



France No. 1 (2025)

# Agreement

between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic on Safety and Interoperability Requirements in the Channel Fixed Link

London, 9 April 2025

[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 2025*



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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 ON SAFETY AND  
INTEROPERABILITY REQUIREMENTS IN THE CHANNEL FIXED  
LINK**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic (“the Parties”);

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

Having regard to the notification on 29 March 2017 by the United Kingdom to the European Council of its intention to withdraw from the Union, formally triggering the application of Article 50 of the Treaty on European Union;

Having regard to the consequences for the safety and interoperability regime applicable to the Fixed Link of the United Kingdom’s withdrawal from the European Union at 11pm GMT on 31 January 2020 and the end of the transition period at 11pm GMT on 31 December 2020;

Having regard to Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system of the European Union (recast);

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

Having regard to the 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, signed on 23 January 2023;

Having regard as far as France is concerned as a Member State of the European Union, to:

- Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the railway system in the Community;
- Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (Recast);

- Commission Regulation (EU) N° 1078/2012 of 16 November 2012 on a common safety method for monitoring to be applied by railway undertakings, infrastructure managers after receiving a safety certificate or safety authorisation and by entities in charge of maintenance;
- Commission Delegated Regulation (EU) 2018/761 of 16 February 2018 establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 1077/2012;
- Commission Delegated Regulation (EU) 2018/762 of 8 March 2018 establishing common safety methods on safety management system requirements pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulations (EU) No 1158/2010 and (EU) No 1169/2010;
- 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;
- Commission Implementing Decision (EU) 2018/1614 of 25 October 2018 laying down specifications for the vehicle registers referred to in Article 47 of Directive (EU) 2016/797 of the European Parliament and of the Council and amending and repealing Commission Decision 2007/756/EC;
- Commission Implementing Regulation (EU) No 402/2013 of 30 April 2013 on the common safety method for risk evaluation and assessment and repealing Regulation (EC) No 352/2009;
- Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004
- Commission Implementing Regulation (EU) 2019/779 of 16 May 2019 laying down detailed provisions on a system of certification of entities in charge of maintenance of vehicles pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 445/2011;
- Commission Implementing Regulation (EU) 2018/545 of 4 April 2018 establishing practical arrangements for the railway vehicle authorisation and railway vehicle type authorisation process pursuant to Directive (EU) 2016/797 of the European Parliament and of the Council;

- Commission Implementing Regulation (EU) 2019/250 of 12 February 2019 on the templates for ‘EC’ declarations and certificates for railway interoperability constituents and subsystems, on the model of declaration of conformity to an authorised railway vehicle type and on the ‘EC’ verification procedures for subsystems in accordance with Directive (EU) 2016/797 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 201/2011;
- Commission Implementing Regulation (EU) 2019/777 of 16 May 2019 on the common specifications for the register of railway infrastructure and repealing Implementing Decision 2014/880/EU;
- The French Transport Code;
- Decree No 2006-369 of 28 March 2006 on the tasks and articles of association of the Etablissement public de sécurité ferroviaire; and
- Decree No 2020-1821 of 29 December 2020 on the rail safety and interoperability of the French section of the Channel Fixed Link;

Having regard, as far as the United Kingdom is concerned, to the Railway (Licensing of Railway Undertakings) Regulations 2005, the Railways and Other Guided Transport Systems (Safety) Regulations 2006, the Train Driving Licences and Certificates Regulations 2010, the Railways (Interoperability) Regulations 2011, and the following assimilated EU law:

- Commission Regulation (EU) N° 1078/2012 of 16 November 2012 on a common safety method for monitoring to be applied by railway undertakings, infrastructure managers after receiving a safety certificate or safety authorisation and by entities in charge of maintenance;
- Commission Delegated Regulation (EU) 2018/761 of 16 February 2018 establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 1077/2012;
- Commission Delegated Regulation (EU) 2018/762 of 8 March 2018 establishing common safety methods on safety management system requirements pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulations (EU) No 1158/2010 and (EU) No 1169/2010;
- 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;

- Commission Implementing Regulation 402/2013 of 30 April 2013 on the common safety method for risk evaluation and assessment and repealing Regulation (EC) No 352/2009;
- Commission Implementing Regulation (EU) 2019/779 of 16 May 2019 laying down detailed provisions on a system of certification of entities in charge of maintenance of vehicles pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 445/2011;
- Commission Implementing Regulation (EU) 2018/545 of 4 April 2018 establishing practical arrangements for the railway vehicle authorisation and railway vehicle type authorisation process pursuant to Directive (EU) 2016/797 of the European Parliament and of the Council; and
- Commission Implementing Regulation (EU) 2019/250 of 12 February 2019 on the templates for ‘EC’ declarations and certificates for railway interoperability constituents and subsystems, on the model of declaration of conformity to an authorised railway vehicle type and on the ‘EC’ verification procedures for subsystems in accordance with Directive (EU) 2016/797 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 201/2011;

Considering the need to maintain a coherent legal framework throughout the Fixed Link;

Considering the importance of ongoing cooperation and information sharing between the United Kingdom and French governments regarding the development of National Technical Specification Notices and Technical Specifications for Interoperability;

Considering the importance of ongoing cooperation between the Intergovernmental Commission, the Office of Rail and Road and the Etablissement Public de Sécurité Ferroviaire in relation to the safety and interoperability of the Fixed Link;

HAVE AGREED the following:

## **CHAPTER I – GENERAL PROVISIONS**

### **ARTICLE 1**

#### **Purpose**

The purpose of this Agreement is to set out safety and interoperability requirements applicable to the Fixed Link.

### **ARTICLE 2**

#### **Interpretation**

- 1) For the purposes of this Agreement, the following definitions apply:
  1. “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 involving rolling stock in motion, fires and others;
  2. “agency” means the agency established by Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004;
  3. “this Agreement” means the agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic on safety and interoperability requirements in the Channel Fixed Link;
  4. “area of operation” means, in the United Kingdom, a network or networks within the United Kingdom where a railway undertaking intends to operate, and, as regards France, a network or networks within one or more Member States of the European Union where a railway undertaking intends to operate;
  5. “area of use” means a network or networks in which a vehicle is intended to be used;
  6. “bilateral agreement on safety certification” means the 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 Tunnel signed in Paris on 14 October 2022, and London on 23 January 2023;

7. “causes” means actions, omissions, events or conditions, or a combination thereof, which led to an accident or incident;
8. “certification body” means a body, responsible for the certification of entities in charge of maintenance or for certification of the entity or organisation that fulfils maintenance functions referred to in subparagraphs 5(b), (c) or (d) of Article 16 of this Agreement, or parts of those functions;
9. “common safety methods” or “CSM” means:
  - i. for the UK section of the Fixed Link, the common safety methods set out in assimilated Commission Regulation (EU) 1078/2012, assimilated Commission Implementing Regulation (EU) 402/2013, assimilated Commission Delegated Regulation (EU) 2018/761 and assimilated Commission Delegated Regulation (EU) 2018/762;
  - ii. for the French section of the Fixed Link, the common safety methods referred to in Article 6 of the Safety Directive;
10. “Common section” means that part of the Fixed Link which is normally used by all categories of trains for the delivery of the services described in Article 1 of the Intergovernmental Commission Regulation of 23 July 2009 on the use of the Channel Tunnel;
11. “Concession” has the meaning given in Article 1 of the Treaty;
12. “Concessionaires” has the meaning given in Article 1 of the Treaty;
13. “contracting entity” means a public or private entity which orders the design and/or construction or the renewal or upgrading of a subsystem;
14. “declaration of verification” means respectively:
  - i. in the United Kingdom, a “UK” declaration of verification as defined in English law;
  - ii. in France, an ‘EC’ declaration of verification as defined in European Union law;
15. “entity in charge of maintenance” or “ECM” means an entity in charge of the maintenance of a vehicle and registered as such in one of the vehicle registers specified in Article 25 of this Agreement;

