



France No. 1 (2023)

# Agreement

between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic concerning safety certification in respect of rail transport services through the Channel Fixed Link

London 23 January and Paris 8 February 2023

[The Agreement is not in force]

*Presented to Parliament  
by the Secretary of State for Foreign, Commonwealth and Development Affairs  
by Command of His Majesty  
April 2023*



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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED  
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE  
GOVERNMENT OF THE FRENCH REPUBLIC CONCERNING SAFETY  
CERTIFICATION IN RESPECT OF RAIL TRANSPORT SERVICES  
THROUGH THE CHANNEL FIXED LINK**

Following the withdrawal of the United Kingdom from the European Union, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic (hereinafter referred to as ‘the Parties’) have agreed the following with regard to safety certification required on the railway network located between Calais-Frethun Freight and Passenger Stations in France, and Dollands Moor Freight Yard and Ashford International Station in the United Kingdom;

Having regard to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, signed on 24 January 2020;

Having regard to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, signed on 30 December 2020;

Having regard to Article 10(9) of Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast);

Having regard to Article 14 of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast);

Having regard to the Treaty between the United Kingdom of Great Britain and Northern Ireland and the French Republic concerning the Construction and Operation by Private Concessionaires of a Channel Fixed Link, signed at Canterbury on 12 February 1986 (hereinafter referred to as ‘the Treaty of Canterbury’);

The Parties have agreed as follows:

ARTICLE 1

**Subject-matter and Scope of the Agreement**

1. In order to meet the needs of cross-border rail transport services using the Fixed Link between France and the United Kingdom, the Parties agree the necessary conditions for when a Railway Undertaking holding a safety certificate valid in the territory of one Party is authorised to operate in the territory of the other Party, on the railway network specified in paragraph 2.

2. Regardless of the origin and/or destination of the services, this Agreement shall apply to cross-border rail services on the railway network between the stations of Calais-Frethun in France and Dollands Moor Freight Yard (for freight) and Ashford International Station (for passengers) in the United Kingdom.

## ARTICLE 2

### **Definitions**

For the application of this Agreement:

- a. ‘competent authority’ means the entity entrusted with issuing, renewing, amending and revoking the safety certificate of Railway Undertakings in one or more Member States of the European Union or in the United Kingdom;
- b. ‘national safety authority’ means the Office of Rail and Road in the United Kingdom and the Etablissement Public de Sécurité Ferroviaire in France, responsible for tasks relating to rail safety under the respective applicable legislation of each Party;
- c. ‘safety certificate’ means certification of a Railway Undertaking by the competent authority, the purpose of which is to provide evidence that this Railway Undertaking has established the organisation, arrangements and procedures to ensure the safe management of its operations and that it is able to operate safely in the intended area of operation;
- d. ‘area of operation’ means, in France, a network or networks within one or more Member States of the European Union where a Railway Undertaking intends to operate, and, in the United Kingdom, a network or networks within the United Kingdom where a Railway Undertaking intends to operate;
- e. ‘Railway Undertaking’ means any public or private undertaking issued with a Railway Undertaking Licence, the principal business of which is to provide services for the transport of goods and/or passengers by rail with a requirement that the undertaking ensure traction; this also includes undertakings which provide traction only;
- f. ‘Fixed Link’ means the Channel Fixed Link as defined in Article 1(2) of the Treaty of Canterbury;
- g. ‘Railway Undertaking Licence’ means an authorisation issued by a licensing authority to an undertaking, by which its capacity to provide rail transport services as a Railway Undertaking is recognised; that capacity may be limited to the provision of specific types of services.

## ARTICLE 3

### **Conditions for Railway Undertakings' Cross-Border Traffic**

1. Without prejudice to the other necessary requirements for accessing the railway network in order to carry out transport operations, Railway Undertakings holding a valid safety certificate with an area of operation covering the part of the railway network referred to in Article 1(2) of this Agreement within the territory of one Party, shall be authorised to operate the type of services specified in that certificate within the territory of the other Party on the railway network specified in Article 1(2) of this Agreement.

2. A valid safety certificate for the purposes of paragraph 1 means a safety certificate issued before, on or after the day that this Agreement comes into force in accordance with the legislation specified in paragraph 5, which applies in each Party's territory respectively, provided that the certificate has not expired, or been restricted or revoked.

3. The national safety authority of a Party shall, when examining an application for a safety certificate whose area of operation covers the part of the railway network referred to in Article 1(2) located in the territory of that Party, seek the opinion of the national safety authority of the other Party as to whether the applicant complies with the safety requirements applicable on the part of the railway network referred to in Article 1(2) located in the territory of the other Party.

4. Where, following the process described in paragraph 3, the national safety authority of a Party considers that a safety certificate has been issued in the territory of the other Party without the applicant complying with the safety requirements mentioned in paragraph 3 and where this non-compliance presents a safety risk, it may decide that the applicant is not authorised to operate on its territory. The national safety authority shall notify its decision in writing and with reasons to the applicant and the other national safety authority. The law respectively applicable in each Party's territory shall guarantee an effective right of appeal against such decisions before the national courts.

