

**CHANNEL TUNNEL INTERGOVERNMENTAL COMMISSION**  
**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, INCLUDING GUIDANCE FOR**  
**APPLICANTS FOR SAFETY CERTIFICATES OR SAFETY**  
**AUTHORISATION FOR THE FIXED LINK**

## **Introduction**

1. The bi-national regulations transposing the EC Directive 2004/49 was signed on 24 January 2007 and became law in Britain and France on 4 July 2008. 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, 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. Transitional provisions described below, see paragraph 40, will mean that the regime required by the bi-national regulations will come into force over a period. This guidance<sup>1</sup> is the guidance that the IGC is required to prepare by virtue of article 29 of the regulations.

## **The Main Parties and their Role**

2. 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 in accordance with Article 3g and Article 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 and authorisation as provided for in Article 10, 11 and 16 of the Directive and articles 4 and 22 - 55 of the regulations. 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.

3. The 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 made available. Eurotunnel are required, under the terms of their Network Statement document set out in article 5 of the schedule to order 2005 (bi-national regulation signed on the 25<sup>th</sup> October 2005), to make available the rules that they are responsible for to railway undertakings interested in being new entrants to the Common Section railway (that is, the railway line through the Fixed Link). Railway undertakings that wish to have sight of the rules which have been notified to the European Commission by the IGC are invited to contact the IGC at either of the addresses at the end of this guidance.

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<sup>1</sup> Throughout this guidance 'paragraph' refers to a paragraph of the guidance; 'Article' with a capital letter is used to refer to an Article in the Directive or in the Treaty of Canterbury; and 'article' refers to an article of the binational regulation.

4. 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.

5. 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 the investigating bodies (see Annex 4).

### **Application for Safety Authorisation**

6. 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 including 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.

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

8. The SMS must 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 "essential details" 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.

9. The SMS document submitted will be assessed by experts advising the IGC to verify that the "essential details" 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.

10. The Concessionaires will need to make formal application to the IGC for an authorisation in good time (see paragraph 40 below on transitional provisions and timetable). 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**

11. 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.

12. 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 of the Concessionaires, the safety principles or safety processes applied 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. The IGC is currently working with the CTSA to establish procedures for the identification of such changes. A "consideration against criteria" system is used as part of the new "safety baseline" evaluation.

13. "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 equipments, 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.

14. 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 trackbed 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.

15. 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.

16. When the Concessionaires propose such changes they should make an assessment to ensure that the overall level of safety is not reduced and, where reasonably practicable, is improved.

17. 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.

18. 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.

19. 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.

20. 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**

21. 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.

22. 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 dependant 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.

23. 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.

24. 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 should be used in making applications to the IGC. 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.

25. 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, evidence that they meet the requirements of the relevant safety rules and TSIs, and 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 "essential details" specified by the IGC (which are included below as annex 3 to this guidance). The "supplementary information" requested by the IGC, referred to in article 47 of the regulations will cover a description of how the SMS ensures compliance with the specific requirements necessary for the safe operation through the Common Section.

26. The railway undertakings will need to make formal application to the IGC for Part B certification in good time (see paragraph 40 below on transitional provisions and timetable). 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 seek the opinion of the Concessionaires 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 certificate to operate through the Common Section (see article 45).

### **Procedures Subsequent to the Granting of the Safety Certificate**

27. It is recognised that the railway undertaking may wish to change its method of operation over time. When the railway undertaking proposes such changes it should make an assessment 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.

28. 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.

29. 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.

30. 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.

31. The railway undertaking should also advise the IGC of any changes in the conditions relating to its Part A certificate. 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.

32. 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.

33. 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.

### **Training of Staff**

34. 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, those providing such training should provide it 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.

35. Article 60 makes provision for staff that have been trained to have a right to obtain documentation proving 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 of Rolling Stock**

36. Articles 61 to 66 make provision for authorisation of rolling stock to transit the Fixed Link. Article 66 provides that rolling stock previously authorised does not need to be re-authorised. The IGC previously authorised all freight wagons conforming to the requirements of UIC 503, and this authorisation applies in respect of any successor to this standard. This generic authorisation will continue in force and freight wagons that conform to UIC 503 do not need any additional authorisation. The "CT" mark should be displayed on the relevant freight wagons. Proposals for any new types of locomotives or passenger trains, other than those already authorised and passing through the tunnel, will need specific authorisation from the IGC. The procedures set out in articles 62 to 65 of the regulations will apply to any entirely new designs of such rolling stock that operators wish to send through the tunnel.

37. Any new rolling stock that a railway undertaking wishes to place into service in the Common Section will need to be the subject of an application to the IGC containing the information in article 62. The IGC will seek the advice of the Concessionaires on the application. Trials of the rolling stock may be required and where such trials involve transit of the tunnel the Concessionaires may charge the railway undertaking if the need to provide capacity for these trials causes them lost revenue and specific expenditure. The IGC will discuss the application with the applicant and reach a decision within four months, advising the applicant and the Concessionaires. Applicants and Concessionaires are invited to cooperate, with the IGC knowledge, in order to facilitate compliance with this four months period. The authorisation may contain restrictions and conditions regarding use. When any new rolling stock has been granted authorisation for operations on the common section, the applicant must notify the relevant registration authority of the country in which the vehicle has been registered and inform the IGC of this notification.

### **Annual Reports**

38. The Concessionaires and the railway undertakings using the Fixed Link are required to prepare an annual 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 2 to the regulations.

### **Accident Investigation**

39. 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 4. 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.