16. “ECM certificate” means an entity in charge of maintenance certificate;
17. “EPSF” means Établissement Public de Sécurité Ferroviaire, as defined in the French Transport Code, in particular Articles L.2221-1 to L.2221-7;
18. “ERTMS” means European Rail Traffic Management System which integrates train protection systems (ETCS), radio communication systems (RMR), and automated train operation (ATO).;
19. “essential requirements” means respectively:
  - i. in the United Kingdom, all the conditions set out in English law which must be met by the UK rail system, the subsystems and the interoperability constituents, including interfaces;
  - ii. in France, all the conditions set out in Annex III of the Interoperability Directive which must be met by the Union rail system, the subsystems, and the interoperability constituents, including interfaces;
20. “EU accredited body” means a body that has obtained accreditation as defined in Article 2 of the EU ECM Regulation;
21. “EU ECM Regulation” means Commission Implementing Regulation (EU) 2019/779 of 16 May 2019 laying down detailed provisions on a system of certification of entities in charge of maintenance of vehicles pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 445/2011;
22. “EU single safety certificate” means a single safety certificate issued in the European Union pursuant to Articles 10(5) or (8) of the Safety Directive, with an area of operation covering the French section of the Fixed Link;
23. “EU vehicle authorisation” means a vehicle authorisation for placing on the market issued in the European Union pursuant to Article 21(5) or Article 21(8) of the Interoperability Directive for an area of use including the French section of the Fixed Link;
24. “fixed installation” means any trackside control-command and signalling, energy or infrastructure subsystem;
25. “Fixed Link” means the Channel Fixed Link as defined in Article 1(2) of the Treaty;
26. “French section of the Fixed Link” means the part of the Fixed Link located on the French side of the frontier between the United Kingdom

and France, as established by Article 3 of the Treaty, as regards any matter related to the Fixed Link;

27. “GB single safety certificate” means a single safety certificate issued by the ORR in accordance with Article 8 of this Agreement;
28. “GB vehicle authorisation” means a vehicle authorisation for placing on the market issued by the ORR for the UK section of the Fixed Link in accordance with this Agreement and assimilated Commission Implementing Regulation (EU) 2018/545;
29. “incident” means any occurrence, other than an accident or serious accident, affecting the safety of railway operations;
30. “infrastructure manager” means any body or firm responsible for the operation, maintenance and renewal of railway infrastructure on a network;
31. “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;
32. “interoperability constituent” means any elementary component, group of components, sub-assembly or complete assembly of equipment incorporated or intended to be incorporated into a subsystem, upon which the interoperability of the UK rail system or Union rail system depends directly or indirectly, as appropriate, including both tangible objects and intangible objects;
33. “Interoperability Directive” means Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (recast);
34. “investigating bodies” means the national UK and French investigating bodies, respectively:
  - i. the Rail Accident Investigation Branch (“RAIB”) established by the Railways and Transport Safety Act 2003;
  - ii. the French Office for the investigation of land transport accidents (bureau d’enquêtes sur les accidents de transport terrestre “BEA-TT”) established by Articles L. 1621-1 to L. 1621-20 of the French Transport Code;
35. “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;

36. “keeper” means the natural or legal person that, being the owner of a vehicle or having the right to use it, exploits the vehicle as a means of transport and is registered as such in a vehicle register as referred to in Article 25 of this Agreement;
37. “mobile subsystem” means the rolling stock subsystem and the on-board control-command and signalling subsystem;
38. “national rules” means respectively:
  - i. in the United Kingdom, all binding rules adopted in the United Kingdom, irrespective of the body issuing them, which contain railway safety or technical requirements, other than those contained in NTSN or laid down by international rules, and which are applicable within the UK section of the Fixed Link to railway undertakings, infrastructure managers or third parties;
  - ii. in France, all binding rules adopted by the State or by the infrastructure manager which contain railway safety or technical requirements, other than those laid down by the European Union or international rules, and which are applicable within the French section of the Fixed Link to railway undertakings, infrastructure managers or third parties;
39. “national safety authority” means:
  - i. for the UK section of the Fixed Link, the ORR;
  - ii. for the French section of the Fixed Link, EPSF;
40. “network” means the lines, stations, terminals, and all kinds of fixed equipment needed to ensure safe and continuous operation of a rail system;
41. “National Technical Specification Notices” or “NTSNs” means national technical specification notices published in the United Kingdom pursuant to Regulation 3B of RIR;
42. “ORR” means the Office of Rail and Road established by section 15 of the Railways and Transport Safety Act 2003 as the Office of Rail Regulation and subsequently renamed by the Office of Rail Regulation (Change of Name) Regulations 2015;
43. “OSS” means the one-stop shop referred to in Article 12 of Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May

2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004;

44. “placing in service” means all of the operations by which a subsystem is put into its operational service;
45. “placing on the market” means respectively:
  - i. as regards the United Kingdom, the first making available on the United Kingdom’s market of an interoperability constituent, subsystem or vehicle ready to function in its design operating state;
  - ii. as regards France, the first making available on the European Union’s market of an interoperability constituent, subsystem or vehicle ready to function in its design operating state;
46. “railway undertaking” means:
  - i. in the UK section of the Fixed Link, any 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 is to ensure traction; this also includes undertakings which provide traction only but does not include any undertaking to which regulation 4(2) of the Railway (Licensing of Railway Undertakings) Regulations 2005 applies;
  - ii. in the French section of the Fixed Link, a railway undertaking as defined in paragraph 3 of Article 3 of the Safety Directive;
47. “renewal” means any major substitution work on a subsystem or part of it which does not change the overall performance of the subsystem;
48. “RIR” means the Railways (Interoperability) Regulations 2011;
49. “Safety Directive” means Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast), as amended by Directive (EU) 2020/700 of the European Parliament and of the Council of 25 May 2020 and by Regulation (EU) 2020/1530 of the European Parliament and of the Council of 21 October 2020;
50. “safety management system” means the organisation, arrangements and procedures established by an infrastructure manager or a railway undertaking to ensure the safe management of its operations which comply with Article 7 of this Agreement.
51. “serious accident” means any train collision or derailment of trains resulting in the death of at least one person or serious injuries to five or more persons or extensive damage to rolling stock, the infrastructure or the environment, and any other accident with the same consequences

which has an obvious impact on railway safety regulation or the management of safety; ‘extensive damage’ means damage that can be immediately assessed by the investigating body to cost at least GBP £1,780,000 or EUR 2,000,000 in total;

52. “serious safety risk” means 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.
53. “subsystems” means:
  - i. in relation to the UK section of the Fixed Link, those subsystems or parts of subsystems listed in RIR;
  - ii. in relation to the French section of the Fixed Link, those subsystems or parts of subsystems listed in Annex II of the Interoperability Directive;
54. “technical specification for interoperability” or “TSI” means technical specification for interoperability as defined in paragraph 11 of Article 2 of the Interoperability Directive.
55. “technical standards” means:
  - i. for the UK section of the Fixed Link, national technical specification notices published by the Secretary of State setting out the standards, technical specifications and technical rules by which each subsystem or part of a subsystem is covered in order to meet the essential requirements;
  - ii. for the French section of the Fixed Link, the technical specifications for interoperability adopted in accordance with the Interoperability Directive by which each subsystem or part of a subsystem is covered in order to meet the essential requirements and ensure the interoperability of the Union rail system;
  - iii. for the UK and French section of the Fixed Link, any applicable national rules relating to interoperability of constituents, subsystems or vehicles;
56. “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 Channel Fixed Link, signed at Canterbury on 12 February 1986;
57. “UK accredited body” means a body that has obtained accreditation as defined in Article 2 of the UK ECM Regulation;

58. “UK ECM Regulation” means assimilated Commission Implementing Regulation (EU) 2019/779 of 16 May 2019 laying down detailed provisions on a system of certification of entities in charge of maintenance of vehicles pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 445/2011;
59. “UK rail system” means the structure composed of lines and fixed installations of the existing rail system in the United Kingdom plus the vehicles of all categories and origin travelling on that infrastructure;
60. “UK section of the Fixed Link” means the part of the Fixed Link located on the United Kingdom side of the frontier between the United Kingdom and France, as established by Article 3 of the Treaty, as regards any matter related to the Fixed Link;
61. “Union rail system” means the European Union rail system as defined in point 1 of Article 2 of the Interoperability Directive;
62. “upgrading” means any major modification work on a subsystem or part of it which results in a change in the technical file accompanying the declaration of verification, if that technical file exists, and which improves the overall performance of the subsystem;
63. “vehicle” means a railway vehicle suitable for circulation on wheels on railway lines, with or without traction; a vehicle is composed of one or more structural and functional subsystems;
64. “vehicle type” means a vehicle type defining the basic design characteristics of the vehicle as covered by a type or design examination certificate described in the relevant verification module. These characteristics are those defined by the applicable NTSNs in relation to the United Kingdom and the applicable TSIs in relation to France.

