accident Investigation

STATUTORY INSTRUMENTS

2013 No. 0000

CHANNEL TUNNEL

HEALTH AND SAFETY

The Channel Tunnel (Safety) (Amendment) Order 2013

Made - - - - 2013

Laid before Parliament 2013

Coming into force in accordance with article 0

The Secretary of State for Transport makes this Order in exercise of the powers conferred on the appropriate Minister by section 11(1)(a), and (g), (2)(a) and (b) and (3)(a), (b) and (f) of the Channel Tunnel Act 1987(1) and by section 2(2) of the European Communities Act 1972(2), as read with paragraph 1A of Schedule 2 to the latter Act.

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to the Secretary of State that it is expedient for certain references to provisions of EU instruments to be construed as a reference to those provisions as amended from time to time(3).

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to railways and railway transport(4).

Citation, commencement and extent

—(1) This Order may be cited as the Channel Tunnel (Safety) (Amendment) Order 2013.

This Order comes into force on the date on which the regulation of the Intergovernmental Commission to amend the bi-national regulation of the IGC of 24 January 2007 on the safety of the Channel Fixed Link, done on 6th February 2013(5) (being a regulation drawn up under article 10(3)(e) of the Treaty between the United Kingdom of Great Britain and Northern Ireland and the

(1) 1987 c.53. “Appropriate Minister” is defined in section 13(1) of that Act.
(2) 1972 c.68. Section 2(2) was amended, and paragraph 1A of Schedule 2 was inserted, by the Legislative and Regulatory Reform Act 2006 (c.51, sections 27(1)(a) and 28). Both are amended by the European Union (Amendment) Act 2008 (c.7. Part 1 of the Schedule) and paragraph 1A of Schedule 2 is also amended by S.I. 2007/1388.
(3) Article 1(iii) of the regulation in the Schedule to this Order makes such a reference.
(4) S.I. 1996/266, to which there are amendments not relevant for these Regulations
(5) That regulation amends the regulation of the Intergovernmental Commission on the Safety of the Channel Fixed Link done on 24 January 2007 (“the 2007 bi-national regulation”), the text of which appeared originally in the Schedule to S.I. 2007/3531; the 2007 bi-national regulation appears, as amended by the regulation of the Intergovernmental Commission to amend the bi-national regulation of the IGC of 24 January 2007 on the safety of the Channel Fixed Link, done on 6th February 2013, in the Schedule to this Order. The amending regulation provides in its article 2 that the process for its entry into force will be as follows: “Each Government shall notify the other of the completion of its necessary internal procedures to enable this Regulation to enter into force. This Regulation shall enter into force on the date when both Governments have received from one another the documents containing these notifications.”

Agreed Guidance on the Bi-national Safety Regulations which came into force on
26 March 2013

French Republic concerning the construction and operation by private concessionaires of a Channel fixed link signed at Canterbury on 12th February 1986(6) comes into force, as provided for in article 2 of that regulation.

The Secretary of State shall give notice in the London, Edinburgh and Belfast Gazettes of the date provided for in paragraph 0.

Subject to paragraph 0, this Order does not extend to Northern Ireland.

The following provisions extend to Northern Ireland—

- article 1(2), to the extent that it relates to article 0, 0 and 0,
- article 0,
- article 0, and
- article 0.

Amendment of the Channel Tunnel (Safety) Order 2007

—(2) The Channel Tunnel (Safety) (Order) 2007(7) is amended as follows.

In article 1(2), omit “Subject to paragraph (3),” and, for “this”, substitute “This”.

Omit article 1(3).

In article 4(4)—

- In sub-paragraph (a), after “52(a) and (b)”, insert “,55A, 55B”, and
- in sub-paragraph (b)(i), for “authorisation of rolling stock”, substitute “vehicle authorisation”.

In article 6(1), after “52(a) and (b)”, insert “,55A, 55B”.

Omit article 9.

After article 10 insert—

“Review

11.—(1) The Secretary of State must from time to time—

- (a) carry out a review of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Directive 2004/49/EC of the European Parliament and of the Council on safety on the Community’s railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification(8), and Directive 2008/57/EC of the European Parliament and of the Council on the interoperability of the rail system within the Community (Recast) (9), are implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by this Order,
- (b) assess the extent to which those objectives are achieved, and

(6) Presented to Parliament by the Secretary of State for Foreign and Commonwealth Affairs by Command of Her Majesty, February 1986, and published as Treaty Series No. 15 (1992), Command Paper 1827 (out of print but copies may be obtained from the British Library; also available at <http://www.channeltunneligc.co.uk/Essential-texts,24.html?lang=en>). The Treaty (at Article 10) established the Intergovernmental Commission to supervise, in the name of the Governments of the United Kingdom and the French Republic all matters concerning the construction and operation of the Channel fixed link.

(7) S.I. 2007/3531.

(8) OJ No. L 164, 30.4.2004, p. 44, as amended by Directive 2008/57/EC (OJ No. L 191, 18.7.2008, p.1), Directive 2008/110/EC (OJ No. L 345, 23.12.2008, p.62) and Directive 2009/149/EC (OJ No. L 313, 28.11.2009, p.65).

(9) OJ No. L 191, 18.7.2008, p. 1, as amended by Directive 2009/131/EC (OJ No. L 273, 17.10.2009, p.12) and Directive 2011/18/EU (OJ No. L 57, 2.3.2011, p.21).

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26 March 2013

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this article must be published before the end of the period of five years beginning with the day on which the Channel Tunnel (Safety) (Amendment) Order 2013 comes into force.

(5) Subsequent reports under this Order are to be published at intervals not exceeding five years.”

For the content of the Schedule, substitute the content of the Schedule to this Order.

Signed by authority of the Secretary of State for Transport

Date

Minister of State
Department for Transport

Regulation of the Intergovernmental Commission on the safety of the Channel Fixed Link as amended

The Intergovernmental Commission (IGC), established to supervise all matters concerning the construction and operation of the Fixed Link in the name of the British and French governments and by delegation from them;

Having regard to the Treaty between the United Kingdom of Great Britain and Northern Ireland and the French Republic concerning the construction and operation by private concessionaires of a Channel Fixed Link, signed at Canterbury on 12 February 1986 (“the Treaty”), and in particular Articles 1 and 10 thereof;

Having regard to Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings, amended by Directive 2001/13/EC of the European Parliament and of the Council of 26 February 2001 and Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004;

Having regard to Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community’s railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification, amended by Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008, Directive 2008/110/EC of the European Parliament and of the Council of 16 December 2008 and by Commission Directive 2009/149/EC of 27 November 2009;

Having regard to Commission Regulation (EU) 445/2011 of 10 May 2011 on a system of certification of entities in charge of maintenance for freight wagons and amending Regulation (EC) 653/2007;

Having regard to the provisions made by the United Kingdom of Great Britain and Northern Ireland and the French Republic for the transposition of Article 14a of Directive 2004/49/EC;

Having regard to Directive 2004/51/EC of the European Parliament and of the Council of 29 April 2004 amending Council Directive 91/440/EEC on the development of the Community’s railways;

Having regard to Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the railway system in the Community;

Having regard to the provisions made by the United Kingdom of Great Britain and Northern Ireland and the French Republic for the transposition of Directive 2007/59/EC

Having regard to Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community, amended by Commission Directive 2009/131/EC of 16 October 2009 and by Commission Directive 2011/18/EU of 1 March 2011;

Having regard to the provisions made by the United Kingdom of Great Britain and Northern Ireland and the French Republic for the transposition of Directive 2008/57/EC;

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Having regard to Regulation (EC) 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency, amended by Regulation (EC) 1335/2008 of the European Parliament and of the Council of 16 December 2008;

Having regard to Commission Regulation (EC) 653/2007 of 13 June 2007 on the use of a common European format for safety certificates and application documents in accordance with Article 10 of Directive 2004/49/EC of the European Parliament and of the Council and on the validity of safety certificates delivered under Directive 2001/14/EC of the European Parliament and of the Council;

Having regard to Decision No 884/2004/EC of the European Parliament and of the Council of 29 April 2004 amending Decision No 1692/96/EC on Community guidelines for the development of the trans-European transport network;

Having regard to the provisions made by the United Kingdom of Great Britain and Northern Ireland and the French Republic for the transposition of Articles 19 to 25 of Directive 2004/49/EC;

Having regard to the quadripartite Concession signed on 14 March 1986 between the Secretary of State for Transport of the United Kingdom of Great Britain and Northern Ireland and the ministre de l'urbanisme, du logement et des transports representing the French State on the one part, and France-Manche SA and the Channel Tunnel Group Ltd on the other part (the Concession);

Having regard to the regulation of the Intergovernmental Commission signed on 23rd July 2009 on the use of the Channel Tunnel;

Considering the specific nature of the investment undertaken to assure the design, financing, construction and, since 1994, operation of the Channel Tunnel;

Considering the need to ensure a unified safety regime within the boundaries of the cross-border infrastructure of the Fixed Link;

Considering that the unified safety regime takes account of the specific risks of the Fixed Link;

Having consulted the Safety Authority established by the Treaty;

Has adopted the following regulation:

CHAPTER 1

1 . Definitions

- (i) “Accident” means an unwanted or unintended sudden event or a specific chain of such events which have harmful consequences; accidents are divided into the following categories: collisions, derailments, level-crossing accidents, accidents to persons caused by vehicles in motion, fires and others.
- (ii) “Agency” means the European Railway Agency, that is to say, the Community agency for railway safety and interoperability established by the aforementioned Regulation (EC) No 881/2004.
- (iii) “Common safety indicators” means the common safety indicators referred to in Annex I (common safety indicators) of Directive 2004/49/EC, as such annex is amended from time to time.
- (iv) “Common safety methods” (“CSMs”) means the methods to be developed by the Agency to describe how safety levels and achievement of safety targets and compliance with other safety requirements are assessed.
- (v) “Common safety targets” (“CSTs”) means the safety levels, to be drawn up by the Agency, that must at least be reached by different parts of the rail system (such as the high speed rail system and long railway tunnels) and by the system as a whole, expressed in risk acceptance criteria.
- (vi) “Common Section” means that part of the Fixed Link which is normally used by all categories of trains for the delivery of the services described in Article 1 of the Intergovernmental Commission Regulation of 23 July 2009 on the use of the Channel Tunnel.
- (vii) “Concession” has the meaning given in Article 1 of the Treaty.
- (viii) “Concessionaires” has the meaning given in Article 1 of the Treaty.
- (viii)a “ECM certificate” means a certificate issued in accordance with the ECM Regulation to an entity in charge of maintenance for the purposes of Article 14a(4) of Directive 2004/49/EC or a certificate or self-declaration recognised as being equivalent for those purposes in accordance with Article 12(3) to (7) of the ECM Regulation.
- (viii)b “ECM Regulation” means Commission Regulation (EU) 445/2011 of 10 May 2011 on a system of certification of entities in charge of maintenance for freight wagons and amending Regulation (EC) 653/2007.
- (viii)c “Entity in charge of maintenance” means an entity in charge of maintenance of a vehicle, registered as such on a national vehicle register, and can include a railway undertaking, an infrastructure manager or a keeper.
- (ix) “Fixed Link” means the Channel Fixed Link as defined in Article 1.2 of the Treaty.
- (ix)a “Freight wagon” means a non-self propelled vehicle designed for the purpose of transporting freight or other materials to be used for activities such as construction or infrastructure maintenance.