### **Transitional Provisions and Timetable**

40. From the date these regulations became law in Britain and France (that is, 4 July 2008), the Concessionaires have one year to apply for and obtain a safety authorisation. Failure to obtain an authorisation would mean, in principle, the suspension of services. To avoid this, early discussion of the SMS and other elements in the authorisation application is already underway. The railway undertakings have two years from the same date to obtain a safety certificate, this longer period being adopted as it may take a while for the railway undertaking to obtain a Part A certificate. To ensure continuation of services, it is suggested that the railway undertakings start immediately on the preparing for the steps needed to obtain the Part B certificate.



## **Further Information**

41. 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  
Tour Pascal A  
92055 La Defense Cedex)  
France

Tel: + 33 (0) 1 40 81 21 22 (standard)

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 2036

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

## ***ANNEXES***

### **ANNEX 1 - The Bi-national Regulations**

### **ANNEX 2 - The Essential Details to be included in the Safety Management System**

### **ANNEX 3 - The Essential Details to be included in any application from a railway undertaking for safety certification**

### **ANNEX 4 - Independent Accident Investigation**

REGULATION OF THE INTERGOVERNMENTAL COMMISSION ON THE  
SAFETY OF THE CHANNEL FIXED LINK

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 cross-channel Fixed Link, signed at Canterbury on 12th February 1986 (“the Treaty”), and in particular Articles 1 and 10 thereof;

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

Having regard to Directive 2004/49/EC of the European Parliament and the Council of 29th April 2004 on the safety of Community railways and amending Council Directive 95/18/EC on the licensing of railway undertakings as well as Directive 2001/14/EC(d) on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification;

Having regard to Directive 2004/50/EC of the European Parliament and of the Council of 29th April 2004(e) amending Council Directive 96/48/EC(f) on the interoperability of the trans-European high-speed railway system and to Directive 2001/16/EC of the European Parliament and of the Council(g) on the interoperability of the trans-European conventional railway system;

Having regard to Directive 2004/51/EC of the European Parliament and the Council of 29th April 2004(h) modifying Council Directive 91/440/EEC(i) on the development of the Community’s railways;

Having regard to Regulation (EC) 881/2004 of the European Parliament and of the Council of 29th April 2004(j) establishing a European Railway Agency;

Having regard to Decision 884/2004/EC of the European Parliament and of the Council of 29th April 2004(k) amending Decision 1692/96/EC(l) 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 14th 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)(m);

Having regard to the regulation of the Intergovernmental Commission of 25th October 2005(n) concerning the use of the Channel Tunnel by international groupings or railway undertakings;

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:

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- (a) O.J. No. L 143, 27.6.95, p. 70.  
(b) O.J. No. L 75, 15.3.01, p. 26.  
(c) O.J. No. L 164, 30.4.04, p. 44. Corrected version published at O.J. No. L 220, 21.6.04, p. 16.  
(d) O.J. No. L 75, 15.3.01, p. 29. Also amended by Commission Decision 2002/844/EC, O.J. No. L 289, 26.10.02, p. 30.  
(e) O.J. No. L 164, 30.4.04, p. 114. Corrected version published at O.J. No. L 220, 21.6.04, p. 40.  
(f) O.J. No. L 235, 17.9.96, p. 6. Corrected by corrigendum published at O.J. No. L 262, 16.10.96, p.18. Also amended by Regulation (EC) No. 1882/2003 of the European Parliament and of the Council of 29th September 2003 (O.J. No. L 284, 31.10.03, p. 1).  
(g) O.J. No. L 110, 20.4.01, p. 1. Also amended by Directive 2004/50/EC of the European Parliament and of the Council.  
(h) O.J. No. L 164, 30.4.04, p. 164. Corrected version published at O.J. No. L 220, 21.6.04, p. 58.  
(i) O.J. No. L 237, 24.8.91, p. 25. Corrected by corrigendum published at O.J. No. L 305, 6.11.91, p. 22. Also amended by Directive 2001/12/EC of the European Parliament and of the Council of 26th February 2001 (O.J. No. L 75, 15.3.01, p. 1); there are other amending instruments but none are relevant.  
(j) O.J. No. L 164, 30.4.04, p. 1. Corrected version published at O.J. No. L 220, 21.6.04, p. 3.  
(k) O.J. No. L 167, 30.4.04, p. 1. Corrected version published at O.J. No. L 201, 7.6.04, p. 1.  
(l) O.J. No. L 228, 9.9.96, p. 1. Corrected by corrigendum published at O.J. No. L 15, 17.1.97, p. 1; there are other amending instruments, apart from Decision 884/2004/EC, but none are relevant.  
(m) Cm. 9769. ISBN 0-10-197690-9. (Out of print but copies may be obtained from the British Library).  
(n) The regulation is set out in the Schedule to S.I. 2005/3207.

## 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 rolling stock 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” (“CSIs”) means the common safety indicators referred to in Annex 2 to this Regulation.
- 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 25 October 2005 concerning the use of the Channel Tunnel by international groupings or railway undertakings.
- vii. “Concession” has the meaning given in Article 1 of the Treaty.
- viii. “Concessionaires” has the meaning given in Article 1 of the Treaty.
- ix. “Fixed Link” means the Channel Fixed Link as defined in Article 1.2 of the Treaty.
- 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 high-speed or conventional rail system depends either directly or indirectly, as defined in Directives 96/48/EC and 2001/16/EC. 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(a);
  - 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 n° 2002–3 of 3rd January 2002 and decree n° 2004–85 of 26th January 2004 amended.
- xvi. “Notified bodies” means the bodies which are responsible for assessing the conformity or suitability for use of the interoperability constituents or for appraising the EC procedure for verification of the sub-systems, as defined in Directives 96/48/EC (interoperability of the trans-European high-speed rail system) and 2001/16/EC (interoperability of the trans-European conventional rail system).
- 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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(a) 2003 c. 20. RAIB was established by section 3.