2) Each national safety authority is competent to exercise its functions within its respective section of the Fixed Link only. To that extent, ORR is competent in respect of the UK section of the Fixed Link and the EPSF is competent in respect of the French section of the Fixed Link. References in this Agreement to the “competent” national safety authority, or the national safety authority that is “competent” in respect of a section of the Fixed Link, are to be construed accordingly.

3) For the purposes of this Agreement, references to any ‘assimilated’ Commission Regulation, Commission Delegated Regulation or Commission Implementing Regulation shall be construed as references to those Regulations as assimilated into English law by section 3 of the European Union (Withdrawal) Act 2018 and as amended or modified from time to time only where this is necessary in order to keep the assimilated EU law aligned with EU law.

4) Where there are references to ‘NTSNs’ and ‘TSIs’ in provisions of this Agreement, any non-applications of, or exemptions or derogations from, those NTSNs or TSIs, as applicable in English law or European and French law respectively, shall apply.

5) Nothing in this Agreement shall be taken as altering the applicability of the provisions in the Convention on International Carriage by Rail (‘COTIF’).

6) None of this Agreement’s provisions applicable to the French section of the Fixed Link can be interpreted as prevailing over the provisions of European Union Law.

### ARTICLE 3

#### **Coherence of the Legal Framework of the Fixed Link**

1) This Agreement is without prejudice to the functions of the IGC and the Safety Authority which are respectively conferred upon them by Articles 10 and 11 of the Treaty and the Concession, and which do not fall within the scope of this Agreement. The IGC and the Safety Authority may carry out coordination activities in the areas covered by this Agreement, in accordance with the provisions of Articles 3, 9, 10, 11 and 12, which deal with the co-ordination of competences between the IGC and the Safety Authority, on the one hand, and the national safety authorities, on the other.

2) The powers conferred by the Treaty to the IGC and the Safety Authority as established in accordance with Article 11 of the Treaty do not affect the respective competences of the ORR under English Law and the EPSF under the law applicable in France, in particular those mentioned in Article 13 of this Agreement, nor those of the Agency under EU law.

3) The IGC may give advice or make recommendations in order to improve the coordination of legislative and regulatory changes and to support the coherence of the legal framework applicable to the safety and interoperability of the Fixed Link, in accordance with the legislation respectively applicable on each Party’s territory.

4) In accordance with Article 11(4) of this Agreement, the IGC shall be consulted in the event of a risk of clearly incompatible decisions by the national safety authorities which could seriously affect the level of safety of the Fixed Link.



## **CHAPTER II – SAFETY**

### **ARTICLE 4**

#### **Role of the Infrastructure Manager**

- 1) The Concessionaires are the infrastructure manager for the Fixed Link.
- 2) Without prejudice to civil liability established in conformity with legal requirements, the Concessionaires are responsible for the part of the UK rail system located in the UK section of the Fixed Link and the part of the Union rail system located in the French section of the Fixed Link and their safe operation, including the supply of material and the contracting of services, vis-à-vis users, customers, the workers concerned and third parties.
- 3) For this purpose and without prejudice to their responsibilities under the Concession, the Concessionaires shall take all necessary measures and in particular shall:
  - (a) implement any necessary risk control measures, where appropriate in co-operation with railway undertakings;
  - (b) comply with legislation applying to them in the United Kingdom and European Union and the relevant national rules applying to the UK and Union rail systems;
  - (c) be responsible for the compliance of the shuttle service operations for road vehicles with the safety requirements for the Common Section;
  - (d) ensure that vehicles used for operating shuttle services for road vehicles are authorised to run on the Common Section;
  - (e) ensure that vehicles used to operate their shuttle services for road vehicles are in safe condition;
  - (f) 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 Fixed Link;
  - (g) ensure that their staff undertaking safety-related work have been trained, and possess and maintain the appropriate skills and certification;
  - (h) take any necessary corrective measures if they identify, or are advised of, a situation presenting a serious or imminent safety risk arising from defects, and construction non-conformities or malfunctions of technical

equipment, including those of structural subsystems, and report those risks to the relevant parties involved, in order to enable them to take any necessary further corrective action;

- (i) advise the IGC and the national safety authorities of any risks identified pursuant to subparagraph (h) and of any corrective measures taken, in order for the national safety authorities to assess the action to be taken, in particular action under paragraphs 14 and 15 of Article 8 of this Agreement;
- (j) where appropriate, contractually require third parties having a potential impact on the safe operation of the Fixed Link to implement risk management measures in compliance with relevant CSMs. These contractual provisions shall, upon request, be notified to the national safety authorities and, as regards the French section of the Fixed Link, the Agency where appropriate.

## ARTICLE 5

### **Role of the railway undertakings**

1) 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.

2) For this purpose, railway undertakings shall take all appropriate measures and in particular shall:

- (a) implement any necessary risk control measures, where appropriate in cooperation with the Concessionaires;
- (b) comply with relevant United Kingdom and European Union legislation and relevant national rules applying to the UK and Union rail systems;
- (c) 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 Fixed Link;
- (d) ensure that the vehicles used for carrying out their railway transport activities are authorised to run on the Common Section and are in safe condition;
- (e) take any necessary corrective measures if they identify, or are advised of, a situation presenting a clear and present safety risk arising from

defects and construction non-conformities or malfunctions of technical equipment, including those of structural subsystems, and report those risks to the relevant parties involved, in order to enable them to take any necessary further corrective action;

- (f) advise the IGC and the national safety authorities of any safety risks identified pursuant to subparagraph (e) and of any corrective measures taken;
- (g) where appropriate, contractually require third parties having a potential impact on the safe operation of the Fixed Link to implement risk management measures in compliance with relevant CSMs. These contractual provisions shall, upon request, be notified to the national safety authorities and, as regards the French section of the Fixed Link, the Agency where appropriate.

3) If vehicles are exchanged between railway undertakings, the parties in question shall exchange all information relevant to safe operation including the condition and history of the vehicle concerned, elements of the maintenance files for the purpose of traceability of vehicle maintenance operations, traceability of loading operations and consignment notes.

## ARTICLE 6

### **National Rules in the Field of Railway Safety and Interoperability**

- 1) National rules for the United Kingdom shall apply in the UK section of the Fixed Link in accordance with English law, and French national rules shall apply in the French section of the Fixed Link in accordance with French and European law.
- 2) The national rules for the United Kingdom and France shall be published as required by English and French law respectively and, in the case of French national rules, European Union law.

## ARTICLE 7

### **Safety Management Systems**

- 1) The Concessionaires shall draw up and put into effect a safety management system which shows their ability to assume their responsibility for safety in accordance with Commission Delegated Regulation (EU) 2018/762, as it has effect in the European Union and as assimilated into English law.
- 2) The Concessionaires' and railway undertakings' safety management system shall meet the requirements and contain the elements set out in the national rules and the Annex to this Agreement, adapted with regard to the type, extent and other

conditions of the activities undertaken with the aim of ensuring a coherent safety regime for the Fixed Link. Without prejudice to existing national and international liability rules, the Concessionaires' and railway undertakings' safety management system shall take account, where appropriate and reasonable, of the risks arising as a result of the activities of third parties.