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- (x) “Incident” means any occurrence, other than accident or serious accident, associated with the operation of trains and affecting the safety of operations.
- (xi) “Infrastructure manager” means any body or undertaking that is responsible in particular for establishing and maintaining railway infrastructure, or a part thereof, as defined in Article 3 of Directive 91/440/EEC. The Concessionaires are the infrastructure manager for the Fixed Link, in accordance with the Treaty, and are responsible also for the management of infrastructure control and safety systems.
- (xii) “Intergovernmental Commission” (“IGC”) means the Intergovernmental Commission, established by Article 10 of the Treaty to supervise, in the name and on behalf of the governments of the United Kingdom of Great Britain and Northern Ireland and of the French Republic, all matters concerning the construction and operation of the Fixed Link.
- (xiii) “Interoperability constituents” means any elementary component, group of components, subassembly or complete assembly of equipment incorporated or intended to be incorporated into a subsystem upon which the interoperability of the rail system depends either directly or indirectly. The concept of a “constituent” covers both tangible objects and intangible objects such as software.
- (xiv) “Investigation” means a process conducted for the purpose of accident and incident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and, when appropriate, the making of safety recommendations.
- (xv) “Investigating bodies” means the national British and French investigating bodies, respectively:
 - (a) the Rail Accident Investigation Branch (“RAIB”) established by the Railways and Transport Safety Act 2003;
 - (b) the French Office for the investigation of land transport accidents (bureau d’enquêtes sur les accidents de transport terrestre “BEA-TT”) established by law no 2002-3 of 3 January 2002 and decree no 2004-85 of 26 January 2004 amended.
- (xv)a “Keeper” means the person or entity that, being the owner of a vehicle or having the right to use it, exploits the vehicle as a means of transport and is registered as such in the national vehicle register referred to in Article 33 of Directive 2008/57/EC;
- (xvi) [Not used]
- (xvii) “Part A certificate” means safety certification confirming acceptance of a railway undertaking’s safety management system, issued by the safety authority in the Member State where that railway undertaking first established its operations.
- (xviii) “Part B certificate” means safety certification issued to railway undertakings by the Intergovernmental Commission under this Regulation and valid solely in respect of their operations on the Common Section.

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- (xix) “Railway system” means the whole of the railway network of the Fixed Link:
- (a) which is constituted by all or part of the subsystems in the structural and functional fields as defined in Directive 2008/57/EC, including:
 - the railway lines and fixed installations;
 - the vehicles authorised to run on this infrastructure;
 - the equipment for preventing and protecting against risks in the tunnel;
 - the elements necessary for the management and operation of the Fixed Link as a whole,
 - (b) and which also incorporates the Concessionaires’ shuttle services for road vehicles.
- (xx) “Railway undertaking” means any railway undertaking as defined in Directive 2001/14/EC and any other public or private undertaking, the activity of which is to provide transport of goods and/or passengers by rail on the basis that the undertaking must provide traction; this also includes undertakings which provide traction only. However, it does not include the Concessionaires, whose transport operations are limited to the provision of shuttle services for road vehicles through the Channel Tunnel.
- (xxi) [not used]
- (xxii) “Safety management system” (“SMS”) means the organisation and provisions drawn up by an infrastructure manager or a railway undertaking to ensure the safe management of its activities.
- (xxiii) “Serious accident” means any train collision or derailment resulting in at least one fatality or serious injury to at least five persons, or extensive damage to rolling stock, to the infrastructure, or to the environment, and any other similar accident having an obvious impact on the regulation or the management of railway safety; “extensive damage” means damage which may be immediately assessed by the competent investigating body at a total of at least 2 million euro.
- (xxiv) “Technical specifications for interoperability” (“TSIs”) means the specifications by which each subsystem or part of a subsystem is covered in order to meet the essential requirements and ensure the interoperability of the trans-European rail system as defined in Directive 2008/57/EC.
- (xxv) “Treaty” means the Treaty between the United Kingdom of Great Britain and Northern Ireland and the French Republic concerning the construction and operation by private concessionaires of a cross-channel fixed link, signed at Canterbury on 12 February 1986.
- (xxvi) “Unified safety rules” means the safety rules, made in accordance with Article 18, which apply to the Fixed Link and describe the technical and safety requirements to be observed in the design, maintenance and operation of the railway system. The objective of these rules is to contribute to the overall level of safety. The unified safety rules shall be notified to the European Commission.
- (xxvii) “Vehicle” means a railway vehicle that runs on its own wheels on railway lines, with or without traction. A vehicle is composed of one or more structural and functional subsystems or parts of such subsystems.

CHAPTER 2

Duties and responsibilities

Safety Authority

2. The Intergovernmental Commission is the Safety Authority for the Fixed Link within the meaning of Articles 3(g) and 16 of Directive 2004/49/EC.

3. The Intergovernmental Commission, taking into account the specific characteristics of the railway system, shall ensure that the overall safety level of the Fixed Link is maintained and, where that is reasonably practicable, continuously improved, by taking account of changes to Community legislation, as well as technical and scientific progress, and by giving priority to the prevention of serious accidents.

4. The tasks of the Intergovernmental Commission, as Safety Authority within the meaning of Articles 3(g) and 16 of Directive 2004/49/EC, shall be at least the following:

(i) authorising, in accordance with the requirements of Article 15 of Directive 2008/57/EC, the placing in service of any new or substantially modified subsystem constituting the railway system, included or operated within the boundaries of the Fixed Link;

(ii) supervising that any such structural subsystems placed in service are operated and maintained in accordance with the relevant essential requirements;

(iii) supervising, in so far as relevant for the railway system, that the interoperability constituents are in compliance with the essential requirements as required by Article 14 of Directive 2008/57/EC;

(iv) authorising, in accordance with the provisions of Articles 21, 23, 25 and 26 of Directive 2008/57/EC, the placing in service of any new or substantially modified vehicle within the boundaries of the Fixed Link;

(v) as already established through the Concession, authorising the placing in service of any new or substantially modified vehicle used for the shuttle services for road vehicles, when it is proposed to locate or operate such a new or substantially modified vehicle within the boundaries of the Fixed Link;

(vi) issuing, renewing, amending and revoking relevant parts of safety certification granted to railway undertakings in so far as it relates to the Fixed Link;

(vii) issuing, renewing, amending and revoking relevant parts of the safety authorisation granted to the Concessionaires;

(viii) verifying that with regard to the Fixed Link the conditions and requirements of safety certification and authorisation are fulfilled and that the activities of railway undertakings and the Concessionaires comply with the requirements of Community and national legislation and the regulations of the Intergovernmental Commission;

(ix) monitoring, promoting and, where appropriate, enforcing and developing the safety regulatory framework applicable to the railway system, including the unified safety rules;

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(x) checking that vehicles authorised to run on the Fixed Link are duly registered with safety related information in a national vehicle register drawn up in accordance with Article 33 of Directive 2008/57/EC, and that the information so registered is correct and kept up to date;

(xi) by 30 September at the latest each year, publishing and sending to the Agency a report concerning its activities in the preceding year, containing information on the development of railway safety, common safety indicators, safety certification and safety authorisation; any important changes in legislation and regulation concerning railway safety within the boundaries of the Fixed Link; and the results of and experience relating to the supervision of the Concessionaires and railway undertakings.

5. (a) The Intergovernmental Commission shall perform its tasks in an open, non-discriminatory and transparent way. In particular, it shall allow all parties to be heard and shall indicate the reasons for its decisions.

(b) It shall promptly respond to requests and applications and communicate its requests for information without delay and adopt all its decisions within four months after all requested information has been provided. If the applicant is requested to supply further information, this must be provided promptly.

5A. Notwithstanding the timescales mentioned in Article 5, when the Intergovernmental Commission has received an application for an additional authorisation for placing in service of a vehicle under Article 63, the following shall apply:

(a) if the application is made in accordance with Article 23 of Directive 2008/57/EC, the Intergovernmental Commission shall issue its decision as to authorisation as soon as possible and no later than:

- two months after submission of the file specified in Article 23(3) of Directive 2008/57/EC;
- where applicable, one month after submission of any additional information requested by the Intergovernmental Commission;
- where applicable, one month after submission of the results of tests requested by the Intergovernmental Commission.

(b) if the application is made in accordance with Article 25 of Directive 2008/57/EC, the Intergovernmental Commission shall issue its decision as to authorisation as soon as possible and no later than:

- four months after submission of the technical file specified in Article 25(2) of Directive 2008/57/EC;
- where applicable, two months after submission of any additional information or risk analyses requested by the Intergovernmental Commission pursuant to Article 25(4) of Directive 2008/57/EC;
- where applicable, two months after submission of the results of tests requested by the Intergovernmental Commission pursuant to Article 25(4) of Directive 2008/57/EC.

If no decision is issued within the time limits, the placing in service of the vehicle in question shall be deemed to have been authorised after a period of three months starting at the end of the time limit.

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6. (a) To carry out the aforementioned tasks, the Intergovernmental Commission:
- (i) may request, at any time, technical assistance from the Concessionaires, the railway undertakings or other qualified bodies;
 - (ii) shall carry out any inspections and investigations necessary, invoking the assistance of the authorities of each Government or any body or expert of its choice in accordance with the provisions of Articles 10(7), 10(8), 11(6) and 11(8) of the Treaty. Without prejudice to the powers of inspection granted to the Intergovernmental Commission under the Concession, in France such inspections and investigations are conducted under the same conditions as those established for inspections and investigations undertaken by the safety authorities of the French Republic in fulfilling their functions outside the Fixed Link, and in Great Britain are conducted in accordance with relevant statutory powers.
- (b) To assist the Intergovernmental Commission in carrying out the aforementioned tasks the Concessionaires and railway undertakings shall, on request, give the Intergovernmental Commission access to all relevant documents and to their premises, installations and equipment.