- 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 Directives 96/48/EC and 2001/16/EC, including:
    - the railway infrastructure and fixed equipment;
    - the rolling stock 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 railway system 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. "Safety Authority" means the body appointed by France and the United Kingdom to perform the tasks relating to the safety of the Fixed Link in accordance with Article 3.g and Article 16 of Directive 2004/49/EC in order to ensure a unified safety regime for the specific cross-border infrastructure of the Channel Tunnel.
- 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" ("TSI") 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 high-speed and conventional rail systems as defined in Directives 96/48/EC and 2001/16/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 12th February 1986.
- xxvi. "Unified safety rules" means the safety rules as notified to the European Commission which apply to the Fixed Link and describe the 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.

## Chapter 2

### *Duties and responsibilities*

#### **Safety Authority**

2. The Intergovernmental Commission is the Safety Authority for the Fixed Link.
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, shall be at least the following:
  - i. authorising the placing in service (in accordance with the requirements of Article 14 of both Directive 96/48/EC and Directive 2001/16/EC), of any structural subsystems which would constitute part of the trans-European high speed rail system, or part of the trans-European conventional rail system, which are proposed to be located or operated within the Fixed Link;
  - ii. verifying 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 12 of both Directives 96/48/EC and 2001/16/EC;
  - iv. authorising the placing in service in the Fixed Link of new or substantially modified rolling stock that is not covered by a technical specification of interoperability;

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- v. as already established through the Concession, authorising the placing in service in the Fixed Link of new or substantially modified rolling stock used for operating shuttle services for road vehicles;
  - 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;
  - x. checking that the rolling stock authorised to run on the Fixed Link is duly registered with safety related information in a national register drawn up in accordance with Article 14 of both Directive 96/48/EC and Directive 2001/16/EC, and that the information so registered is correct and kept up to date;
  - xi. by 30th September 2007 and thereafter annually by 30th September at the latest each year, publishing and sending to the Agency an annual report concerning its activities in the preceding year, including 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 in 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.
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 described in Annex 2 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.

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 rolling stock used for operating shuttle services for road vehicles is authorised to run on the Common Section;
- v. ensure that rolling stock used to operate their shuttle services for road vehicles is 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.

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 rolling stock used for carrying out their railway transport activities is authorised to run on the Common Section;
- v. ensure that the rolling stock used for carrying out their railway transport activities is in safe condition.

#### **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 30th 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;

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- iii. the common safety indicators referred to in Annex 2 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 safety certificate and applicants for safety authorisation.

18. The unified safety rules 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.

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*

#### 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 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 effect 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 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. The Intergovernmental Commission shall take a decision on an application for a safety authorisation without delay and in any event not more than four months after all information required, and any supplementary information requested by the Intergovernmental Commission, has been submitted. If the applicant is requested to submit supplementary information, this must be provided promptly.

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 rolling stock 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, including a deemed safety authorisation under Article 73(a), 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 rolling stock 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:



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- (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 Directives 96/48/EC and 2001/16/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 safe use of the Common Section.

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

47. The Intergovernmental Commission shall take a decision on applications for a Part B certificate without delay and in any event not more than four months after all information required, and any supplementary information requested by the Intergovernmental Commission, has been submitted. If the applicant is requested to submit supplementary information, this must be provided promptly.

48. The Intergovernmental Commission shall seek the Concessionaires' opinion on any request from a railway undertaking for a Part B certificate, at the time it starts its consideration of the application.

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 rolling stock 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. The Intergovernmental Commission may require that the relevant sections of the Part B certificate be revised following substantial changes in the safety regulatory framework.

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.

## 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.ii.d 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 must 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) If training services do not include examinations and the granting of certificates to assess personnel and certify 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 proving their training, qualifications and experience, and be given copies of them and be free to pass them on.

## Chapter 5

### *Provisions relating to rolling stock*

#### Authorisation of railway undertakings' in-use rolling stock

61. Rolling stock which has been authorised for placing in service in a Member State but which is not fully covered by the relevant TSIs may not be operated on the Fixed Link unless it has received authorisation from the Intergovernmental Commission.
62. The applicant for this authorisation shall submit a technical file to the Intergovernmental Commission concerning the rolling stock or type of rolling stock, indicating the use intended on the Common Section. The dossier shall provide the necessary justification and contain the following information:
- i. evidence that the rolling stock has been authorised to be placed in service in another Member State of the European Union and copies of records which show the history of its operation, maintenance and, if applicable, technical modification;
  - ii. technical data, maintenance programmes and operational characteristics requested by the Intergovernmental Commission and needed for this authorisation;
  - iii. evidence on technical and operational characteristics that show that the rolling stock is in compliance with the railway system and with the unified safety rules;
  - iv. information on any exemptions from the unified safety rules that are needed to grant this authorisation, and evidence, based on risk assessment, showing that the acceptance of the rolling stock does not introduce undue risks to the Fixed Link.
63. The Intergovernmental Commission shall seek the advice of the Concessionaires on the application and may require trials of rolling stock on the Fixed Link to verify compliance with the requirements specific to the railway system. The Intergovernmental Commission shall set out the scope and content of these trials. Charges may be levied for capacity used for the purpose of these trials. Such charges shall not exceed the net cost, to the Concessionaires, of the trials and shall be payable by the applicant.
64. The Intergovernmental Commission shall inform the railway undertaking of its decision on the application as soon as possible and no later than four months after submission of the complete technical dossier, including documents relating to any tests. The certificate of authorisation may contain conditions for use and other restrictions.
65. The Intergovernmental Commission shall inform the Concessionaires of its decision on the request of the railway undertaking without delay and shall provide a copy of any authorisation given.