3) The Concessionaires' safety management system shall take account of the effects on operating safety of the activities carried out by the different railway undertakings that use the Common Section, and make provision to allow all railway undertakings to operate in accordance with applicable NTSNs in the United Kingdom and applicable TSIs in France, relevant national rules, and with conditions laid down in the safety certificate required for operation on the railway infrastructure on the Fixed Link under Article 8(1) of this Agreement. It shall provide for the co-ordination of the Concessionaires' emergency procedures with those of all the railway undertakings using the Common Section, with those of the emergency services, so as to facilitate the rapid intervention of rescue services, and with those of any other party that could be involved in an emergency situation.

4) The Concessionaires and railway undertakings shall include in their safety management system any other element necessary to cover safety risks, in accordance with the assessment of risks arising from their own activity.

5) In order to operate in the Fixed Link, railway undertakings must have a safety management system drawn up and put into effect in accordance with Commission Delegated Regulation (EU) 2018/762, as it has effect in the European Union or as assimilated into English law as appropriate.

6) Before 31 May of each year, the Concessionaires and railway undertakings operating in the Fixed Link shall submit to each national safety authority an annual safety report for the section of the Fixed Link in which the national safety authority concerned is competent. Each annual report shall concern the preceding calendar year and shall contain:

- (a) information on how the organisation's corporate safety targets are met and the results of safety plans;
- (b) an account of the development of national safety indicators, and of the common safety indicators as defined in paragraph 7 of this Article, as respectively applicable in the UK section and the French section of the Fixed Link respectively and in so far as it is relevant to the reporting organisation;
- (c) the results of internal safety auditing;
- (d) observations on deficiencies and malfunctions of railway operations and infrastructure management that might be relevant for the national safety authority, including a summary of information provided by the relevant actors in accordance with Article 4(3)(h) in the case of the

Concessionaires and Article 5(2)(e) in the case of railway undertakings;  
and

- (e) a report on the application of the relevant CSMs.

7) For the purposes of paragraph 6 of this Article, the applicable common safety indicators are:

- (a) in respect of the UK section of the Fixed Link, those laid down in Annex I to the Safety Directive and in the Appendix to Annex I, save that Annex 1 is to be read with the following modifications:
  - (i) in paragraph 5, for “euro” substitute “GBP”;
  - (ii) in paragraph 1.2 of the Appendix, for “EUR 150 000” substitute “GBP 130,000”;
  - (iii) in paragraph 2.1 of the Appendix, for “RID/ADR section 1.8.5” substitute “the Regulations concerning the International Carriage of Dangerous Goods by Rail (RID) and section 1.8.5 of the Agreement for International Carriage of Dangerous Goods by Road (ADR)”;
  - (iv) in paragraph 5.1(1) of the Appendix, for “Member State for which they are applied” substitute “United Kingdom”;
  - (v) in paragraph 5.1(2) of the Appendix, for “Member State” substitute “United Kingdom”;
  - (vi) in paragraph 5.3.3 of the Appendix, in both places where it occurs, for “EUR” substitute “GBP”; and
  - (vii) in paragraphs 7.3 and 7.4 of the Appendix, for “railway network in Member States, whose scope is laid down in Article 2” substitute “Fixed Link”; and
- (b) in respect of the French section of the Fixed Link, those laid down in Annex I to the Safety Directive and in the Appendix to Annex I.

8) This Article must be read in conjunction with Article 35.

## ARTICLE 8

### **Safety Certification**

1) Further to the bilateral agreement on safety certification, a railway undertaking shall not operate on the railway infrastructure of the Fixed Link unless

it holds one of the following safety certificates, valid on at least one of the two sections of the Fixed Link:

- (a) a Part A and Part B safety certificate issued in accordance with Article 10(2) of Directive 2004/49/EC;
- (b) an EU single safety certificate, issued in accordance with Commission Implementing Regulation (EU) 2018/763. This single safety certificate may be issued by the Agency or when the area of operation is limited to French territory by the EPSF; or
- (c) a GB single safety certificate.

2) In its application for a GB single safety certificate or an EU single safety certificate, the railway undertaking must specify the type and extent of the railway operations covered, and in the case of an application for an EU single safety certificate it must also specify its intended area of operation.

The application for a GB single safety certificate or an EU single safety certificate must be accompanied by a file including documentary evidence that demonstrates:

- (a) the establishment of a safety management system in accordance with Article 7 of this Agreement and that meets:
  - (i) in the case of a GB single safety certificate, the requirements of English law;
  - (ii) in the case of an EU single safety certificate, the requirements of European law;
- (b) where applicable, conformity with the safety requirements set out in the relevant national rules.

3) An application for a GB single safety certificate or an EU single safety certificate and all information relating to that application, including the stages of the relevant procedures and their outcome and, where applicable, the requests and decisions relating to appeals, shall be forwarded, respectively, to the ORR or through the OSS.

4) A GB single safety certificate or an EU single safety certificate grants acceptance of the railway undertaking's safety management system and provides evidence of its compliance with the provisions at Article 7 of this Agreement.

5) A GB single safety certificate or an EU single safety certificate shall be valid for a period not exceeding five years, and may be renewed following an application by the railway undertaking.

It shall be fully or partially updated whenever the type or extent of the operation is substantially altered.

The competent national safety authority may require the revision of a single safety certificate issued by them following substantial changes in the safety regulatory framework.

6) An applicant may, within one month of receipt of a decision refusing the issue of a GB single safety certificate or an EU single safety certificate, request that the competent national safety authority reviews that decision.

The competent national safety authority shall have two months from the date of receipt of the request for review in which to confirm or reverse its decision.

If the competent national safety authority receives a request for review, or in case of the EPSF is being made aware by the Agency of such a request, it will co-operate closely with the other authority in line with the common working arrangements, referred to in Article 11 of this Agreement.

7) Where EU single safety certificates are issued by the Agency, and in such cases where the area of operation of the certificate includes the French section of the Fixed Link, the EPSF, upon referral by the Agency, shall examine the sections of the file provided for in paragraph 2 of this Article.

The EPSF may, in this context, require additional relevant information and is authorised to carry out visits and inspections of the railway undertaking's sites within its jurisdiction, as well as audits. The EPSF, where appropriate, shall coordinate with the Agency when organising such visits, audits and inspections.

8) In the event that the Agency disagrees with a negative assessment issued by the EPSF following an examination of an application for an EU single safety certificate providing evidence of compliance with the relevant national rules, provided for by paragraph 7 of this Article, the EPSF shall cooperate with the Agency with a view to reaching a mutually acceptable conclusion. If necessary, the Agency and the EPSF may involve the railway undertaking.

Should such a disagreement arise, the EPSF shall notify the ORR as soon as possible, giving details of the disagreement and of any mutually acceptable conclusion reached, if any.

If no mutually acceptable conclusion can be found within the month following the date on which the Agency informed the EPSF of its disagreement, the EPSF may refer this issue for arbitration to the Board of Appeal, provided for by Article 55 of Regulation (EU) 2016/796.

Should the EPSF refer an issue to arbitration in this manner, it shall notify the ORR of the referral and of the outcome of the arbitration.

9) In the event that the Agency disagrees with a positive assessment, issued by the EPSF following an examination of an application for an EU single safety certificate providing evidence of compliance with the relevant national rules, provided for by paragraph 7 of this Article, the EPSF shall cooperate with the Agency with a view to reaching a mutually acceptable conclusion. If necessary, the Agency and the EPSF may involve the railway undertaking.

Should such a disagreement arise, the EPSF shall notify the ORR as soon as possible, giving details of the disagreement and of any mutually acceptable conclusion reached, if any.

If no mutually acceptable conclusion can be found within one month, at the latest, after the date that information has been communicated to the EPSF, the Agency shall render its final decision. Once notified of that decision the EPSF shall inform the ORR as soon as possible.

10) Where the railway undertaking intends to operate on the UK section of the Fixed Link, the ORR may issue a GB single safety certificate.