7. The Intergovernmental Commission may duly authorise persons for the purposes of Article 6(a)(ii). Such persons shall carry out these tasks in such a way as to cause the minimum of disruption to the operation of the Fixed Link consistent with the purpose for which the persons concerned are lawfully there, which is to check compliance with safety requirements in accordance with the conditions for award of safety authorisation to the Concessionaires and of Part B certificates to railway undertakings.

8. The Concessionaires and the railway undertakings shall provide information on request to the Intergovernmental Commission on any question relating to safety. In addition, they shall advise the Intergovernmental Commission immediately of:

- (i) serious accidents on the railway system;
- (ii) any other accidents or incidents which fall within categories specified and notified to them by the Intergovernmental Commission.

9. The Concessionaires and any railway undertakings which use the Common Section shall, on request, provide to the Intergovernmental Commission appropriate information on significant incidents, incidents from which worthwhile safety lessons may be learned, and investigations that are likely to have relevance to the safety of the railway system.

10. In order to monitor and evaluate the implementation of the safety requirements applicable to the Fixed Link, and without prejudice to its rights under the Concession to receive reports and information from the Concessionaires, the Intergovernmental Commission shall collect relevant material through the common safety indicators and through any other indicators relating to the Fixed Link which it thinks appropriate.

Infrastructure manager

11. The Concessionaires are the infrastructure manager for the Fixed Link.

12. Without prejudice to civil liability established in conformity with legal requirements, the Concessionaires are responsible for the railway system and its safe operation, including the supply of material and the contracting of services, vis-à-vis users, customers, the workers concerned and third parties.

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13 .For this purpose and without prejudice to their responsibilities under the Concession, the Concessionaires shall take all necessary measures and in particular shall:

- (i) implement any necessary risk control measures, where appropriate in co-operation with railway undertakings;
- (ii) comply with Community and national legislation and the unified safety rules applying to the railway system;
- (iii) be responsible for the compliance of the shuttle service operations for road vehicles with the safety requirements for the Common Section;
- (iv) ensure that vehicles used for operating shuttle services for road vehicles are authorised to run on the Common Section;
- (v) ensure that vehicles used to operate their shuttle services for road vehicles are in safe condition;
- (vi) ensure that railway undertakings and sub-contractors have access to all information necessary for them to fulfil their responsibilities on the training and certification of staff undertaking safety-related work, including information on specific procedures for preventing and protecting against risks in the tunnel;
- (vii) ensure that their staff undertaking safety-related work have been trained, and possess and maintain the appropriate skills and certification;
- (viii) take any necessary protective measures if they identify, or are advised of, a situation presenting a clear and present safety risk arising from a serious or repeated failure of the railway undertakings to respect the unified safety rules;
- (ix) advise the Intergovernmental Commission of any serious or repeated failure of the railway undertakings to respect the unified safety rules and of any protective measures taken, in order for the Commission to assess the action to be taken, in particular action under Article 54.

Railway undertakings

14 .Without prejudice to civil liability established in conformity with legal requirements, every railway undertaking is responsible for the safe operation of its activities on the Common Section, including the supply of material and the contracting of services vis-à-vis users, customers, the workers concerned and third parties.

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15 .For this purpose railway undertakings shall take all appropriate measures and in particular shall:

- (i) implement any necessary risk control measures, where appropriate in cooperation with the Concessionaires;
- (ii) comply with the requirements of the unified safety rules applying to the railway system;
- (iii) ensure that their staff undertaking safety-related work have been trained, and possess and maintain the appropriate certification and skills, including those relating to the procedures for preventing and protecting against risks in the tunnel;
- (iv) ensure that the vehicles used for carrying out their railway transport activities are authorised to run on the Common Section and are in safe condition.
- (v) [not used]

Annual safety report

16 .Every year from 2007 onwards, the Concessionaires and all railway undertakings operating on the Common Section shall submit to the Intergovernmental Commission by 30 June an annual report on safety, relating to their activities within the Fixed Link during the previous calendar year. It shall cover:

- (i) information on the extent to which the Concessionaires or the railway undertakings have achieved their own safety objectives;
- (ii) the results of their safety plans;
- (iii) the common safety indicators insofar as these indicators are relevant to their activities;
- (iv) the results of their internal safety audits; and
- (v) observations on deficiencies and malfunctions of railway operations and infrastructure management that might be relevant for the Intergovernmental Commission.

Unified safety rules

17 .The Intergovernmental Commission shall ensure that the binding unified safety rules are published in French and English and are made available to Concessionaires, adjacent infrastructure managers, railway undertakings, applicants for a vehicle authorisation, applicants for a safety certificate and applicants for safety authorisation.

18 .The unified safety rules shall be made in accordance with Articles 17 of Directive 2008/57/EC and 8 of Directive 2004/49/EC and supplement the requirements of the technical specifications for interoperability (TSIs) which apply to all or part of the railway system.

19 .The Intergovernmental Commission shall, taking into account the specific characteristics of the railway system, ensure any necessary amendment of the unified safety rules to take account of the adoption and revision of common safety methods and to achieve at least the common safety targets in accordance with the timescale for the implementation of those targets.

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20 .The Intergovernmental Commission shall advise the governments of France and the United Kingdom of any need to notify the European Commission of any modification to existing unified safety rules or new unified safety rules unless the amendments or proposals wholly relate to the implementation of technical specifications of interoperability.

21 .In developing the unified safety rules, the Intergovernmental Commission shall consult all persons involved and parties with an interest.

CHAPTER 3

Safety Management Systems, Safety authorisation of Concessionaires and Part B certification of railway undertakings and of entities in charge of maintenance of vehicles operated only within the boundaries of the Fixed Link

Safety management systems (SMS)

22 .The Concessionaires shall draw up and put into effect a Safety Management System which shows their ability to assume their responsibility for safety.

23 .The Concessionaires' safety management system shall meet the requirements and contain the elements set out in the unified safety rules and Annex 1 to this Regulation, adapted with regard to the nature, the importance and other characteristics of the activities undertaken with the aim of ensuring a unified safety regime for the Fixed Link under the conditions set out by the Intergovernmental Commission. Without prejudice to existing national and international liability rules, the Concessionaires' safety management system shall take account, where appropriate and reasonable, of the risks arising as a result of the activities of third parties.

24 .The Concessionaires' safety management system shall take account of the effects on operating safety of the activities carried out by the different railway undertakings that use the Common Section, and make provision to allow all railway undertakings to operate in accordance with applicable TSIs, relevant national and unified safety rules, and with conditions laid down in their Part B certificate. It shall provide for the co-ordination of the Concessionaires' emergency procedures with those of all the railway undertakings using the Common Section.

25 .The Concessionaires' safety management system shall contain the necessary provisions to manage risks relating to the introduction of a new element into the railway system or to the modification of an existing element of that system.

26 .Railway undertakings must provide proof to the Intergovernmental Commission of the acceptance of a safety management system by the Member State in which they first established their activities.

Safety authorisation for the Concessionaires

27 .The Concessionaires may only manage and operate the Fixed Link if they possess a safety authorisation from the Intergovernmental Commission so to do.

28 .The safety authorisation confirms acceptance by the Intergovernmental Commission of:

(a) the Concessionaires' safety management system; and

(b) the measures taken by the Concessionaires to comply with specific requirements necessary for the safe design, maintenance and operation of the railway system.

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29 .The Intergovernmental Commission shall provide guidance on the procedures for obtaining the safety authorisation, its duration, and the procedures for issuing, updating, amending, revising, renewing, suspending and revoking it.

30 .The period of validity of a safety authorisation shall not exceed five years, and will be clearly indicated on the safety authorisation.

31 .The Concessionaires must submit any request for renewal of their safety authorisation at least four months before its expiry.

32 .[Not Used]

33 .Unless otherwise agreed with the Intergovernmental Commission, all applications for a safety authorisation, and supporting documents, shall be submitted in English and French.

34. (a) The Concessionaires shall without delay inform the Intergovernmental Commission of any substantial changes proposed to the infrastructure, signalling, energy supply or vehicles or to the principles of their operation and maintenance, and shall propose any appropriate modifications to the safety authorisation.

(b) In proposing any introduction of a new element into the railway system or the modification of an existing element of that system the Concessionaires shall ensure that such new elements or modifications would not reduce the overall level of safety and, where reasonably practicable, would improve it.

(c) The Intergovernmental Commission's procedures for considering such proposals will be the same as for considering an application for a safety authorisation.

(d) The period of validity of the safety authorisation shall not be affected by the approval of any such proposals unless the decision of the Intergovernmental Commission indicates otherwise and the safety authorisation is modified accordingly.

35.The Intergovernmental Commission may require that the safety authorisation be revised following substantial changes to the safety regulatory framework.

36. If the Intergovernmental Commission finds that the Concessionaires no longer satisfy the conditions for a safety authorisation it may, without prejudice to any emergency actions needed, after formal notice and giving the Concessionaires an opportunity to make representations and after considering any representations made, modify, restrict, suspend or revoke the authorisation, giving reasons for its decision. The Concessionaires shall take the appropriate measures to inform railway undertakings operating through the Common Section of any consequent impact upon their operations.

37.The Intergovernmental Commission shall inform the Agency, within one month, of the issue, renewal, amendment or revocation of the safety authorisation. The notification shall state the name and address of the Concessionaires, the date of issue, the scope and the validity of the safety authorisation, and, in the case of revocation, the reasons for its decision.

38 .A safety authorisation issued by the Intergovernmental Commission to the Concessionaires may also, if the Intergovernmental Commission thinks fit and so indicates in writing, constitute certification confirming acceptance by the Intergovernmental Commission of the Concessionaires' safety management system in accordance with Article 10(2) (a) of Directive 2004/49/EC where this is required for the purposes of any operation by the Concessionaires of their vehicles outside the Fixed Link.

Part B Certification for railway undertakings

39 .In order to use the Common Section, a railway undertaking must hold a safety certificate comprising:

- (i) a Part A certificate; and
- (ii) a Part B certificate issued by the Intergovernmental Commission.

40 .A part B certificate may only be granted for rail transport activities which are equivalent to those specified in the part A certificate held by the railway undertaking.

41 .The duration of validity of the Part B certificate shall not exceed five years and will be clearly indicated on it. It shall in any case cease to be valid if the part A certificate ceases to be valid.

42 .In order to obtain a Part B certificate, a railway undertaking must provide:

- (i) proof that it holds a valid Part A certificate confirming acceptance of its SMS,
- (ii) evidence of the measures taken to ensure compliance with the specific requirements necessary for safe use of the Common Section. This shall include documentation on:
 - (a) the TSIs or, if appropriate, parts only of the TSIs and, where relevant, unified safety rules and other rules applicable to the operations of the railway undertaking, its staff and its rolling stock and how compliance with them is ensured by the safety management system;
 - (b) the different categories of staff employed or contracted for the railway undertaking's operation, including evidence that they meet the requirements of TSIs and the unified safety rules and any other rules applicable to the operations, and that those staff have been duly certified;
 - (c) the different types of rolling stock used for the railway undertaking's operations, including evidence that they meet requirements of TSIs and the unified safety rules and have been duly certified; and
 - (d) the training and certification of train drivers and staff performing vital safety tasks relating to their knowledge of the TSIs, unified safety rules and the emergency procedures for the Channel Tunnel.