5. The specified legislation referred to in paragraph 2 is:

- a) in respect of the United Kingdom:
  - i. the Railways and Other Guided Transport Systems (Safety) Regulations 2006 as amended up to and including the day that this Agreement comes into force; and
  - ii. the Channel Tunnel (Safety) Order 2007 as amended by the Channel Tunnel (Safety) (Amendment) Order 2013, and any legislation which revokes and replaces that legislation up to and including the date that this Agreement comes into force;

- b) in respect of France:
  - i. Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast), in particular Article 10 thereof, and the related implementing legislation; and
  - ii. Commission Implementing Regulation (EU) 2018/763 of 9 April 2018 establishing practical arrangements for issuing single safety certificates to Railway Undertakings pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council, and repealing Commission Regulation (EC) No 653/2007.

6. The Parties agree to inform each other without delay by written notification of any changes in the applicable legislation referred to in paragraph 5 where these changes are adopted between the date of signature and the date of entry into force of this Agreement.

#### ARTICLE 4

##### **Cooperation and Information Exchange**

1. The Parties agree to keep each other informed within a reasonable timeframe of any proposed amendment to the legislation applicable in their respective territory or other circumstances which may affect the rail services within the scope of this Agreement, particularly where it is likely these will require the amendment of this Agreement. In the event of any difference of opinion on the necessity of an amendment of this Agreement, the Parties shall use their best efforts and shall take any measures they consider necessary in order to resolve their differences.

2. The Parties agree to cooperate and exchange good practice and useful information, in accordance with the legislation respectively applicable in each Party's territory, between themselves and between their respective national safety authorities, to ensure in particular the adequate supervision of safety certificate holders benefiting from the provisions of this Agreement.

3. The Parties agree that the national safety authority of the Party in whose territory a Railway Undertaking is authorised to operate services under Article 3(1) shall undertake supervision activities in relation to that Railway Undertaking, in particular audits and inspections. Such supervision may be carried out in cooperation with the national safety authority of the other Party. The two national safety authorities shall inform each other of the supervision activities they undertake and the results thereof.

4. In accordance with the legislation respectively applicable in each Party's territory, irrespective of the entity which issued the safety certificate to the Railway Undertaking concerned, if, during supervision, a national safety authority of one of the Parties identifies a serious safety risk, it may at any time apply temporary safety

measures, including immediately restricting or suspending the relevant operations in the territory for which it has competence. The national safety authority applying those temporary measures shall immediately inform the national safety authority concerned thereof, and provide supporting evidence for its decision. A serious safety risk in this context should be understood as being a serious instance of non-compliance with legal obligations or safety requirements that may, in itself, or in a series of consequential events, cause an accident or serious accident.

5. Where a national safety authority is informed that temporary measures have been implemented in the territory of the other Party pursuant to paragraph 4, it shall take all measures it considers necessary, in accordance with the legislation respectively applicable in each Party's territory, for the competent authority immediately to examine those temporary measures and, where the competent authority considers it appropriate, to restrict or revoke the safety certificate of the undertaking concerned. It shall in turn inform the national safety authority concerned of the action taken following the disclosure of the implementation of temporary measures.

6. Where there are concerns or doubts in respect of the validity of a particular safety certificate, the Parties and their respective national safety authorities, in accordance with the legislation respectively applicable in each Party's territory, shall cooperate closely, in particular by sharing without delay relevant information or documents to provide evidence that the Railway Undertaking is able to operate transport services safely.

## ARTICLE 5

### **Arrangements for Amendment of the Agreement**

Either Party may make a request in writing for the amendment of this Agreement. Any amendment decided on by the Parties shall be adopted by exchange of letters between them and shall come into force under the conditions they jointly determine.

## ARTICLE 6

### **Settlement of Disputes**

Any dispute concerning the interpretation or implementation of this Agreement shall be settled by means of bilateral exchanges between the Parties and following a timetable set by mutual consent between them.

## ARTICLE 7

### **Temporary Suspension of the Agreement**

Each Party reserves the right to take any measures that may be necessary to safeguard its sovereignty or its security, in accordance with international law. In exceptional circumstances, one Party may, in particular, decide to suspend the application of this Agreement for a maximum of one (1) month. That month will commence one (1) week after the date on which notification of the decision to suspend in writing is received by the other Party. At the end of that period, unless recourse has been had to Article 8(2), the Agreement shall once again apply.

## ARTICLE 8

### **Final Provisions**

1. This Agreement shall enter into force on the day after the date of receipt of the last notification through diplomatic channels by which the Parties inform each other that they have completed the internal domestic procedures necessary for the Agreement to enter into force.

2. This Agreement shall remain in force until it is terminated either by mutual consent of the Parties expressed in writing, or by written notification of one Party to the other, in which case termination shall take place six (6) weeks after the date of receipt of such notification. One Party, in particular, may provide notification to terminate this Agreement if it considers that requirements as to the ability of Railway Undertakings holding a safety certificate to operate safely within the other Party's territory are no longer adequately ensured by the other Party.

This Agreement has been drawn up in two original copies, each in the English and French languages, both texts being equally authentic.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE at London on twenty-third January 2023 and at Paris on eighth February 2023.

**For the Government of the United  
Kingdom of Great Britain and  
Northern Ireland:**

**MARK HARPER**

**For the Government of the Republic  
of France:**

**CLÉMENT BEAUNE**



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