Where the area of operation is limited to all or part of French territory, the EPSF may, under its own responsibility and at the request of the railway undertaking, issue an EU single safety certificate.

If the EPSF has not responded to an application for an EU single safety certificate by three months and two weeks, this constitutes a decision to reject the application. This period only runs from the moment the file is complete.

The competent national safety authority shall have a period of one month from receipt of the application to make it known, either that the file contains all of the documents and records required or, if it does not, it shall ask the railway undertaking for relevant supplementary information and set a timescale for compliance, reasonable and proportional to the difficulty of providing the information requested. If the railway undertaking is not otherwise informed by the competent national safety authority within one month after its application, the application shall be deemed complete.

The competent national safety authority shall take full responsibility for any safety certificate that it issues.

The EPSF shall inform the Agency within two weeks of issuing an EU single safety certificate and it shall indicate the name and the address of the railway undertaking, the date of issue, the type, extent, validity and the area of operation covered by the certificate. Where the EPSF has withdrawn an EU single safety certificate, it shall also indicate the reasons for its decision within the same timeframe.

11) In order to issue a GB single safety certificate or an EU single safety certificate, the relevant national safety authority shall examine the file mentioned in paragraph 2 of this Article. In the context of this examination, the competent national



safety authority is authorised to carry out inspections and visits to the railway undertaking's sites within their jurisdiction as well as audits.

12) Any changes to a GB single safety certificate or an EU single safety certificate shall not modify the period of its validity.

13) The requirements for obtaining a GB single safety certificate, including the role of the ORR, the period of validity of GB single safety certificates, are set out in assimilated Commission Implementing Regulation (EU) 2018/763.

The requirements for obtaining an EU single safety certificate, the details of the procedure, including the role of the Agency and the EPSF, as well as the validity period for EU single safety certificates are set out in Commission Implementing Regulation (EU) 2018/763.

14) If a competent national safety authority finds that a railway undertaking to which it has issued a single safety certificate no longer satisfies the conditions for certification, it may restrict or revoke that single safety certificate, giving reasons for its decision. It shall inform the other national safety authority of any such restriction or revocation as soon as possible. EPSF shall inform the Agency.

15) Where the EPSF finds that a railway undertaking holding an EU single safety certificate issued by the Agency no longer satisfies the conditions for certification, it shall request the Agency to restrict or revoke that EU single safety certificate. Should the EPSF make such a request, it shall inform the ORR that it has done so as soon as possible.

If the Agency disagrees with the EPSF's request, the EPSF and the Agency shall cooperate with a view to agreeing on a mutually acceptable assessment. Where necessary, the Agency and the EPSF may decide to involve the railway undertaking.

If no mutually acceptable assessment can be agreed on within 1 month after the Agency has informed the EPSF of its disagreement, the EPSF may refer the matter for arbitration to the Board of Appeal provided for by Article 55 of Regulation (EU) 2016/796.

If the result of that arbitration procedure is that the EU single safety certificate is to be neither restricted nor revoked, the temporary safety measures referred to in paragraph 9 of Article 17 shall be suspended.

16) The holder of a GB single safety certificate or an EU single safety certificate whose certificate has been restricted or revoked by a national safety authority may bring an appeal against that decision before an appeal body in accordance with the relevant national law of the national safety authority which took the decision.

## ARTICLE 9

### **Cooperation in the Field of Safety**

- 1) The national safety authorities shall cooperate with one another in respect of railway safety in the Fixed Link in accordance with the requirements established in this Agreement and in accordance with the legislation respectively applicable on each Party's territory.
- 2) The national safety authorities shall inform the IGC, established by Article 10 of the Treaty to supervise, in the name and on behalf of the two governments, all matters concerning the construction and operation of the Fixed Link, of any safety measures that they intend to carry out in their respective jurisdictions. In accordance with the legislation respectively applicable on each Party's territory, they shall cooperate with the IGC on all matters relating to railway safety in the Fixed Link.

## ARTICLE 10

### **Communication of Information**

- 1) The IGC shall transfer or communicate to the national safety authorities as quickly as practicable any information or document that it holds for the purposes of its functions under the Regulation of the Intergovernmental Commission on the safety of the Channel Fixed Link done on the 24th January 2007 as amended by the Regulation of the Intergovernmental Commission done on the 6th February 2013.
- 2) The IGC and the national safety authorities may, in accordance with the legislation respectively applicable to them, exchange information with each other as necessary to perform their respective functions relating to the Fixed Link.

## ARTICLE 11

### **Working Arrangements**

- 1) The national safety authorities shall, in the performance of their functions relating to the Fixed Link, have regard, in accordance with the legislation respectively applicable on each Party's territory, to the need to coordinate and to adopt decisions or opinions that have an aligned practical effect across the entirety of the Fixed Link.
- 2) To that end and in accordance with the legislation respectively applicable on each Party's territory, the national safety authorities shall, in the performance of their functions relating to the Fixed Link, cooperate closely and coordinate their decision making, including by putting in place common working arrangements. The working arrangements shall permit the adoption of aligned decisions or opinions by the national safety authorities.

3) After consulting the IGC, the national safety authorities shall publish their common working arrangements. If appropriate, the common working arrangements shall include work carried out with the IGC and the Safety Authority as established in accordance with Article 11 of the Treaty.

4) Where, in spite of the common working arrangements referred to above, it appears to the IGC that the national safety authorities are at risk of adopting decisions or opinions that do not have an aligned practical effect across the entirety of the Fixed Link, the IGC shall work with the national safety authorities to find a mutually acceptable solution which is compatible with the safe operation of the Fixed Link and the respective obligations of the national safety authorities, in particular those arising from the legislation respectively applicable on each Party's territory and without prejudice to the independence of the two national safety authorities.

## ARTICLE 12

### **Responsibilities of the National Safety Authorities**

1) The national safety authorities shall support, promote and where necessary take action to ensure the safe use of the Fixed Link by all users. In particular, the national safety authorities shall take into account the specific characteristics of the Fixed Link. They shall, together with the IGC, 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 relevant national legislation, as well as technical and scientific progress, and by giving priority to the prevention of serious accidents.

2) The national safety authorities shall cooperate and support one another in discharging their rail safety related functions relating to the Fixed Link under their respective national legislation, including European Union legislation as it applies to the French section of the Fixed Link.

## ARTICLE 13

### **Tasks of the National Safety Authorities**

1) The national safety authorities competent for the Fixed Link shall carry out their tasks in relation to the Fixed Link in an open, non-discriminatory and transparent way. In particular, they may take into account views of interested parties.

2) The tasks of the national safety authorities competent for the Fixed Link may not be transferred or subcontracted to any infrastructure manager, railway undertaking or contracting entity and shall include the following:

- (a) authorising the placing in service of fixed installations in the Fixed Link in accordance with, in France, Article 18(2) of the Interoperability

Directive or, in the United Kingdom, in accordance with the equivalent requirements under English law;

- (b) issuing, renewing, amending and revoking vehicle authorisations for placing on the market in accordance with Article 24 of this Agreement;
- (c) in the case of the ORR only, issuing, renewing, amending and revoking type authorisations for vehicles in accordance with English law;
- (d) in the case of the EPSF only, supporting the Agency in the issuing, renewal, amendment and revocation of vehicle authorisations for placing on the market in accordance with Article 21(5) of the Interoperability Directive and type authorisation of vehicles in accordance with Article 24 of the Interoperability Directive;
- (e) supervising, in their respective jurisdictions, that interoperability constituents are in compliance with the essential requirements as required in the United Kingdom by RIR or, in France by Article 8 of the Interoperability Directive;
- (f) ensuring in their respective jurisdictions that a vehicle registration number has been assigned, in accordance with the Interoperability Directive for the French section of the Fixed Link, and, in accordance with equivalent applicable legislation for the UK section of the Fixed Link;
- (g) in the case of the EPSF only, supporting the Agency in the issuing, renewal, amendment and revocation of EU single safety certificates granted in accordance with Article 10(5) of the Safety Directive;
- (h) issuing, renewing, amending and revoking single safety certificates granted in accordance with Article 8 of this Agreement;
- (i) issuing, renewing, amending and revoking safety authorisations granted in accordance with Article 14 of this Agreement;
- (j) monitoring, promoting, and, where appropriate, enforcing and updating the safety regulatory framework;
- (k) supervising railway undertakings and infrastructure managers, in the case of the ORR, in accordance with Article 17 of this Agreement, and in the case of the EPSF, in accordance with Article 17 of the Safety Directive and in accordance with Article 17 of this Agreement;
- (l) where relevant, and in accordance with national law, issuing, renewing, amending and revoking certificates granted to entities in charge of maintenance.