43 .To avoid duplication of work and reduce the amount of information only summary documentation should be submitted concerning elements that comply with TSIs and other requirements of Directive 2008/57/EC.

44 .Unless otherwise agreed with the Intergovernmental Commission, all applications for a Part B certificate, and supporting documents, shall be submitted in English and French.

45 .The Part B certificate confirms acceptance by the Intergovernmental Commission of the measures taken by the railway undertaking to comply with the specific requirements necessary for the safe supply of its services on the Common Section. These requirements concern the application of the TSIs and unified safety rules, including the network operating rules, acceptance of staff certificates and authorisation to operate, within the boundaries of the Fixed Link, vehicles used by the railway undertakings.

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46 .Railway undertakings shall, on request, produce to the Concessionaires their Part B certificate.

47 . [Not Used]

48 . [Not Used]

49 .The Intergovernmental Commission shall provide guidance on the procedures for applying for, issuing, updating, amending, revising, renewing and revoking a Part B certificate.

50 . In order to renew a Part B certificate a railway undertaking must apply for the renewal at least four months before the current certificate's expiry.

51 .The holder of a Part B certificate shall without delay inform the Intergovernmental Commission of all major changes to the conditions of its Part A certificate, and whenever new categories of staff or new types of vehicle are proposed for introduction.

52. (a) The holder of a Part B certificate shall inform the Intergovernmental Commission without delay and propose appropriate modifications to its Part B certificate whenever it proposes to alter substantially the type or extent of its operations or where any proposed changes referred to in Article 51 would necessitate modifications to the certificate.

(b) In proposing any introduction of a new element into the railway system or the modification of an existing element of that system the holder of a Part B certificate shall ensure that such new elements or modifications would not reduce the overall level of safety and, where reasonably practicable, would improve it.

(c) The Intergovernmental Commission's procedures for considering such proposals will be the same as for considering an application for a Part B certificate. The period of validity of the Part B certificate shall not be affected by the approval of any such proposals unless the decision of the Intergovernmental Commission indicates otherwise and the Part B certificate is modified accordingly.

53 .In case of substantial changes in the safety regulatory framework, the Intergovernmental Commission may require that the relevant sections of the Part B certificate be revised.

54 .If the Intergovernmental Commission finds that the holder of a Part B certificate no longer satisfies the conditions for that certificate, it may, without prejudice to any emergency actions needed, after formal notice and giving the certificate holder an opportunity to make representations and after considering any representations made, modify, restrict, suspend or revoke the Part B certificate, giving reasons for its decision. The Intergovernmental Commission shall without delay advise the safety authority that granted the Part A certificate and the Concessionaires.

55 .The Intergovernmental Commission shall revoke the Part B certificate if it is not used as intended within the year following its issue.

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Entity in charge of maintenance of a vehicle operated only within the boundaries of the Fixed Link

55A. In respect of a vehicle to be used or placed in service only within the boundaries of the Fixed Link, no person may place in service or use such a vehicle unless that vehicle has an entity in charge of maintenance assigned to it, and that entity in charge of maintenance:

- (i) is registered in relation to that vehicle in a national vehicle register; and
- (ii) holds an ECM certificate if the vehicle is a freight wagon.

55B. An entity in charge of maintenance in respect of a vehicle placed in service or to be used only within the boundaries of the Fixed Link shall set up a maintenance system in accordance with Article 14a(3) of Directive 2004/49/EC, to ensure that such vehicles as have been assigned to it are in a safe state of running.

CHAPTER 4

Specific provisions for training of train drivers and staff performing vital safety tasks

Access to training facilities

56 .Fair and non-discriminatory access to training necessary to obtain a Part B certificate in accordance with the requirements in Article 42(d)(ii) shall be provided by the Concessionaires, by railway undertakings or by appropriate training services, to train drivers and staff performing vital safety tasks of any railway undertaking.

57 . (a) Training shall cover knowledge of the relevant aspects of the railway system, in particular knowledge of the route; operating rules and procedures; the signalling and control command system; and emergency procedures.

(b) In cases where the training services do not include organisation of examinations to assess staff or issue of certificates to show that they meet the relevant requirements of the Part B certificate, the Intergovernmental Commission shall ensure that railway undertakings have access to such certification if it is a requirement of the Part B certificate.

58 .The provision of training services and, where appropriate, the issue of certification required for a Part B certificate must meet the safety requirements laid down in TSIs or in the unified safety rules.

59 .If the training services are only offered by a single railway undertaking or the Concessionaires, they shall be made available to other infrastructure managers and railway undertakings at a reasonable and non-discriminatory price, which is cost-related and may include a profit margin.

60 .Persons currently or previously employed as train drivers and staff performing vital safety tasks may, by simple request to the relevant bodies, have access to the documents certifying their training, qualifications and experience, obtain copies of them and be free to pass them on.

CHAPTER 5

Provisions relating to additional authorisation for placing in service of vehicles

61 .A vehicle which has a first authorisation for placing in service in a Member State of the European Union, where the first authorisation was not issued by the Intergovernmental Commission shall not be operated on the Fixed Link unless it has an additional authorisation from the Intergovernmental Commission or unless Article 62 applies.

62 .Vehicles in complete conformity with TSIs covering all aspects of the relevant subsystems without specific cases and without open points strictly related to technical compatibility between vehicle and network shall not be subject to any additional authorisation for placing in service if the Fixed Link conforms with all TSIs or if the vehicles run under the conditions specified in any corresponding TSIs.

63 .The Intergovernmental Commission shall determine a valid application for an additional authorisation in accordance with the applicable provisions of Articles 21, 23, 25 and 26 of Directive 2008/57/EC. In order for an application to be valid the application must be made in accordance with:

- (a) the provisions of Articles 23 and 26 of Directive 2008/57/EC when the vehicle conforms to the TSIs but when Article 62 does not apply.
- (b) the provisions of Articles 25 and 26 of Directive 2008/57/EC when the vehicle does not conform to all the relevant TSIs.

The applicant shall retain a copy of the file submitted under Article 23(3) or 25(2) of Directive 2008/57/EC throughout the service life of the vehicle. If requested by the safety authority of a Member State the applicant shall send a copy of the file to that authority.

If the Intergovernmental Commission intends to revoke an additional authorisation granted by itself or a deemed additional authorisation in accordance with Article 5A, it shall give formal notice to the applicant and give the applicant an opportunity to make representations and shall consider any representations made before it may revoke the authorisation. If the Intergovernmental Commission decides to revoke an additional authorisation it shall give its reasons for its decision to the applicant. The Intergovernmental Commission shall promptly give notice of its decision to the safety authority who issued the first authorisation and to the Concessionaires.

64 .The Intergovernmental Commission may require further information to be supplied, risk assessments to be conducted under Article 6(3) of Directive 2004/49/EC, or tests carried out on the Fixed Link in order to carry out the verification actions referred to in Articles 23 or 25 of Directive 2008/57/EC. However, after the adoption of the reference document referred to in Article 27 of Directive 2008/57/EC, the Intergovernmental Commission may only carry out such verification on the basis of the unified safety rules relating to Group B or C featuring in that document. Having consulted the applicant, the Intergovernmental Commission shall define the scope and content of the tests of the vehicle on the Fixed Link, mentioned in Articles 23 or 25 of Directive 2008/57/EC. The Concessionaires, in consultation with the applicant, shall make every effort to ensure that any tests required by the Intergovernmental Commission can take place within three months of the applicant's request. Where appropriate, the Intergovernmental Commission shall take measures to ensure that such tests take place. The Concessionaires may charge fees, based on capacity used, to undertake the tests. Such fees shall not exceed the net cost of such tests to the Concessionaires and shall be payable by the applicant.

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65 .When the Intergovernmental Commission issues an additional authorisation, it shall also authorise the corresponding vehicle type in accordance with Article 26 of Directive 2008/57/EC. In case of an additional authorisation, if the Intergovernmental Commission grants, modifies, suspends or withdraws a vehicle type authorisation, in accordance with Article 26 of Directive 2008/57/EC, it shall notify the Agency accordingly, so that it can update its register of authorised vehicle types.

66 .Any additional authorisation issued by the Intergovernmental Commission and valid before entry into force of this Chapter shall be deemed an additional authorisation in the terms of Article 61 above.

CHAPTER 6

Investigations into accidents and incidents

67 .Investigations into serious accidents and those incidents and accidents which, under slightly different conditions, might have led to serious accidents, including technical failures of the structural subsystems or of interoperability constituents, occurring within the Fixed Link, will be undertaken by the investigating bodies, which are functionally independent of the Intergovernmental Commission.

68 .In deciding whether to carry out an investigation and in the exercise of their functions, the investigating bodies shall act in accordance with their national law and any reciprocal co-operation arrangements agreed between them. They shall include in their consideration relevant aspects of the safety regime for the Fixed Link established by the two Governments and the Intergovernmental Commission.

69 .The Intergovernmental Commission, the Concessionaires and the railway undertakings may request the investigating bodies to undertake an investigation. The respective investigating bodies will, in considering any such requests, act in accordance with their respective national laws and any reciprocal co-operation arrangements made between them.

70 .Without prejudice to the arrangements for reciprocal notification contained in the co-operation arrangements, the Concessionaires, the railway undertakings and if necessary the Intergovernmental Commission shall advise one or other of the investigating bodies immediately of any accidents and incidents as referred to in Article 8 above.

71 .The Intergovernmental Commission shall take the measures necessary to ensure that recommendations by the investigating bodies concerning the Fixed Link are duly taken into consideration by the Concessionaires and the railway undertakings and, where appropriate, acted upon.

72 .The Intergovernmental Commission shall report back at least annually to the relevant investigating body on measures that are taken or planned as a consequence of recommendations.

CHAPTER 7

Transitional and miscellaneous provisions

Transitional provisions on Safety Authorisation and Part B Certificates

73. (a) Any notification of acceptance (including revisions to it) which is current when this Regulation comes into force, issued by the Intergovernmental Commission to the Concessionaires in relation to a safety case (or revisions to it) submitted by the Concessionaires to the Intergovernmental Commission concerning the Fixed Link, shall be deemed to be a safety authorisation within the meaning of Article 28 above.
- (b) [Not Used].
74. (a) Any notification of acceptance (including revisions to it) which is current when this Regulation comes into force, issued by the Intergovernmental Commission to a railway undertaking in relation to a safety case (or revisions to it) submitted to the Intergovernmental Commission concerning the Common Section, shall be deemed to be a Part B certificate within the meaning of Article 39(ii) above.
- (b) [Not Used].