66. Any approval or authorisation of rolling stock for use on the Fixed Link, (including revisions to it), issued by the Intergovernmental Commission and which is current immediately before the date this Regulation comes into force, shall be deemed to be an authorisation within the meaning 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 will act in accordance with their national laws 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. 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, without prejudice to the arrangements for reciprocal notification contained in the co-operation arrangements.

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 immediately before the date this Regulation comes into force, issued by the Intergovernmental Commission to the Concessionaire in relation to a safety case (or revisions to it) submitted by the Concessionaire to the Intergovernmental Commission concerning the Fixed Link, shall be deemed to be a safety authorisation within the meaning of Article 28 above.

(b) The deemed safety authorisation referred to in Article 73(a) shall remain valid for one year after the date this Regulation comes into force or until replaced by a new safety authorisation issued pursuant to this Regulation, whichever is the first to occur.

74. (a) Any notification of acceptance (including revisions to it) which is current immediately before the date this Regulation comes into force, issued by the Intergovernmental Commission in respect of 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) The deemed Part B certificate referred to in Article 74(a) shall remain valid for two years after the date this Regulation comes into force or until replaced by a new Part B certificate issued pursuant to this Regulation, whichever is the first to occur.

#### **Miscellaneous provisions**

75. The Regulation of the Intergovernmental Commission concerning the use of the Channel Tunnel by international groupings or railway undertakings signed on 25th October 2005 shall be amended as follows:—

i. Article 6(c) shall be replaced by the following provision:

“(c) has received and continues to hold a safety certificate as required by Article 39 of the

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Regulation of the Intergovernmental Commission transposing Directive 2004/49/EC of the European Parliament and of the Council (the Railway Safety Directive) signed on 24th January 2007;”.

ii. Article 12(1) (f) shall be replaced by the following provision:

“(f) arrangements for access to the network.”.

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;
- (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.

## Annex 2

### COMMON SAFETY INDICATORS

If new facts or errors are discovered after the submission of an Annual Safety Report, the indicators for one particular year shall be amended or corrected by the infrastructure manager, railway undertaking or the Intergovernmental Commission as the case may be, at the first convenient opportunity and at the latest in the next annual report.

For indicators relating to accidents under heading 1 below, Regulation (EC) No. 91/2003 of the European Parliament and of the Council of 16th December 2002(a) on rail transport statistics shall be applied as far as the information is available.

#### 1. Indicators relating to accidents

- (1) Total and relative (to train kilometres) number of accidents and a break-down on the following types of accidents:
  - (a) collisions of trains, including collisions with obstacles within the clearance gauge;
  - (b) derailments of trains;
  - (c) level-crossing accidents, including accidents involving pedestrians at level-crossings;
  - (d) accidents to persons caused by rolling stock in motion, with the exception of suicides;

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(a) O.J. No. L 14, 21.1.03, p. 1. Amended by Commission Regulation (EC) No. 1192/03 (O.J. No. L 167, 4.7.03, p. 13).

- (e) suicides;
- (f) fires in rolling stock; and
- (g) others.

Each accident shall be reported under the type of the primary accident, even if the consequences of the secondary accident are more severe, eg a fire following a derailment.

(2) Total and relative (to train kilometres) number of persons seriously injured and killed by type of accident divided into the following categories:

- (a) passengers (also in relation to total number of passenger-kilometres);
- (b) employees including the staff of contractors;
- (c) level-crossing users;
- (d) unauthorised persons on railway premises; and
- (e) others.

## **2. Indicators relating to incidents and near-misses**

(1) Total and relative (to train kilometres) number of broken rails, track buckles and wrong-side signalling failures.

(2) Total and relative (to train kilometres) number of signals passed at danger.

(3) Total and relative (to train kilometres) number of broken wheels and axles on rolling stock in service.

## **3. Indicators relating to consequences of accidents**

(1) Total and relative (to train kilometres) costs in euro of all accidents where, if possible, the following costs should be calculated and included:

- (a) deaths and injuries;
- (b) compensation for loss of or damage to property of passengers, staff or third parties—including damage caused to the environment;
- (c) replacement or repair of damaged rolling stock and railway installations; and
- (d) delays, disturbances and re-routing of traffic, including extra costs for staff and loss of future revenue.

From the above costs shall be deducted indemnity or compensation recovered or estimated to be recovered from third parties such as motor vehicle owners involved in level crossing accidents. Compensation recovered by insurance policies held by railway undertakings or infrastructure managers shall not be deducted.

(2) Total and relative (to number of hours worked) number of working hours of staff and contractors lost as a consequence of accidents.

## **4. Indicators relating to technical safety of infrastructure and its implementation**

(1) Percentage of tracks with Automatic Train Protection (ATP) in operation, percentage of train kilometres using operational ATP systems.

(2) Number of level crossings (total and per line kilometre). Percentage of level crossings with automatic or manual protection.

## **5. Indicators relating to the management of safety**

Internal audits accomplished by infrastructure managers and railway undertakings as set out in the documentation of the safety management system. Total number of accomplished audits and the number as a percentage of audits required (and/or planned).