3) The national safety authorities competent for the Fixed Link may at any time request the technical assistance of infrastructure managers and railway undertakings or other qualified bodies when carrying out their tasks.

## ARTICLE 14

### **Safety Authorisation of the Infrastructure Manager**

1) The Concessionaires may only manage and operate the Fixed Link if they hold a safety authorisation for the UK section of the Fixed Link issued by the ORR and a safety authorisation for the French section of the Fixed Link issued by the EPSF.

2) A safety authorisation confirms acceptance by the competent national safety authority 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, including, where appropriate, the maintenance and operation of the traffic control and signalling system.

3) The competent national safety authorities shall provide detailed information on the procedures for obtaining the safety authorisation, its duration, and the procedures for issuing, updating, amending, revising, renewing, suspending and revoking it.

4) The period of validity of a safety authorisation shall be no longer than five years and shall be clearly indicated on the safety authorisation. The safety authorisation may be renewed upon application by the Concessionaires.

5) The competent national safety authorities shall issue a decision on safety authorisation applications made by the Concessionaires no later than four months after submission by the Concessionaires of the requisite information and any supplementary information requested.

6) The EPSF shall issue its decision on any safety authorisation request no later than three months and two weeks after the Concessionaires have submitted the requisite information. If the EPSF does not respond within three months and two weeks of the submission, the application shall be deemed to have been rejected. The period of three months and two weeks shall begin once the application is complete.

The EPSF shall inform the Concessionaires, within one month of receipt of a safety authorisation application made to the EPSF, whether or not the application contains all of the documents and records required. Otherwise, the file shall be deemed complete on expiry of that period.

7) All applications for a safety authorisation, and supporting documents, shall be submitted in the working language of the relevant national safety authority.

8) The Concessionaires shall without delay inform each national safety authority of any substantial changes proposed to the infrastructure, signalling, energy supply or vehicles or to the principles of their operation and maintenance, and shall propose any appropriate modifications to the safety authorisation.

In proposing any introduction of a new element into the part of the UK rail system located in the UK section of the Fixed Link or the part of the Union rail system located in the French section of the Fixed Link or both, or the modification of an existing element of those systems, 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.

The competent national safety authorities' procedures for considering such proposals shall be the same as for considering an application for a safety authorisation.

The period of validity of the relevant safety authorisation shall not be affected by the approval of any such proposals unless the decision of the competent national safety authority indicates otherwise and the safety authorisation is modified accordingly.

9) A national safety authority may require that a safety authorisation it issued be revised following substantial changes to the safety regulatory framework.

10) If a competent national safety authority finds that the Concessionaires no longer satisfy the conditions for a safety authorisation it issued 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.

11) The EPSF shall inform the Agency, within two weeks, of the issue, renewal, amendment or revocation of a safety authorisation it has issued. The notification shall state the name and address of the Concessionaires, the date of issue, the scope and the period of validity of the safety authorisation, and, in the case of revocation, the reasons for its decision.

## ARTICLE 15

### **Access to Training Services**

1) Fair and non-discriminatory access to training necessary for operating services in the Fixed Link shall be provided by the Concessionaires, by railway

undertakings or by appropriate training services, to train drivers and staff performing safety-critical tasks.

2) Training shall cover knowledge of the relevant aspects of the Fixed Link, in particular knowledge of the route; operating rules and procedures; the signalling and control command system; and emergency procedures.

In cases where the training services do not include organisation of examinations to assess staff or issue of certificates, railway undertakings and the Concessionaires shall ensure that their staff have access to such certification.

3) The provision of training services and, where appropriate, the issue of certification must meet the safety requirements laid down in:

- (a) If the training services are provided or the certification is issued in the United Kingdom, NTSNs, the Train Driving Licences and Certificates Regulations 2010 and national rules concerning requirements in respect of staff executing safety-critical tasks, including selection criteria, physical and psychological fitness and vocational training.
- (b) If the training services are provided or the certification is issued in the European Union, TSIs, Directive 2007/59/EC and national rules concerning requirements in respect of staff executing safety-critical tasks, including selection criteria, physical and psychological fitness and vocational training.

4) 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 reasonable profit margin.

The Concessionaires shall make available to the railway undertakings training on the safety rules of the Fixed Link. This training shall be provided at a reasonable and non-discriminatory price, which is cost-related and may include a profit margin.

5) When recruiting new train drivers, staff on board trains and staff performing safety-critical tasks, railway undertakings and the Concessionaires may take into account any training, qualifications and experience acquired previously from other railway undertakings or infrastructure managers. For that purpose, such members of staff shall be entitled to have access to, obtain copies of, and communicate all documents attesting to their training, qualifications and experience.

6) Railway undertakings and the Concessionaires shall be responsible for the level of training and qualifications of their staff carrying out safety-critical work. They shall provide evidence in their safety management systems of the measures they are putting in place to design, implement and quality-assure their training programme.

## ARTICLE 16

### **Maintenance of Vehicles**

- 1) Each vehicle, before it is used in the Fixed Link, shall have an ECM assigned to it and this entity shall be registered in the relevant vehicle register(s) in accordance with Article 25 of this Agreement. Without prejudice to paragraph 13 of this Article, this ECM is subject to either the EU ECM Regulation or the UK ECM Regulation.
- 2) Without prejudice to the responsibilities of the railway undertakings and infrastructure managers as provided for in Articles 4 and 5 of this Agreement, the ECM shall ensure that the vehicles for the maintenance of which it is in charge are in a safe state of running. To that end, the ECM shall establish a maintenance system for those vehicles.
- 3) An ECM subject to the UK ECM regulation shall by means of that maintenance system:
  - (a) ensure that vehicles are maintained in accordance with the maintenance file of each vehicle and the requirements in force, including maintenance rules and provisions of relevant NTSNs;
  - (b) implement the necessary risk evaluation and assessment methods established in assimilated Commission Implementing Regulation (EU) No 402/2013 where appropriate in cooperation with other actors;
  - (c) ensure that its contractors implement risk control measures through the application of assimilated Commission Regulation (EU) No 1078/2012, and that this is stipulated in contractual arrangements which must be disclosed on request to the ORR; and
  - (d) ensure the traceability of the maintenance activities.
- 4) An ECM subject to the EU ECM regulation shall by means of that maintenance system:
  - (a) ensure that vehicles are maintained in accordance with the maintenance file of each vehicle and the requirements in force, including maintenance rules and provisions of relevant TSIs;
  - (b) implement the necessary risk evaluation and assessment methods established in Commission Implementing Regulation (EU) No 402/2013, where appropriate in cooperation with other actors;
  - (c) ensure that its contractors implement risk control measures through the application of Commission Regulation (EU) No 1078/2012 and that this is stipulated in contractual arrangements which must be disclosed on



request of the Agency or the European Union national safety authority;  
and

(d) ensure the traceability of the maintenance activities.

5) The maintenance system shall be composed of the following functions:

(a) a management function to supervise and coordinate the maintenance functions referred to in sub-paragraphs (b) to (d) and to ensure that the vehicle is in a condition for safe operation;

(b) a maintenance development function to manage the maintenance documentation, including the configuration management, based on design and operational data as well as on performance and return on experience;

(c) a fleet-maintenance management function to manage the vehicle's removal for maintenance and its return to operation after maintenance;

(d) a maintenance delivery function to deliver the required technical maintenance of a vehicle or parts of it, including the release to service documentation.