Miscellaneous Provisions

75 .[Not Used]

76 .The decisions of the Intergovernmental Commission taken by virtue of bi-national regulations made pursuant to Article 10(3)(e) of the Treaty may be subject to judicial review by the authorities of either France or the United Kingdom under the conditions laid down by national law applicable to those authorities. The lodging of an application for judicial review before the authorities of one State precludes the lodging of an application for judicial review of the same matter before the authorities of the other State.

77 .This Regulation shall enter into force on the date of the later of the notifications by the two Governments of the completion of their necessary internal procedures.

Done by the Intergovernmental Commission on 24th January 2007 in the English and French languages, both texts being equally authoritative.

Roy Griffins
Head of UK Delegation
Intergovernmental Commission

Marc Abadie
Head of French Delegation
Intergovernmental Commission

Annex 1

SAFETY MANAGEMENT SYSTEMS

1. Requirements on the safety management system

The safety management system must be documented in all relevant parts and shall in particular describe the distribution of responsibilities within the organisation of the infrastructure manager or the railway undertaking. It shall show how control by the management on different levels is secured, how staff and their representatives on all levels are involved and how continuous improvement of the safety management system is ensured.

2. Basic elements of the safety management system

The basic elements of the safety management system are:

(a) a safety policy approved by the organisation's chief executive and communicated to all staff;

(b) qualitative and quantitative targets of the organisation for the maintenance and enhancement of safety, and plans and procedures for reaching these targets;

(c) procedures to meet existing, new and altered technical and operational standards or other prescriptive conditions as laid down:

in TSIs,

or

in the unified safety rules referred to in Article 1 xxvi,

or

in other relevant rules,

or in authority decisions;

or where necessary to achieve common safety targets or adherence to common safety methods, when these are adopted; and procedures to assure compliance with the standards and other prescriptive conditions throughout the life-cycle of equipment and operations;

(d) procedures and methods for carrying out risk evaluation and implementing risk control measures whenever a change of the operating conditions or new material imposes new risks on the infrastructure or on operations;

(e) provision of programmes for training of staff and systems to ensure that the staff's competence is maintained and tasks carried out accordingly;

(f) arrangements for the provision of sufficient information within the organisation and, where appropriate, between organisations operating on the same infrastructure;

(g) procedures and formats for how safety information is to be documented and designation of procedure for configuration control of vital safety information;

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(h) procedures to ensure that accidents, incidents, near misses and other dangerous occurrences are reported, investigated and analysed and that necessary preventive measures are taken;

(i) provision of plans for action and alerts and information in case of emergency, agreed upon with the appropriate public authorities; and

(j) provisions for recurrent internal auditing of the safety management system

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Annex 2

[not used]

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Channel Tunnel (Safety) Order 2007 (“the principal Order”). The principal purpose of these amendments is to give effect to a bi-national regulation (“the new bi-national regulation”) made by the Intergovernmental Commission (IGC). The new bi-national regulation in turn implements, in relation to the Channel Tunnel, some parts of Directive 2008/57/EC, including its amendments to Directive 2004/49/EC, and other amendments made to Directive 2004/49/EC by Directives 2008/110/EC and 2009/149/EC. The new bi-national regulation amends an earlier regulation made by the IGC on 24th January 2007 (“the 2007 bi-national regulation”).

The full citation of the above Directives is:

- Directive 2008/57 of the European Parliament and of the Council on the interoperability of the rail system with the Community (OJ No. L 191, 18.7.2008, p. 1);
- Directive 2004/49/EC of the European Parliament and of the Council on safety on the Community’s railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for use of railway infrastructure and safety certification (OJ No. L 164, 30.4.2004, p. 44).
- Directive 2008/110/EC of the European Parliament and of the Council amending Directive 2004/49/EC on safety on the Community’s railways (Railway Safety Directive) (OJ No. L 345, 23.12.2008, p.62).
- Commission Directive 2009/149/EC amending Directive 2004/49/EC of the European Parliament and of the Council as regards Common Safety Indicators and common methods to calculate accident costs (OJ No. L 313, 28.11.2009, p.65)

More specifically, in amending the 2007 bi-national regulation, the new bi-national regulation:

- places restrictions on the scope of the verifications required by the Safety Authority (the IGC) before it issues additional authorisations, where these are required (*see article 64 of the amended 2007 bi-national regulation, as set out in the Schedule*);
- requires the IGC to deal with applications for safety authorisations for railway undertakings within certain time limits (*see articles 5(b) and 5A of the amended 2007 bi-national regulation, as set out in the Schedule*);
- provides that railway vehicles already certified as complying fully with the Technical Specifications for Interoperability (TSIs - harmonised technical rules on railways covering, among other things, the construction of railway vehicles) will no longer need further authorisation in order to be used within the Tunnel if and when the Tunnel itself becomes fully compliant with the TSIs, or when the trains run under the conditions specified in any corresponding TSIs (*see article 62 of the amended 2007 bi-national regulation, as set out in the Schedule*);
- provides for the authorisation of railway vehicles to cover types, as well as individual vehicles (*see article 65 of the amended 2007 bi-national regulation, as set out in the Schedule*);
- provides that no person may place a railway vehicle in service in the Tunnel unless an entity in charge of maintenance has been assigned to it, with the entity in charge of maintenance, in the case of a freight wagon, having to hold an “ECM certificate” (i.e. a certificate issued in accordance with Commission Regulation (EU) 445/2011 on a system of certification of entities in charge of maintenance for freight wagons and amending Regulation (EC) 653/2007 (OJ No. L122, 11.05.2011, p22) or a certificate or self-declaration recognised as equivalent to such a certificate); the entity in charge of maintenance must also set up a maintenance system to ensure the railway vehicle is in a safe state of running (*see articles 55A and 55B of the amended 2007 bi-national regulation, as set out in the Schedule*);
- revises the Common Safety Indicators (a harmonised way of measuring the safety performance of European railways) (*see definition of common safety indicators in article 1 of the amended 2007 bi-national regulation, as set out in the Schedule*);

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Under *article 0* of this Order, this Order will come into force on the date on which the new bi-national regulation comes into force which (under article 2 of that regulation) will be when both the UK and French governments have completed the internal processes necessary to give the new bi-national regulation the force of law in their respective legal systems, and notified each other that they have done so. This means that the content of the Schedule will come into force and be given the force of law pursuant to the process required by Article 2 of the new bi-national regulation. Under *article 0* of this Order, the Secretary of State must give notice, in the London, Edinburgh and Belfast Gazettes, of the date when the new bi-national regulation and so also this Order enters into force.

Article 0 provides that this Order does not extend to Northern Ireland, other than where the exceptions provided in *article 0* apply. These exceptions relate to the repeal of amendments made by the principal Order to the Channel Tunnel (International Arrangements) Order 2005 (S.I 2005/3207) (the “2005 Order”) (see below), which did extend to Northern Ireland. Following this Order, the principal Order will no longer extend to Northern Ireland.

Article 0 substitutes new text for the Schedule to the principal Order. The substituted text sets out the text of the 2007 bi-national regulation as amended by the new bi-national regulation. Its content will have the force of law by virtue of this and by virtue of article 3 of the principal Order.

Article 0 and *0* amends the principal Order by providing for new enforcement mechanisms in relation to certain new provisions now included in the amended 2007 bi-national regulation. These provisions (implementing certain requirements of Directive 2008/110/EC) (a) prohibit the placing of a vehicle in service within the Channel Tunnel fixed link network without an entity in charge of maintenance having been assigned to the vehicle; (b) require that entity to hold an ECM certificate if the assigned vehicle is a freight wagon; and (c) require such entities in charge of maintenance to set up a system of maintenance to ensure the vehicles assigned to them are in safe working order.

Articles 1(3) and 9 of the principal Order related to a provision in an earlier 2005 bi-national regulation relating to economic regulation, which was given effect by the 2005 Order. The 2005 Order, which extends to Northern Ireland, makes provision for the rights of access of railway undertakings to the Tunnel, the allocation of capacity within it, and charging. But the amendments made to it by the principal Order have since been revoked, because the 2005 bi-national regulation relating to economic regulation has itself since been replaced by a new one, made in 2009, which includes an equivalent provision. *Article 0, 0* and *0* revokes Articles 1(3) and 9 of the principal Order.

Article 0 inserts a new provision in the principal Order which requires the Secretary of State to review the principal Order and to publish a report of that review within five years after the coming into force of this Order and then within every five years after that.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sectors has been produced and is available from the Rail International and Safety Policy, Division, Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR. It is published with the Explanatory Memorandum alongside the instrument on the Legislation website (www.legislation.gov.uk). A transposition note is also annexed to that Memorandum.

SAFETY AUTHORISATION FOR THE INFRASTRUCTURE MANAGER FOR THE CHANNEL TUNNEL		
Regulation (EU) 1169/2010 on a common safety method for assessing conformity with the requirements for obtaining a railway safety authorisation.		
Note: the authorisation also covers the operation of shuttle trains , rescue locomotives and works trains operated by the infrastructure manager. In respect of these operations reference should also be made to Annex 3 for the details which should be covered for these operations.		
	Requirement, basic element and reason	Assessment Criteria
A	RISK CONTROL MEASURES FOR ALL RISKS ASSOCIATED WITH THE ACTIVITY OF THE INFRASTRUCTURE MANAGER	<p>A.1. There are procedures in place to identify risks associated with all railway operations including those directly arising from work activities, job design or workload and the activities of other organisations/persons.</p> <p>A.2. There are procedures in place to develop and put in place risk control measures.</p> <p>A.3. There are procedures in place to monitor the effectiveness of risk control arrangements and to implement changes when required.</p> <p>A.4. There are procedures in place to recognise the need to work together with other entities (such as railway undertakings, manufacturer, maintenance supplier, entity in charge of maintenance, railway vehicle keeper, service provider and procurement entity), where appropriate, on issues where they have shared interfaces that are likely to affect the putting in place of adequate risk control measures in accordance with Article 4(3) of Directive 2004/49/EC.</p> <p>A.5. There are procedures for agreed documentation and communication with the relevant entities, including the identification of roles and responsibilities of each participating organisation and the specifications for information exchanges.</p> <p>A.6. There are procedures to monitor the effectiveness of these arrangements and to implement changes when required.</p>