## **6. Additional indicators.**

The above listed indicators in this Annex are derived from Annex 1 of the Railway Safety Directive 2004/49/EC. Additional indicators may be required by the Intergovernmental Commission specifically for the risks in the tunnel.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into effect, for the Channel Tunnel, Directive 2004/49/EC of the European Parliament and of the Council of 29th April 2004 (O.J. No. L 220, 21.6.04 p. 16), (“the Railway Safety Directive”). It does so by giving the force of law to a Regulation transposing that Directive (“the Regulation”) made on 24th January 2007 by the Channel Tunnel Intergovernmental Commission, (under Article 10(3) (e) of the Treaty of Canterbury, Cm 1827), on behalf of the Governments of the United Kingdom of Great Britain and Northern Ireland and the French Republic. The text of the Regulation is set out in the Schedule to the Order.

Article 1 provides that the Order comes into force on the date of the later of the notifications by the two Governments of the completion of their necessary internal procedures to give the Regulation the force of law in the respective countries. That date will be notified in the London, Edinburgh and Belfast Gazettes. It provides that the Order does not extend to Northern Ireland except for limited purposes.

Article 3 provides that the Regulation has the force of law.

Article 4 makes the Office of Rail Regulation responsible for the enforcement of the Regulation, (except for those matters identified in paragraphs (5) and (6)). It applies for this purpose various enforcement provisions of the Health and Safety at Work etc Act 1974, such as the powers to appoint inspectors and for inspectors to serve improvement and prohibition notices and institute proceedings for their breach or other offences. It identifies those articles of the Regulation which, if contravened, would give rise to an offence under section 33(1) (c) of that Act (ie where a contravention of the Regulation would give rise to an offence without an inspector having first to serve an improvement notice or a prohibition notice and show that the terms of the notice had been contravened).

Article 5 provides various rights of appeal to the Office of Rail Regulation for the benefit of railway undertakings, or persons currently or previously employed as train drivers or staff performing vital safety tasks, should they be denied any entitlement conferred upon them by articles 56 to 60 of the Regulation, (rights to fair and non discriminatory access to training facilities and rights to receive copies of documents verifying training, qualifications and experience).

Article 6 makes various provisions concerning civil liability. In particular it provides that a breach of a duty requirement or prohibition imposed by certain articles of the Regulation is, in so far as it causes damage, actionable.

Article 7 provides that the Order does not affect the operation of Part 1 of the Railways and Transport Safety Act 2003, or the Railways (Accident Investigation and Reporting) Regulations 2005, as these measures already implement the accident and incident investigation requirements of the Railway Safety Directive and also apply to the Channel Tunnel.

Article 8 empowers the Intergovernmental Commission to impose charges reflecting their administrative costs for processing applications for certain certificates and authorisations under the Regulation.

Article 9 makes amendments to the Channel Tunnel (International Arrangements) Order 2005 which are consequential upon article 75 of the Regulation and the Railway Safety Directive.

Article 10 re-enacts paragraph 1(b) (i) of Schedule 2 (application for a safety certificate) to the Railways and Other Guided Transport Systems (Safety) Regulations 2006 with the addition of the Intergovernmental Commission to the list of safety authorities whose certificates may be recognised by the Office of Rail Regulation for the purpose of their consideration of applications for “safety certificates” under regulation 7 of those Regulations. This gives effect to article 38 of the Regulation.

The key provisions of the Regulation itself are briefly as follows—

- (1) The Intergovernmental Commission is made the safety authority for the Channel Tunnel (*chapter 2*).
- (2) The Concessionaires, who are the infrastructure managers of the Channel Tunnel, are to draw up and put into effect a safety management system which shows their ability to assume responsibility for safety. They may only manage and operate the Channel Tunnel if they possess a safety authorisation from the Intergovernmental Commission (*chapter 3*).
- (3) A railway undertaking may not operate through the Channel Tunnel unless it has a safety certificate. Part A of the certificate provides confirmation of the acceptance of its safety management system by the Member State in which it first established its operations. Part B confirms acceptance by the Intergovernmental Commission of the measures taken by the railway undertaking to comply with the specific requirements necessary for safe use of the Channel Tunnel (*chapter 3*).
- (4) Provision is made for staff to have access to necessary training (*chapter 4*).
- (5) Provision is made for requiring rolling stock to be authorised by the Intergovernmental Commission before it may be operated through the Channel Tunnel where, although it is authorised to be placed in service in a Member State, it is not fully covered by relevant technical specifications for interoperability (*chapter 5*).
- (6) Provision is made relating to the investigation of accidents and incidents in the Channel Tunnel (*chapter 6*).
- (7) Transitional and miscellaneous provisions are made (*chapter 7*).

An impact assessment of the effect that this Order will have on the costs of business can be obtained from the Department for Transport, Great Minister House, 76 Marsham Street, London SW1P 4DR. A transposition note in relation to the implementation of the Railway Safety Directive by this Order can also be obtained from this address. They are also annexed to the Explanatory Memorandum published with this Order on the Office of Public Sector Information website [www.opsi.gov.uk](http://www.opsi.gov.uk)