6) The ECM shall carry out the management function itself but may outsource the maintenance functions referred to in sub-paragraphs (b) to (d) of paragraph 5 or parts thereof, to other contracting parties such as maintenance workshops. The ECM is responsible for the outcome of the outsourced maintenance activities and shall establish a system to monitor their performance pursuant to the the UK ECM Regulation if it is subject to the UK ECM Regulation, or EU ECM Regulation if it is subject to the EU ECM Regulation.

7) The ECM shall ensure that all the functions set out in sub-paragraphs (a) to (d) of paragraph 5 comply with the requirements and assessment criteria set out in Annex II of the UK ECM Regulation if the ECM is subject to the UK ECM regulation, or in Annex II of the EU ECM Regulation if the ECM is subject to the EU ECM regulation.

8) Mandatory EU ECM Certification

Subject to paragraph 12, ECMs subject to the EU ECM regulation with responsibility for:

(a) the maintenance of freight wagons used in the Fixed Link, or

(b) the maintenance of non-freight wagon vehicles used in the Fixed Link which are not maintained by railway undertakings exclusively for their own operations or an infrastructure manager exclusively for its own operations,

shall be certified and be awarded an ECM certificate by an EU accredited or recognised body, or by a European Union national safety authority in accordance with the following conditions:

- (i) the accreditation and recognition processes of certification processes shall be based on criteria of independence, competence and impartiality;
- (ii) the system of certification shall provide evidence that an ECM has established the maintenance system to ensure the safe state of running of any vehicle for which it is in charge of maintenance;
- (iii) the ECM certification shall be based on an assessment of the ability of the ECM to meet the relevant requirements and assessment criteria set out in Annex II of the EU ECM Regulation and to apply them consistently. It shall include a system of surveillance to ensure continuing compliance with those requirements and assessment criteria after award of the ECM certificate;
- (iv) the certification of maintenance workshops for vehicles used in the Fixed Link shall be based on the compliance with the relevant sections in Annex II of the EU ECM Regulation, applied to the corresponding functions and activities to be certified.

9) Voluntarily obtaining EU ECM Certification

An ECM of a vehicle used in the Fixed Link other than those mentioned in sub-paragraphs 8(a) and (b), may apply for ECM certification to an EU accredited or recognised body or to a European Union national safety authority in accordance with requirements in sub-paragraph 8(i) to (iv).

10) Mandatory UK ECM Certification

Subject to paragraph 12, ECMs subject to the UK ECM regulation with responsibility for:

- (a) the maintenance of freight wagons used in the Fixed Link, or
- (b) the maintenance of non-freight wagon vehicles used in the Fixed Link which are not maintained by railway undertakings exclusively for their own operations or an infrastructure manager exclusively for its own operations, shall be certified and be awarded an ECM certificate by a UK accredited body or by the ORR in accordance with the following conditions:

- (i) the accreditation and recognition processes of certification processes shall be based on criteria of independence, competence and impartiality;
- (ii) the system of certification shall provide evidence that an ECM has established the maintenance system to ensure the safe state of running of any vehicle for which it is in charge of maintenance;
- (iii) the ECM certification shall be based on an assessment of the ability of the ECM to meet the relevant requirements and assessment criteria set out in Annex II of the UK ECM Regulation and to apply them consistently. It shall include a system of surveillance to ensure continuing compliance with those requirements and assessment criteria after award of the ECM certificate;
- (iv) the certification of maintenance workshops for vehicles used in the Fixed Link shall be based on the compliance with the relevant sections in Annex II of the UK ECM Regulation, applied to the corresponding functions and activities to be certified.

11) Voluntarily obtaining UK ECM Certification

An ECM of a vehicle used in the Fixed Link other than those mentioned in sub-paragraphs 10(a) and (b), may apply for ECM certification to an UK accredited body or to the ORR in accordance with requirements in sub-paragraph 10(i) to (iv).

12) Requirements applying to ECMs which are not certified

- (a) Railway undertakings maintaining non-freight wagon vehicles exclusively for their own operations, and which have not voluntarily obtained ECM certification in accordance with paragraphs 9 or 11, shall demonstrate compliance with:
  - (i) the requirements and assessment criteria set out in Annex II of the EU ECM Regulation through the process of obtaining their EU single safety certificate; or
  - (ii) the requirements and assessment criteria set out in Annex II of the UK ECM Regulation through the process of obtaining their GB single safety certificate,
- (b) Infrastructure managers maintaining non-freight wagon vehicles exclusively for their own operations, and which have not voluntarily obtained ECM certification in accordance with paragraphs 9 or 11, shall demonstrate compliance with:

- (i) the requirements and assessment criteria set out in Annex II of the EU ECM Regulation through the process of obtaining their European Union safety authorisation; and
- (ii) the requirements and assessment criteria set out in Annex II of the UK ECM Regulation through the process of obtaining their GB safety authorisation;

13) All ECM certificates issued in accordance with paragraphs 8 to 11 shall be valid throughout the Fixed Link, for as long as there is full equivalence on the particular subject of the maintenance of vehicles on the one hand between the rules of the United Kingdom and the rules arising from COTIF, and on the other hand between the rules of the European Union and the rules arising from COTIF. Equivalence between these rules shall be determined pursuant to COTIF.

## ARTICLE 17

### **Supervision**

1) The competent national safety authorities shall oversee continued compliance with the legal obligation incumbent on Concessionaires and Railway Undertakings to use a safety management system as referred to in Article 7 of this Agreement.

For that purpose, the competent national safety authorities shall apply the principles set out in the relevant CSMs for supervision, ensuring that supervision activities include, in particular, checking the application by Concessionaires and railway undertakings of:

- (a) the safety management system to monitor its effectiveness;
- (b) the individual or partial elements of the safety management system, including operational activities, the supply of maintenance and material and the use of contractors to monitor their effectiveness; and
- (c) the relevant CSMs. The supervision activities relating to this point shall also apply to entities in charge of maintenance, where appropriate.

2) Concessionaires and railway undertakings shall inform the competent national safety authorities at least 2 months before starting any new rail transport operation, in order to allow the latter to plan the supervision activities. Concessionaires and railway undertakings shall also provide a breakdown of the categories of staff and the types of vehicles.

3) The holder of a GB single safety certificate or an EU single safety certificate shall inform the competent national safety authorities without delay of any major changes to the information referred to in paragraph 2.

4) The monitoring of compliance with working, driving and rest-time rules applicable to train drivers shall be ensured by competent authorities, in accordance with the respectively applicable national legislation.

5) The competent national safety authority shall supervise fixed installations and ensure that they are in compliance with the essential requirements.

6) When supervising the effectiveness of the safety management systems of Concessionaires and railway undertakings, the competent national safety authorities may take into account the safety performance of third parties which have a potential impact on the safe operation of the Fixed Link, and, where appropriate, the training centres as long as their activities have an impact on railway safety. This paragraph applies without prejudice to the responsibility of the Concessionaires and railway undertakings referred to in Articles 4 and 5 of this Agreement.

7) The competent national safety authorities shall, in accordance with the legislation respectively applicable on each Party's territory, cooperate in coordinating their supervision activities concerning Concessionaires and railway undertakings operating on the Fixed Link to ensure that any key information on the Concessionaires or a specific railway undertaking is shared, particularly on known risks and its safety performance.

That cooperation shall ensure that the supervision has sufficient coverage and that the duplication of inspections and audits is avoided. The competent national safety authorities may, in accordance with the legislation respectively applicable on each Party's territory, develop a common supervision plan in order to ensure that audits and other inspections are carried out periodically, taking into account the type and extent of transport operations concerned in the Fixed Link.

8) The competent national safety authorities may send notices to warn Concessionaires and railway undertakings in cases of non-compliance with their obligations set out in paragraph 1.

9) If, during supervision, a national safety authority identifies a serious safety risk, it may at any time apply temporary safety measures, including immediately restricting or suspending the relevant operations in accordance with the legislation respectively applicable on each Party's territory. If the entity, to whom temporary safety measures have been applied, holds a single safety certificate issued by the Agency, the EPSF shall inform the Agency immediately and provide evidence to support the decision of the EPSF.