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B	RISK CONTROL RELATED TO THE SUPPLY OF MAINTENANCE AND MATERIAL	<p>B.1. There are procedures to derive maintenance requirements/standards/processes from safety data.</p> <p>B.2. There are procedures to adapt maintenance intervals according to the type and extent of service performed.</p> <p>B.3. There are procedures to ensure that the responsibility for maintenance is clearly defined to identify the competencies required for maintenance posts and to allocate appropriate levels of responsibility.</p> <p>B.4. There are procedures to collect information on malfunctions and defects arising from day-to-day operation and to report them to those responsible for maintenance.</p> <p>B.5. There are procedures to identify and report risks arising from defects and construction non-conformities or malfunctions throughout the lifecycle to interested parties.</p> <p>B.6. There are procedures to verify and control the performance and results of maintenance to ensure that they comply with corporate standards.</p>
C	RISK CONTROL RELATED TO THE USE OF CONTRACTORS AND CONTROL OF SUPPLIERS	<p>C.1. There are procedures to verify the competence of contractors (including subcontractors) and suppliers.</p> <p>C.2. There are procedures to verify and control the safety performance and results of all contracted services and products supplied either by the contractor or supplier to ensure that they comply with the requirements set out in the contract .</p> <p>C.3. Responsibilities and tasks relating to railway safety issues are clearly defined, known and allocated between the contracting partners and among all other interested parties.</p> <p>C.4. There are procedures to ensure traceability of safety-related documents and contracts.</p> <p>C.5. There are procedures to ensure that safety tasks, including the exchange of safety-related information, are performed by the contractors or the supplier according to relevant requirements set out in the contract.</p>
D	RISKS ARISING FROM THE ACTIVITIES OF OTHER PARTIES EXTERNAL TO	<p>D.1. There are procedures to identify potential risks from parties external to the railway system where appropriate and reasonable.</p>

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	THE RAILWAY SYSTEM	<p>D.2. There are procedures to establish control measures to mitigate the risks identified under D1 insofar as the responsibilities of the applicant are concerned.</p> <p>D.3. There are procedures to monitor the effectiveness of the measures identified under D2 and implement changes where appropriate.</p>
E	DOCUMENTATION OF THE SAFETY MANAGEMENT SYSTEM	<p>E.1. There is a description of the activity that makes clear the type, extent and risk of operation.</p> <p>E.2. There is a description of the structure of the safety management system, including the allocation of roles and responsibilities.</p> <p>E.3. There is a description of safety management system procedures required by Article 9 and Annex III of Directive 2004/49/EC, consistent with the type and extent of services operated.</p> <p>E.4. Safety-critical processes and tasks relevant to the type of activity/service are listed and briefly described.</p>
F	DISTRIBUTION OF RESPONSIBILITIES	<p>F.1. There is a description of how coordination of safety management system activities across the organisation is ensured, based on proven knowledge and lead responsibility at management level.</p> <p>F.2. There are procedures to ensure that staff with delegated responsibilities within the organisation have the authority, competence and appropriate resources to fulfil their duty.</p> <p>F.3. Safety-related areas of responsibility and the distribution of responsibilities to specific functions associated with them, together with their interfaces, are clearly defined.</p> <p>F.4. There is a procedure to ensure that safety tasks are clearly defined and delegated to staff with appropriate competence.</p>
G	SECURING CONTROL BY THE MANAGEMENT ON DIFFERENT LEVELS	<p>G.1. There is a description of how responsibilities are allocated for each safety-related process throughout the organisation.</p> <p>G.2. There is a procedure for regular monitoring of task performance assured by the line management chain that must intervene if the tasks are not being properly performed.</p>

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		<p>G.3. There are procedures to identify and manage the impact of other management activities on the safety management system.</p> <p>G.4. There are procedures to hold those with a role in the management of safety accountable for their performance.</p> <p>G.5. There are procedures to allocate resources to deliver the tasks under the safety management system.</p>
H	INVOLVING STAFF AND THEIR REPRESENTATIVES ON ALL LEVELS	<p>H.1. There are procedures in place to ensure that staff and staff representatives are adequately represented and consulted in defining, proposing, reviewing and developing the safety aspects of operational procedures that may involve staff.</p> <p>H.2. Staff involvement and consultation arrangements are documented.</p>
I	ENSURING CONTINUOUS IMPROVEMENT	<p>There are procedures in place to ensure, where reasonably practicable, the continuous improvement of the safety management system; these shall include:</p> <p>(a) procedures for periodic reviews of the safety management system, as found to be necessary;</p> <p>(b) procedures for describing arrangements to monitor and analyse relevant safety data;</p> <p>(c) procedures for describing how identified shortcomings are rectified;</p> <p>(d) procedures for describing the implementation of new safety management rules based on development and lessons learnt;</p> <p>(e) procedures for describing how internal audit findings are used to bring about improvement in the safety management system.</p>
J	SAFETY POLICY APPROVED BY THE ORGANISATION'S CHIEF EXECUTIVE AND	<p>A document describing the organisation's safety policy exists and is:</p> <p>(a) communicated and made available to all staff, e.g. via the organisation's intranet;</p>

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	COMMUNICATED TO ALL STAFF	<p>(b) appropriate to the type and extent of service; and</p> <p>(c) approved by the organisation's chief executive.</p>
K	QUALITATIVE AND QUANTATIVE TARGETS OF THE ORGANISATION FOR MAINTAINING AND ENHANCING SAFETY, AND PLANS AND PROCEDURES FOR REACHING THESE TARGETS	<p>K.1. There are procedures to determine relevant safety targets in line with the legal framework, and there is a document stating these targets.</p> <p>K.2. There are procedures to determine relevant safety targets consistent with the type and extent of the railway operations covered and the relevant risks.</p> <p>K.3. There are procedures to regularly assess overall safety performance in relation to the organisation's corporate safety targets and to those established at member state level.</p> <p>K.4. There are procedures in place to regularly monitor and review operational arrangements by:</p> <p>(a) collecting relevant safety data to derive trends in safety performance and assess compliance with targets; and</p> <p>(b) interpreting relevant data and implementing necessary changes.</p> <p>K.5. There are procedures in place by the infrastructure manager to develop plans and procedures for reaching its targets.</p>
L	PROCEDURES TO MEET EXISTING, NEW AND ALTERED TECHNICAL AND OPERATIONAL STANDARDS OR OTHER PRESCRIPTIVE CONDITIONS	<p>L.1. For safety-related requirements relevant to the type and extent of operations, there are procedures for:</p> <p>(a) identifying these requirements and updating relevant procedures to reflect changes made to them (change control management);</p> <p>(b) implementing them;</p> <p>(c) monitoring compliance with them;</p> <p>(d) taking action when non-compliance is identified.</p>

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		<p>L.2. There are procedures in place to ensure that the right staff, procedures, specific documents, equipment and rolling stock are used for the purpose intended.</p> <p>L.3. The safety management system has procedures in place to ensure that maintenance is carried out according to the relevant requirements.</p>		
M	<p>PROCEDURES AND METHODS FOR CARRYING OUT RISK EVALUATION AND IMPLEMENTING RISK CONTROL MEASURES WHENEVER A CHANGE OF THE OPERATING CONDITIONS OR NEW MATERIAL IMPOSES NEW RISKS ON THE INFRASTRUCTURE OR ON OPERATION</p>	<p>M.1. There are management procedures for changes in equipment, procedures, organisation, staffing or interfaces.</p> <p>M.2. There are risk assessment procedures to manage changes and to apply the CSM on risk evaluation and assessment as referred to in Commission Regulation (EC) No 352/2009 (3) when required.</p> <p>M.3. There are procedures in place to feed the results of risk assessment into other processes within the organisation and make them visible to relevant staff.</p>		
N	<p>PROVISION OF STAFF TRAINING PROGRAMMES AND SYSTEMS TO ENSURE THAT STAFF COMPETENCE IS MAINTAINED AND TASKS CARRIED OUT ACCORDINGLY</p>	<p>N.1. There is a competence management system that includes at least:</p> <ul style="list-style-type: none"> (a) identification of the knowledge and skills required for safety-related tasks; (b) selection principles (basic educational level, mental aptitude and physical fitness required); (c) initial training and certification of acquired competence and skills; (d) ongoing training and periodic update of existing knowledge and skills; (e) periodic checks of competence where appropriate; (f) special measures in case of accidents/incidents or long absence from work, as required/where appropriate; 		

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		<p>(g) specific safety management system training for staff directly involved in ensuring that the safety management system works.</p> <p>N.2. There are procedures within the competence management system providing for:</p> <p>(a) the identification of posts that perform safety tasks;</p> <p>(b) the identification of posts that entail responsibilities for taking operational decisions within the safety management system;</p> <p>(c) staff to have the necessary knowledge, skills and aptitude (medical and psychological) appropriate to their tasks and periodically undergo retraining;</p> <p>(d) allocating staff with the competence appropriate to relevant tasks;</p> <p>(e) monitoring how tasks are performed and implementing corrective actions where required.</p>
O	<p>ARRANGEMENTS FOR THE PROVISION OF SUFFICIENT INFORMATION WITHIN THE ORGANISATION AND, WHERE APPROPRIATE, BETWEEN ORGANISATIONS OPERATING ON THE SAME INFRASTRUCTURE</p>	<p>O.1. There are procedures to that:</p> <p>(a) staff have knowledge and understanding of the safety management system and information is easily accessible; and</p> <p>(b) appropriate documentation on the safety management system is given to relevant safety personnel.</p> <p>O.2. There are procedures to ensure that:</p> <p>(a) key operational information is relevant and valid;</p> <p>(b) staff are aware of its existence before it is applied;</p> <p>(c) it is available to staff and where required copies are formally given to them.</p> <p>O.3. There are arrangements in place for the sharing of information between the infrastructure manager and other railway undertakings.</p>

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P	PROCEDURES AND FORMATS FOR DOCUMENTING SAFETY INFORMATION, AND DESIGNATION OF A PROCEDURE FOR CONFIGURATION CONTROL OF VITAL SAFETY INFORMATION	<p>P.1. There are procedures to ensure that all relevant safety information is accurate, complete, consistent, easy to understand, appropriately updated, and duly documented.</p> <p>P.2. There are procedures to:</p> <ul style="list-style-type: none"> (a) format, generate, distribute and manage control of changes to all relevant safety documentation; (b) receive, collect and store all relevant documentation/information on paper or by other registration systems. <p>P.3. There is a procedure for configuration control of vital safety information.</p>
Q	PROCEDURES TO ENSURE THAT ACCIDENTS, INCIDENTS, NEAR MISSES AND OTHER DANGEROUS OCCURRENCES ARE REPORTED, INVESTIGATED AND ANALYSED AND THAT NECESSARY PREVENTIVE MEASURES ARE TAKEN	<p>Q.1. There are procedures to ensure that accidents, incidents, near misses and other dangerous occurrences:</p> <ul style="list-style-type: none"> (a) are reported, logged, investigated and analysed; (b) are reported, as required by relevant legislation, to national bodies. <p>Q.2. There are procedures to ensure that:</p> <ul style="list-style-type: none"> (a) recommendations from the national safety authority, from the national investigating body, and from industry/ internal investigations are evaluated and implemented if appropriate or mandated; (b) relevant reports/information from other railway undertakings, infrastructure managers, entities in charge of maintenance and railway vehicle keepers are considered and taken into account. <p>Q.3. There are procedures for relevant information relating to the investigation and causes of accidents, incidents, near misses and other dangerous occurrences to be used to learn and, where required, to adopt preventive measures.</p>
R	PROVISION OF PLANS FOR ACTION AND ALERTS AND	<p>R.1. A document identifies all types of emergency, including degraded operations, and there are procedures in place to identify new ones.</p>