SAFETY MANAGEMENT SYSTEM - INFRASTRUCTURE MANAGER					
Directive 2004/49/EC Safety Authorisation for an Infrastructure Manager (IM). Essential details for the issue of a safety authorisation by the Safety Authority (the Inter Governmental Commission) for the Channel Fixed Link in accordance with Article 11 and including the elements concerning services of shuttles for road vehicles					
	Directive Reference 2004/49	Requirement, basic element and reason	Essential details		
A1	Article 9 para 2	<p><b>Description of activities.</b> <i>A description of the activities relating to the management of the infrastructure and the shuttle services for road vehicles which provides evidence that the measures described in the H&amp;SMS are relevant to the activities carried out.</i></p> <p><i>The descriptions should be sufficiently detailed to allow links between the organisational arrangements and the safety performance of the Concessionaires to be identified.</i></p>	<p>A1.1. Description of the railway system including geographical boundaries of the railway infrastructure, safety installations and equipment, and railway rolling stock used etc.</p> <p>A1.2. Description of the activities carried out relating to the design, maintenance and operation of the railway system described:</p> <ul style="list-style-type: none"> <li>➤ By the Concessionaires</li> <li>➤ At the interface with other infrastructure managers</li> <li>➤ On behalf of railway undertakings (additional services provided under Annex II of Directive 2001/14/EC)</li> </ul> <p>A1.3. Description of the Concessionaires overall organisation (general operating principles and organisation chart)</p> <p>A1.4. Description of the measures for ensuring that the Common Section is used only for authorised activities and by railway undertakings which hold a valid safety certificate.</p> <p>A1.5. A description of services provided by contractors or other service providers.</p>		
A2	Article 9, annex III para1 and para 2(a)	<p><b>Health and safety organisation:</b> <i>The Concessionaire is able to develop, implement and</i></p>	<p>A2.1. Declaration of a safety policy statement approved at the highest level within the company and the means by which it is communicated.</p> <p>A2.2. Identification of the manager(s) responsible for ensuring the</p>		

		<i>maintain an health and safety organisation that covers all its activities.</i>	<p>implementation of the SMS within the company.</p> <p>A2.3. Identification of responsibilities of safety related bodies including their hierarchy and the functional links between them.</p> <p>A2.4. Description of safety duties associated with the described activities and the number persons allocated to these duties.</p> <p>A2.5. Description of the methods by which staff and their representatives at all levels within the company are involved with health and safety management and occupational risk prevention</p> <p>A2.6. Description of the means by which personnel may be authorised to act on behalf of the company</p>		
A3	Article 9 annex III para 2 (b)	<p>Safety objectives (qualitative and quantitative)  <i>The objectives set should ensure that safety levels described are maintained or improved</i>  <i>These objectives form part of the overall safety regime and will include CSTs once they are set.</i>  <i>The provisions of the H&amp;SMS (organisation, resources deployed) show how the Concessionaires observe, maintain or improve defined safety objectives</i></p>	<p>A3.1. Description of the safety objectives which the infrastructure manager's railway system should meet. These should take into account activities at the interfaces with railway undertakings and other infrastructure managers. Objectives which relate to international targets, including CSTs (once established) should be identified.</p> <p>A3.2. Description of the method used to establish the safety objectives for the company which includes an explanation of the choices made (health and safety action plans reviewed annually).</p> <p>A3.3. A description of the measures taken by the Concessionaires to ensure that safety objectives are implemented.</p>		
A4	Article 9 para 2 Article 9	<p><b>Control of risks associated with the activities.</b>  <i>The Concessionaire should take</i></p>	<p>A4.1. Description of the risk assessment process for risks to the railway system, and personnel working on it, from its own activities [including shuttles], the use of contractors and</p>		

	para 3	<p><i>into account risks associated with its own activities, risks arising from the use of contractors, service providers and railway undertakings using the infrastructure and from activities at the interfaces with other infrastructure managers. The Concessionaire is in overall control of the operation of the Channel Fixed Link and is responsible for maintaining its safety. These descriptions are used to determine the actions and decision levels required to ensure efficient control of the risks identified.</i></p>	<p>service providers, the activities of the railway undertakings using the infrastructure and from the interfaces with other infrastructure managers.</p> <p>A4.2. Description of the process to identify measures to control the identified risks and monitoring their effectiveness</p> <p>A4.3. Description of allocation of responsibilities between the Concessionaire, railway undertakings, other interfacing infrastructure managers and third parties.</p> <p>A4.4. Description of the process whereby the risk management systems of contractors and other parties, excluding railway undertakings, will be verified.</p>		
A5	Article 9 and Annex III para 2(d)	<p>Change management procedures</p> <p>The Concessionaire should be able to demonstrate that the specified level of safety will not be adversely affected by substantial changes to its organisation, standards, rules, installations, equipment, activities or any operating procedures.</p> <p><i>Note: The Concessionaires must also monitor the impact that changes to the activities of one or more railway undertakings</i></p>	<p>A5.1. Description of the change management procedures and the scope of change to which the procedures apply</p> <p>A5.2. Description of the procedure for assessing the possible effects of a change on the risk control process</p> <p>A5.3. Description of the process for identification of new risks</p> <p>A5.4. Description of the methods of identifying and implementing measures to control the new risk</p> <p>A5.5. Description of methods of evaluating the effectiveness of the new control measures and checking the impact on existing measures.</p> <p>A5.6. Description of the procedure for taking into account any consequences of change in the activities of one or more</p>		

		<p><i>could have on their organisation. These descriptions are used to determine the actions and decision levels required to ensure efficient control of new risk or the consequences of modification of the Fixed Link railway system.</i></p>	<p>railway undertakings.</p> <p>A5.7. Description of method of recording and documenting the change process</p>		
A6	Article 9 annex III para 2(c)	<p><b>Conformity to safety rules and standards (current, new or amended)</b> <i>Safety rules and standards have a central role in the operation of a railway. It is essential that the SMS describes the procedures for implementing and testing the effectiveness of them. The Concessionaire should be able to demonstrate that it has procedures to take account of relevant legal requirements</i></p>	<p>A6.1. Description of the procedures for identification of, and ensuring compliance with, the requirements (including TSIs etc) applicable to activities</p> <p>A6.2. Description of the traceability procedure which ensures that all relevant requirements are implemented.</p> <p>A6.3. Description of the procedure for taking into account changes in the regulatory framework</p> <p>A6.4. Arrangements to take into account recommendations from the IGC</p> <p>A6.5. Arrangements for producing the annual report for the IGC.</p>		
A7	Article 9 and Annex III para (g)	<p>Development and management of safety documents</p> <p><i>A document management system is necessary to demonstrate that the Concessionaire has the ability to identify the need for safety documents and can produce them in reasonable time. The</i></p>	<p>A7.1. Description of procedure of safety document management, including their distribution in a timely manner to the staff concerned, including the procedure for configuration control of vital safety related information.</p> <p>A7.2. Description of a traceability process which demonstrates that relevant legal requirements are taken into account</p> <p>A7.3. Description of the procedure to manage the documentation which covers the interfaces with other infrastructure managers</p>		