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	<p>INFORMATION IN CASE OF EMERGENCY, AGREED UPON WITH THE APPROPRIATE PUBLIC AUTHORITIES</p>	<p>R.2. There are procedures in place to ensure that, for each identified type of emergency:</p> <ul style="list-style-type: none"> (a) the emergency services can be promptly contacted; (b) the emergency services are provided with all relevant information both in advance, to prepare their emergency response, and at the time of an emergency. <p>R.3. The roles and responsibilities of all parties are identified and set out in a document.</p> <p>R.4. Plans for action, alerts and information exist and include:</p> <ul style="list-style-type: none"> (a) procedures to alert all staff with responsibility for emergency management; (b) arrangements to communicate these to all parties, including emergency instructions for passengers; (c) arrangements for contacting competent staff immediately so they can take any decisions required. <p>R.5. There is a document describing how resources and means have been allocated and how training requirements have been identified.</p> <p>R.6. There are procedures in place to re-establish normal operating conditions as soon as possible.</p> <p>R.7. There are procedures for testing emergency plans in cooperation with other parties to train staff, test procedures, identify weak points and verify how potential emergency situations are managed.</p> <p>R.8. There are procedures in place to coordinate emergency plans with railway undertakings which operate on the organisation's infrastructure and any other infrastructure with which it has an interface.</p> <p>R.9. There are arrangements in place to halt operations and railway traffic promptly, if necessary, and to inform all interested parties of the action taken.</p>
<p>S</p>	<p>PROVISIONS FOR RECURRENT INTERNAL AUDITING OF THE SAFETY MANAGEMENT SYSTEM</p>	<p>S.1. There is an internal auditing system which is independent and impartial and which acts in a transparent way.</p>

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		<p>S.2. There is a schedule of planned internal audits which can be revised depending on the results of previous audits and monitoring of performance.</p> <p>S.3. There are procedures in place to identify and select suitably competent auditors.</p> <p>S.4. Procedures are in place to:</p> <ul style="list-style-type: none"> (a) analyse and evaluate the results of the audits; (b) recommend follow-up measures; (c) follow up the effectiveness of measures; (d) document the execution of audits and the results of audits. <p>S.5. There are procedures to ensure that senior levels of the management chain are aware of the results of audits and take overall responsibility for implementation of changes to the safety management system.</p> <p>S.6. There is a document showing how audits are planned in relation to routine monitoring arrangements to ensure compliance with internal procedures and standards.</p>
T	SAFE DESIGN OF THE RAILWAY INFRASTRUCTURE	<p>T.1. There are procedures to ensure the safe design of the infrastructure throughout the life-cycle of the railway infrastructure, covering design and installation.</p> <p>T.2. There are procedures which take into account technical change of the railway infrastructure and the management of that change.</p> <p>T.3. There are procedures which show that relevant rules covering the design of the infrastructure and any national safety methods have been identified and that the applicant can comply with them.</p>

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U	SAFE OPERATION OF THE INFRASTRUCTURE	<p>U.1. There are procedures to ensure that the infrastructure is managed and operated safely, taking into account the number, type and extent of operators running services on the network including all necessary interactions depending on the complexity of the operation.</p> <p>U.2. There are procedures which show how safety is managed at the physical and/or operational borders of the infrastructure.</p> <p>U.3. There are procedures which show how effective cooperation and coordination is managed, both in normal and emergency situations.</p> <p>U.4. There are procedures which show that rules covering the safe operation and management of infrastructure/vehicle interfaces have been identified and that the applicant can comply with them.</p>
V	PROVISION OF MAINTENANCE & MATERIAL	<p>V.1. There are procedures to ensure that maintenance of the infrastructure is undertaken safely, including clear management control and documented audit and inspection.</p> <p>V.2. There are procedures which ensure that the maintenance of the infrastructure meets the specific needs of the network.</p> <p>V.3. There are procedures which show that rules covering the supply of maintenance and material have been identified and that the applicant can comply with them.</p>
W	MAINTENANCE AND OPERATION OF THE TRAFFIC CONTROL AND SIGNALLING SYSTEM	<p>W.1. There are procedures to ensure that the traffic control and signaling system is operated and maintained so as to ensure the safe operation of the railway.</p> <p>W.2. There are procedures to comply with existing, new and altered technical and operational standards.</p> <p>W.3. There are procedures which set out how safety is managed at the physical and/or operational borders of the traffic control and signaling system, including how cooperation, if necessary, is managed.</p> <p>W.4. There are procedures which show that rules covering the safe operation and maintenance of the traffic control and signaling system have been identified and that the applicant can comply with them.</p>

SAFETY CERTIFICATES FOR RAILWAY UNDERTAKINGS	
Regulation (EU) 1158/2010 – Criteria for assessing conformity with the requirements for obtaining safety certificates to be issued in accordance with Article 10(2)(a) of Directive 2004/49/EC related to the railway undertaking’s safety management system as described in Article 9 and Annex III of that Directive	
The application should include a general description of the type and extent of the service provided. There should be sufficient detail to provide assurance that the type of operation is equivalent to that for which a part A certificate is held or has been applied for.	
Requirement, basic element and reason	Assessment Criteria
A Compliance with network-specific rules	<p>A.1 There are documents containing results to show that the specific rules and specific risks associated with operating on the network for which a Part B application is being submitted have been considered and to show that the railway undertaking can comply with any specific network-specific rules and any exceptions to or derogations from the rules.</p> <p>A.2 Network interfaces with other parties involved in railway operation on the network concerned are identified.</p> <p>A.3 There are documents showing how the railway undertaking will interact with the infrastructure manager (IM) for the network and any other railway undertakings operating on the network, including details on how information is shared.</p> <p>A.4 There are railway documents showing how the railway undertaking will deal with emergency situations, including co-ordination with the infrastructure manager and relevant public authorities.</p> <p>A.5 There are documents identifying any specific accident/incident investigating rules and showing that the applicant can comply with them.</p>
B Compliance with network-specific requirements for staff competence	<p>B.1 The documentation demonstrates that the applicant’s safety management system contains a competence management system to:</p> <ul style="list-style-type: none"> a) identify the categories of staff (employed or contracted) involved in providing the service; and b) deliver competent staff for the network concerned, especially for those staff who asked to undertake a variety of tasks and assure certification where appropriate.. <p>B.2 The documentation demonstrates that there are arrangements put in place to organise day-to-day work of the staff to ensure that safety related tasks are carried out and that staff are assigned to appropriate tasks.</p>

		<p>B.3 The documentation demonstrates the applicants ability to produce documents to be used in training the relevant staff and its ability to ensure the documents are accurate, be kept up to date, and in a language and terminology understood by staff who use them.</p>
C	<p>Compliance with network-specific requirements for management of rolling stock.</p>	<p>C.1 In the documentation, the types of rolling stock to be used on the specific network and the type of operations to be conducted are clearly indicated.</p> <p>C.2 The documentation outlines how the railway undertaking complies with any operational restrictions placed on the type of rolling stock used on the network.</p> <p>C.3 In the documentation, any additional maintenance requirements for the network concerned are identified and appropriate arrangements for maintenance are in place.</p> <p>C.4 In the documentation, any additional requirements to manage rolling stock incidents for the network concerned are identified and appropriate arrangements are in place.</p>

Channel Tunnel Safety Authority Process for formally recording safety certification and authorisation

Process for recording applications

- Clear understanding of to whom applications are addressed i.e. CTSA secretariat as stated in IGC's published guidance (secretariat that currently is 'in the chair');
- When received, set up a file to monitor the process (within 3 working days of receipt);
- Acknowledge receipt of application to the IM/RU (within 3 working days of receipt) and copy the other secretariat to ensure both secretariats have all the documents received;
- Forward to the assessors; RSTWG Co-chairs; and copy to the Heads of Delegation (within 3 working days of receipt);
- If application received from RU, secretariat to forward to IM for its consideration (within 3 working days of receipt) and requesting comments within 20 days;
- Initial screening by assessors to ensure basic information complete and to request further information if necessary (within 14 working days of receipt);
- Assessors to identify any major deficiencies and advise RSTWG (within 21 working days of receipt);
- If all the relevant papers have been received, Heads of Delegation to advise the IGC to inform the applicant company that the file is complete (within 21 days of receipt);
- If major deficiencies, request re-submission (within 25 days of receipt) and advise the applicant that no decision will be made until all amendments or additions have been received;
- Assessors to complete main assessment, including response from RU and to advise RSTWG Co-chairs of final decision (within 60 working days of receipt);
- RSTWG Co-chairs to review, undertake a quality assurance check of the assessment and to advise CTSA immediately of decision, and within its advice include its recommendations together with a covering draft letter and draft safety certificate for consideration by the IGC to send to the IM/RU (within 70 working days of receipt);
- IGC to notify the RU/IM and issue a safety authorisation (within 80 working days of receipt);
- At outcome of assessment, enter the name of the company on the IGC website; and
- Close the file before the 4 month deadline.

The process will be managed bi-nationally, with the nation who is 'in the chair' to initiate the process.

AGREED BY THE SAFETY AUTHORITY – 17 JULY 2013

Process for Authorisation for placing in service of vehicles and/or type of vehicles (Post transposition on 2008/57/EC)

In this section:

- “Applicant” means the railway undertaking, manufacturer or procurement entity seeking authorisation to place the vehicle(s) in question into service;
- “Assessment body” means the independent body notified or designated in accordance with Chapter 6 of Directive 2008/57 to assess conformity with, respectively, TSI requirements and/or the “national” requirements of the Fixed Link.
- “Channel Tunnel Safety Authority (CTSA)” means the Channel Tunnel Safety Authority, established as IGC’s expert advisory body on safety matters – including applications for authorisation to place vehicles into service.
- “Intergovernmental Commission (IGC)” means the national safety authority for the Fixed Link, responsible for deciding on applications for authorisations to place vehicles into service in the Fixed Link.

Introduction

As this annex makes clear, it is the applicant who drives forward the process of placing a vehicle into service. The major tasks of identifying the requirements, appointing an assessment body, establishing conformity with TSI and national requirements, developing the application file, and registering authorised vehicles in the appropriate register are **all the responsibility of the applicant**. The IGC notes that its mandatory involvement in a time-bound process takes place only at Stage 7 below, but welcomes early engagement from applicants (and their assessment bodies) who require clarification and guidance at any other stage.

Stage 1. Identify the rules, applicable requirements, conditions of use and assessments.

- The **applicant** must first decide which kind of authorisation for placing into service is applicable to the project. The bi-national regulations are only concerned with additional authorisation since authorisation will have already have taken place in another Member State.
- The **applicant** should then consult the applicable TSIs, as well as the content of the reference document of vehicle authorisation requirements established in accordance with 2009/965/EC for the Channel Tunnel. These requirements, which also include the statement of unified safety rules, are published on the IGC’s website.
- The **applicant** must identify an appropriate third party assessment body, prepare a technical file and meet applicable requirements for verification procedures in accordance with Chapter V of Directive 2008/57/EC.
- The **IGC** may review any scoping files submitted. The scoping file should outline the scope and describe the details of the project.

Stage 2. Pre-engagement

- The **applicant** is encouraged to pre-engage with the IGC, as well as the assessment body, to seek guidance. In particular, the IGC is happy to assist applicants and assessment bodies during Stage 1 who have difficulty in obtaining and understanding the specific “national” requirements of the Fixed Link.
- The **applicant** must request Fixed Link access from the Infrastructure Manager to run on track tests when these are required.
- The **IGC** can take steps with the Infrastructure Manager to ensure that the tests can be undertaken within a three month period of their being requested.
- The **applicant** is encouraged to submit a pre-engagement technical file to the IGC compiled by the notified, designated and assessment bodies.

Stage 3. Assessment

- The **assessment body** must perform their assessments against applicable TSIs and “national” rules for the Fixed Link and the CSM for risk evaluation and assessment (CSM RA), where applicable, including safe integration.
- From this they shall provide in the technical file the relevant certificates verifying conformity with the requirements.

Stage 4. Corrections of non-conformities for national rules

(This stage is not relevant to type authorisations)

If there are difficulties in conforming to national rules then there are two solutions for the applicant:

- The applicant can modify the design of the vehicle (including software changes).
- The applicant can alternatively evaluate whether possible conditions of use and/or other restrictions could be imposed to enable a non-conforming design to be operated in accordance with the essential requirements. This possibility must then be assessed by the assessment body. .

Stage 5. Establishing certificates and declarations of verification

- When verification and assessment results are acceptable the assessment bodies must compile (as applicable) the relevant EC certificates, national rule certificates and CSM reports.
- For authorisations, other than in relation to type authorisations, the applicant is responsible for ensuring the EC and/or national rule declarations of verification are obtained.
- In relation to type authorisations, the applicant needs only to obtain declaration of conformity to type.

Stage 6. Compiling the authorisation file and submitting application

- For an additional authorisation, the applicant must ensure they submit with the application for authorisation the:
 - File of previous authorisation and records on maintenance operation and technical modifications
 - Technical file related to the “national” requirements of the Fixed Link
 - Assessment body report on CSM
- The applicant is recommended to at this stage submit a draft file to the IGC.
- Upon receipt of a draft authorisation file, the IGC can comment on the file and send back to the applicant for amending. The IGC aims to do this within 30 working days of receipt of a draft file, either in writing, at a meeting with applicant, or both.

- The applicant, after considering comments from the IGC, can submit the official application for authorisation to the IGC.

Stage 7. Processing the application for authorisation.

- Timescales in this stage are given in working days. In the case where a deadline falls on a weekend or a public holiday in the UK or France, the deadline shall be assumed to be the following working day.
- The IGC shall review and determine applications for additional authorisation on the advice of the Channel Tunnel Safety Authority (CTSA). Note: when carrying out an additional authorisation, the IGC may only require risk analyses and tests relating to conformity with the “national” requirements of the Fixed Link (classified as “B” or “C” in the reference document).
- The ‘clock starts’ when applications have been submitted in both French and English to the Secretariat of CTSA (contact details on page 12 of this guidance). The chairmanship of CTSA rotates on an annual basis between the UK and France. The Secretariat of the CTSA Chairman will co-ordinate the authorisation process.
- When received, the Secretariat set up a file to monitor the process (within 3 working days of receipt);
- The Secretariat will acknowledge receipt of application to the applicant (within 3 working days of receipt) and copy the other secretariat to ensure both secretariats have all the documents received;
- The application will be forwarded to the CTSA assessors; the Co-chairs of CTSA’s rail safety and transport working group (RSTWG); and copied to the Heads of Delegation (within 3 working days of receipt);
- Initial screening by assessors to ensure basic information complete and to identify the need for any further information, risk analyses or tests that may be necessary (within 14 working days of receipt);
- If all the relevant papers have been received, Heads of Delegation to advise the IGC to inform the applicant company that the file is complete (within 21 days of receipt);
- Assessors to identify any major deficiencies and advise RSTWG (within 21 working days of receipt);
- If major deficiencies exist, the IGC will (within 25 days of receipt) request re-submission and advise the applicant that a decision will be made within two calendar months of receiving the amendments or additions;
- Assessors to carry out and complete assessment of the application and to advise RSTWG Co-chairs of final decision (within 60 working days of receipt or within 20 working days of the receipt of any additional information, risk analyses or test results);
- RSTWG Co-chairs to review, undertake a quality assurance check of the assessment and to advise CTSA immediately of decision, giving its recommendations together with a covering draft letter including (as appropriate) either a draft certificate of authorisation or a reasoned refusal for consideration by the IGC to send to the applicant (within 10 working days of assessors’ recommendation);
- IGC to notify the applicant and issue the certificate of authorisation (within 10 working days of CTSA’s recommendation);
- Within two working days of the IGC deciding to issue a certificate of authorisation, the Secretariat will enter on the IGC website the name of the applicant and the vehicle authorised and will update the ERA database of authorised vehicle types; and

- Close the file before the four month deadline.
- In the case of additional authorisations, if a letter from the IGC giving its decision to grant or refuse the authorisation is not provided to the applicant within the EU legal timeframe (that is, within four months of submission or within two months of the submission of any requested additional information, risk analyses or test results) then the vehicle is deemed to be authorised.

Stage 8. Final documentation and authorisation

- For authorisations, other than in relation to type authorisations, the IGC must provide the authorisation for placing into service and authorisation for type of vehicle documentation to the applicant.
- The applicant must register the authorisation on the national vehicle register of either the UK or France, or update the vehicle's entry in that register accordingly.
- For additional type authorisation the applicant must submit to the IGC the parameters established in Annex II to the Decision 2011/665/EU for the data to be recorded into ERATV.
- The IGC will inform ERA on issuing authorisation for type of vehicles, so that the information in relation to vehicle type authorisation is recorded in ERATV.
- For deemed authorisations, the **applicant** must inform ERA of this authorisation. ERA shall inform the IGC of the deemed authorisation and request details for type for ERATV.

July 2013

INDEPENDENT ACCIDENT INVESTIGATION

5.1. Details of the French and British accident investigation bodies are as follows:

In France: BEA-TT

Address: Bureau d'Enquêtes sur les Accidents de Transports Terrestres

Adresse : Tour Voltaire
92055 La Défense Cedex, France

Téléphone : +33 (0)1 40 81 21 83

Mél : Cgpc.Beatt@developpement-durable.gouv.fr

Fax : +33 (0)1 40 81 21 50

Site Web : www.bea-tt.developpement-durable.gouv.fr

In the UK: RAIB (Rail Accident Investigation Branch)

Address: The Wharf, Stores Road, Derby, DE21 4BA

Telephone: 01332 253300

Email: enquiries@raib.gov.uk

Fax: 01332 253301

Website: www.raib.gov.uk

5.2 List of accidents and incidents to be notified (taken from the UK Railway (Accident Investigation and Reporting) Regulations 2005 Schedules 4 and 5)

Types of accidents and incidents occurring within the Channel Tunnel System that must be notified immediately and by the quickest means available

1. An accident resulting in death or serious injury to a person.
2. A derailment of rolling stock which causes damage to or blocks a running line.
3. A collision that occurs on any line other than a siding, between rolling stock and
 - (a) other rolling stock;
 - (b) an object capable of causing damage to or derailment of the rolling stock; or
 - (c) a buffer stop.
4. An accident that causes extensive damage to rolling stock, the infrastructure or environment.

5. A collision on a level crossing involving a vehicle or pedestrian and rolling stock, whether or not a person suffers death or injury.

6. An accident involving the release or combustion of dangerous goods that necessitates the evacuation of a tunnel or part of the terminal.

7. Fire necessitating evacuation of passengers from one part of a train to another part of the same train or intervention of the fire brigade.

8. An accident or incident leading to the evacuation of passengers from a train.

9. Unauthorised passing of a closed marker or signal.

10. Runaway train on a line.

11. An accident or incident which, under slightly different conditions might have led to serious injuries or extensive damage to rolling stock, the infrastructure or the environment.

Types of accidents and incidents occurring within the Channel Tunnel System that must be notified as soon as practicable and in any event within three working days of occurrence

1. A fire, arcing or fusing which adversely affects the functioning of signalling, catenary or rolling stock control equipment.

2. A fire that results in the suspension of railway services or closure of a part of railway property affecting the track, for a period of more than 1 hour.

3. Any unintended division of a train, or breakage of coupling.

4. The failure of rolling stock on the track caused by

(a) the failure or seizing of an axle;

(b) the failure of a wheel or tyre, including a tyre loose on its wheel;

(c) the failure of brakes on a train; or

(d) a fire or severe electrical arcing or fusing on rolling stock, whether or not extinguished by a fire-fighting service.

5. A broken rail, major failure of track equipment (weld, fastenings, etc.) or track deformation.

6. Any significant safety related breakdown or any serious destruction or collapse of equipment, installations or structures.

7. Any failure in the signalling system, or any other safety system, which endangers or potentially endangers the safe operation of the railway.

8. Submersion of track that necessitates its closure.

9. Unscheduled stopping of a train in a tunnel for more than 30 minutes.

10. Damage to track caused by rolling stock or a dragging object.

11. Spillage of fuel from a road vehicle being carried on a shuttle train.

12. A breach of the requirements for the transport of dangerous goods contained or referred to in the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004.

13. Any incident during which installations, equipment or rolling stock come into unintended contact with live overhead power lines with a voltage in excess of 200 volts.