<sup>2</sup> It will be necessary to take account of the provisions made by the IGC for the publication of the binational safety requirements and the development of the legal framework

		<i>system should ensure that the documents will be reviewed and updated as required. The system should enable the documents to be distributed to those who require them within reasonable time and provide assurance that the documents have been understood</i>	<p>A7.4. Description of procedure to inform railway undertakings of rules to follow when using the Common Parts of the Channel Fixed Link<sup>2</sup></p> <p>A7.5. Description of procedure to give the railway undertakings concerned reasonable notice of temporary or permanent changes of rules of operation or risk prevention in the tunnel<sup>2</sup></p>		
A8	Article 9 and Annex III para 2 (e) Article 13 (4)	<p>Human Resource Management <i>The Concessionaire should ensure that sufficient suitability qualified personnel are available for implementation of the activities and requirements described in the SMS.</i></p> <p><i>The Concessionaire should have procedures for identifying the qualifications and certifications required taking into account legal requirements</i></p>	<p>A8.1. Description of the procedure for ensuring that staff used in safety critical roles are medically fit at the time of recruitment and throughout their employment</p> <p>A8.2. Description of the procedure to establish the medical requirements for safety critical staff</p> <p>A8.3. Description of the procedure to ensure that those carrying out medicals for safety critical staff have the minimum relevant professional qualifications.</p> <p>A8.4. Description of the process of assessing work knowledge, including languages, at the time of recruitment and throughout the employment (resources allocated and process of qualification of assessors)</p> <p>A8.5. Description of the process of staff certification to ensure that they can put their knowledge into practice (issue, renewal, amendment, follow-up and traceability of information about each member of staff)</p> <p>A8.6. Description of methods of training needs analysis.</p> <p>A8.7. Description of organisation to train staff in safety functions on recruitment and throughout their employment</p> <p>A8.8. Description of management arrangements to ensure that at all times sufficient staff are available for safety critical jobs and</p>		

			<p>that those staff hold the necessary qualifications for the jobs.</p> <p>A8.9. Description of process for briefing staff on the necessary documentation for the handling of safety related tasks.</p> <p>A8.10. Description of the process for checking that staff have understood the necessary safety documentation.</p>		
A9	Article 9.2 Annex III para 2c	<p><b>Technical resource management</b></p> <p><i>The Concessionaire must ensure that purchased products and services conform to legal requirements.</i></p> <p><i>The Concessionaire must ensure that the infrastructure, technical installations and safety equipment and the railway rolling stock used comply with the legal requirements in force.</i></p> <p><i>The Concessionaire must demonstrate that it can keep the infrastructure, technical installations and safety equipment and railway rolling stock used in working order throughout their working life, remaining in compliance with the legal requirements.</i></p>	<p>A 9.1 Methods for purchasing, validating and monitoring of products and services (description of set requirements for product and service suppliers)</p> <p>A 9.2 Organisation to obtain authorisation to operate new railway rolling stock</p> <p>A 9.3 Organisation to ensure the conservation and the traceability of documents for the placing in service of railway rolling stock used at the time of application or renewal of safety authorisation.</p> <p>A 9.4 Organisation to determine fitness of rolling stock used for the shuttle services for road vehicles and works trains used on the fixed link</p> <p>A 9.5 Organisation to determine suitability of rolling stock used for the transport service to be provided in normal and degraded situations</p> <p>A 9.6 Description of the maintenance policy for to each type of railway rolling stock used</p> <p>A 9.7 Organisation for obtaining the necessary authorisations to place in service new, redeveloped or modified infrastructure, technical installations and safety equipment</p> <p>A 9.8 Organisation to ensure the conservation and the traceability of the documents for the authorisation of taking into use the infrastructure, technical installations and existing safety</p>		

			<p>equipment at the time of the application or the renewal of safety authorisation</p> <p>A 9.9 Description of the maintenance policy for each type of infrastructure, technical installation and safety equipment for which the Concessionaire is responsible.</p>		
A10	Article 9 para 3 and annex III para 2(i)	<p><b>Management of emergencies and malfunctions on the railway system</b></p> <p><i>In case of accident or of a situation revealing a serious risk to the safety of the railway system or its environment, the Concessionaire's organisation must make it possible to take immediate preservation measures.</i></p>	<p>A10.1. Organisation to define action to be taken and allocate responsibilities so that emergencies can be managed, if necessary in liaison with the authorities concerned</p> <p>A10.2. Organisation to manage the preparation and updating of defined rescue plans, their distribution and implementation</p> <p>A10.3. Description of technical and human resources allocated to emergency and malfunction management</p> <p>A10.4. Organisation to inform railway undertakings of the measures established, and to co-ordinate the action of all railway undertakings concerned if the emergency plans are followed</p> <p>A10.5. Organisation to manage accidents/incidents relating to consignments of dangerous goods</p> <p>A10.6. Existence of suitable measures to take to restore normality, in complete safety, following railway system malfunctions</p> <p>A10.7. Organisation to manage the list of railway undertaking and infrastructure manager staff-members contactable round the clock in case of emergency or malfunction</p>		
A11	Article 9 and Annex III para (f)	<p>Communication of safety related information</p> <p><i>Immediate, unambiguous understanding of messages exchanged between operators when performing their safety tasks is essential to ensure the</i></p>	<p>A11.1. Description of procedures for communicating with the relevant railway undertakings including changes to operating conditions in normal or degraded situations</p> <p>A11.2. Description of procedure for advising drivers immediately about all modifications to safety arrangements</p> <p>A11.3. Description of procedure to distribute safety-related</p>		

		<p><i>safety level of the operations to be carried out.</i></p> <p><i>The Concessionaire should define and implement standards for effective communication of essential safety information</i></p>	<p>information to all staff concerned and, if necessary, ensure that it is acted upon</p> <p>A11.4. Description of procedure for exchanging safety-related information with the railway undertakings using the infrastructure</p> <p>A11.5. Description of procedures to notify the information required by the statutory authorities</p>		
A12	Article 9 and Annex III para (h)	<p><b>Retour d’experience.</b>  <i>Feedback makes it possible constantly to evaluate the safety level achieved by the company. It should prevent malfunctions and adapt the company’s human and technical resources to maintain or improve the safety level.</i></p>	<p>A12.1. Means of gathering information on safety related events, including pre cursor events, relating to all activities on the Fixed Link</p> <p>A12.2. Procedure and means for analysing those events and identifying corrective action</p> <p>A12.3. Procedure to implementing and monitoring the effectiveness of corrective actions</p>		
A13	Article 9 and Annex III para (j)	<p><b>Audit arrangements</b>  <i>The Concessionaire should evaluate, at pre-set intervals, the conformity, effectiveness and relevance of safety initiatives carried out in all the company’s fields of activity, in relation to the provisions described in its Safety Management System. Audits should be conducted methodically and independently</i></p>	<p>A13.1. Organisation and resources to carry out audits, at relevant intervals, of all the activities which affect the safety of the railway system of the Fixed Link</p> <p>A13.2. Existence of an audit programme</p> <p>A13.3. Organisation for managing the results of the audits conducted</p> <p>A13.4. Measures taken to ensure the objectivity and impartiality of the auditors</p>		



<b>SAFETY CERTIFICATES FOR RAILWAY UNDERTAKINGS</b>			
<b>Directive 2004/49/EC Safety certificates for railway undertakings – Part B Essential details as per Article 10</b>			
<b>Reference in Directive 2004/49</b>	<b>Requirement, basic element and reason</b>		<b>Essential details</b>
Article 10 2a and 3	B1	Safety Management System accepted by a Member State and guarantee that activities are the same.	B1.1 Certification of Part A acceptance
Article 10 2 b	B2	Conformity with the SMS	B2.1 Description of the planned services using the Common Part of the Fixed Link, with the itineraries and their corresponding organisation (human resources and equipment needed) B2.2 Identification of the health and safety legislation and measures which apply to the staff concerned B2.3 Identification of the part of the company responsible for the application of the SMS on the Common Part of the Fixed Link and initial point of contact for handling the submission. B2.4 Demonstration that risks specific to the Common Part of the Fixed Link have been taken into account B2.5 Demonstration that the measures and changes to them described in the SMS adequately cover these risks B2.6 Demonstration that checks and audits take account of the activities carried out on the Common Part of the Fixed Link, including subcontracting and the provision of services
Article 10 2b	B3	Conformity with TSIs, bilateral safety rules and other rules	B3.1 Description of the operating procedures and safety documentation for the planned services B3.2 Demonstration that the safety documentation relating to the planned services takes account of the requirements of TSIs, bi-national safety rules and other rules specific to the Common Part of the Fixed Link B3.3 Demonstration that the safety documentation relating to the planned services is comprehensive
Article 10 2b	B4	Conformity with rules on staff certification	B4.1 Description of safety functions for planned services B4.2 Identification of gaps between skills required in the SMS and those specific to the Common Part of the Fixed Link B4.3 Demonstration that the initial and ongoing training and evaluation (of skills and medical fitness) of the staff concerned takes account of the requirements specific to the Common Part of the Fixed Link throughout the validity of the authorization B4.4 Demonstration that trainers and assessors have the necessary skills to meet the requirements specific to the Common Part of the Fixed Link
Article 10 2b and Annex IV	B5	Conformity with rules relating to the rolling stock used (authorization for use and maintenance)	B5.1 Identification of the series concerned for the planned services B5.2 Proof that the rolling stock concerned has been authorized for use on the Common Part of the Fixed Link B5.3 Demonstration that the processes for maintaining the rolling stock concerned take account of the requirements specific to the Common Part of the Fixed Link B5.4 Description of the procedures for managing defects of the rolling stock concerned on the Common Part of the Fixed Link
Annex IV	B6	Subcontracting and the provision of services	B 6.1 Where activities are contracted description of the process for appointment of contractors and management thereof

## INDEPENDENT ACCIDENT INVESTIGATION

### 4.1. 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

BEA-TT Tour Pascal B  
92055 La Défense Cedex  
France

Telephone: + 33 (0) 1 40 81 21 83

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

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

Web site: [www.bea-tt.developpement-durable.gouv.fr](http://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](mailto:enquiries@raib.gov.uk)

Fax: 01332 253301

Website: [www.raib.gov.uk](http://www.raib.gov.uk)

### 4.2 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.