10) If the Agency finds that the temporary safety measures applied by EPSF are disproportionate, the Agency may request that the temporary safety measures are withdrawn or adapted. The EPSF shall cooperate with the Agency with a view to finding a mutually acceptable solution. Where necessary, the railway undertaking shall also participate in this process. If the process is unsuccessful, the decision taken by EPSF to apply temporary safety measures shall remain valid.

11) In the event of a legal challenge being brought against the decision of the EPSF to apply temporary safety measures, the temporary safety measures may continue to apply until the conclusion of the legal proceedings, without prejudice to the provisions of paragraph 15 of Article 8.

12) If a temporary safety measure imposed by the EPSF has an application period of more than three months, the EPSF shall ask the Agency to restrict or revoke the EU single safety certificate of the relevant entity, and the procedure set out in paragraph 15 of Article 8 shall apply.

13) The EPSF shall use information gathered by the Agency during the assessment of the file referred to in paragraph 2 of Article 8 of this Agreement for the purposes of supervision of a railway undertaking after issuing its EU single safety certificate.

14) The competent national safety authorities shall use the information gathered during the process of safety authorisation in accordance with Article 14 of this Agreement for the purposes of supervision of the Concessionaires.

15) For the purpose of renewing GB single safety certificates or EU single safety certificates of the Railway Undertakings using the Fixed Link and the Concessionaires' safety authorisations, the competent national safety authorities shall use information gathered during their respective supervision activities.

16) The competent national safety authorities shall take any necessary measures in order to cooperate as regards the exchange of all relevant information relating to paragraphs 8, 9 and 13 to 15.

17) This Article must be read in conjunction with Article 35.

## ARTICLE 18

### **Accident and Incident Investigation**

1) 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 IGC and the national safety authorities.

2) For accidents or incidents referred to in paragraph 1, the investigating bodies shall cooperate in order to decide if an investigation must be undertaken by one or the other, or in cooperation.

To facilitate cooperation between investigating bodies, the investigating bodies may conclude general co-operation arrangements.

In the case where the investigation is led by one investigating body, that investigating body shall permit the other investigating body to take part in the investigation and shall provide the other investigating body access to all its results.

Each investigating body shall invite the technical investigators of the other investigating body to take part in the investigation when a railway undertaking established in their country or a vehicle registered or maintained in their country is involved in the accident or incident. Where an investigating body has been invited to take part in such an investigation, it shall provide assistance as appropriate.

3) In the exercise of their functions, the investigating bodies shall act in accordance with their respective national laws and, where applicable, any reciprocal co-operation arrangements agreed between them. They shall take into account the relevant aspects of the safety regime for the Fixed Link, including national rules that apply in the section of the Fixed Link for which they are the investigating body. They may consider under the co-operation arrangements how these rules interact with any other national rules applicable in the Fixed Link.

4) In case of a potentially serious accident, the IGC, the national safety authorities, 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, where applicable, any reciprocal co-operation arrangements made between them.

5) Without prejudice to the arrangements for reciprocal notification contained in the co-operation arrangements, the Concessionaires, the railway undertakings and, if necessary, the national safety authorities shall advise one or other of the investigating bodies immediately of any accidents and incidents as referred to in paragraph 1.

6) The IGC, the national safety authorities, and the Agency shall take, within the limits of their respective jurisdiction, 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 appropriately acted upon.

7) The national safety authorities and any other authorities or bodies to which recommendations have been addressed shall report back at least annually to the relevant investigating body on measures that are taken or planned as a consequence of the recommendations made.

## **CHAPTER III – INTEROPERABILITY**

### **ARTICLE 19**

#### **Non-compliance of Interoperability Constituents with Essential Requirements**

1) Where a national safety authority finds that an interoperability constituent that is being used in the section of the Fixed Link for which it is competent does not meet the essential requirements, it shall inform its counterpart, and, in the case of EPSF, any other competent authorities concerned, of the measures taken as a consequence of its finding and give reasons for its decision, stating in particular whether the failure to conform is due to:

- (a) failure to meet the essential requirements;
- (b) incorrect application of European specifications where application of such specifications is relied upon;
- (c) incorrect application of United Kingdom specifications where application of such specifications is relied upon;
- (d) inadequacy of European or United Kingdom specifications, as applicable.

2) Where the failure of an interoperability constituent to conform results from an inadequacy of European specifications, the French Minister in charge of Transport shall partially or totally withdraw the specification concerned from the publications containing them.

### **ARTICLE 20**

#### **Non-compliance of Subsystems with Essential Requirements**

1) Where a national safety authority finds that a structural subsystem used within the area of the Fixed Link for which it is competent, does not fully comply with the essential requirements, it may request that additional checks be carried out. It shall inform its counterpart and, in the case of EPSF, any other competent authorities concerned, of this request and set out the reasoning behind it.

2) The national safety authority making the request shall state whether the failure to fully comply with the essential requirements is due to:

- (a) non-compliance with the essential requirements or a technical standard;
- (b) incorrect application of a technical standard;



- (c) inadequacy of a technical standard.

## ARTICLE 21

### **Authorisation for the Placing in Service of Fixed Installations**

- 1) Any new, upgraded or renewed fixed installations located or operated within the Fixed Link shall be placed in service only if they are designed, constructed and installed in such a way as to meet the essential requirements, and the relevant authorisation is received in accordance with this Agreement.
- 2) Each national safety authority shall authorise the placing in service of fixed installations which are located or operated in the territory of its State.
- 3) The national safety authorities shall provide detailed guidance on how to obtain the authorisations referred to in this Article. An application guidance document describing and explaining the requirements for those authorisations and listing the documents required shall be made available to applicants free of charge. In France, the Agency and the EPSF shall cooperate in disseminating such information.
- 4) The applicant shall submit a request for authorisation of the placing in service of fixed installations to the competent national safety authority for the section of the Fixed Link where the works are envisaged. The application shall be accompanied by a file which includes documentary evidence of:
  - (a) the declarations of verification;
  - (b) the technical compatibility of the subsystems with the system into which they are being integrated, established on the basis of the relevant technical standards, national rules and registers;
  - (c) the safe integration of the subsystems, established on the basis of the relevant technical standards, national rules, and the CSMs;
  - (d) in the case of trackside control-command and signalling subsystems for the French section of the Fixed Link involving European Train Control System (ETCS) and/or Global System for Mobile Communications — Railway (GSM-R) equipment, the positive decision of the Agency issued in accordance with Article 19 of the Interoperability Directive; and, in the case of a change to the draft tender specifications or to the description of the envisaged technical solutions that occurred after the positive decision, the compliance with the result of the procedure referred to in Article 30(2) of Regulation (EU) 2016/796.
- 5) Within one month of receipt of the applicant's request, the competent national safety authority shall inform the applicant that the file is complete or ask for relevant

supplementary information, setting a reasonable deadline for the provision thereof. The competent national safety authority shall verify the completeness, relevance and consistency of the file.

6) Following verification by the competent national safety authority of completeness, relevance and consistency of the file, an authorisation for placing in service of fixed installations shall be issued by the authority, or, in the case of a negative decision, the applicant shall be informed by the competent national safety authority of that negative decision, within a pre-determined, reasonable time, and, in any case, within four months of receipt of all relevant information.

7) In the event of renewal or upgrading of existing subsystems, the applicant shall send a file describing the project to the competent national safety authority for the area where the works are envisaged. Within one month of receipt of the applicant's request, the national safety authority shall inform the applicant that the file is complete or ask for relevant supplementary information, setting a reasonable deadline for the provision thereof. The EPSF shall cooperate closely with the Agency in the case of trackside ERTMS equipment projects. The competent national safety authority, shall examine the file and shall decide whether a new authorisation for placing in service is needed, on the basis of the following criteria:

- (a) the overall safety level of the subsystem concerned may be adversely affected by the works envisaged;
- (b) it is required by the relevant technical standards;
- (c) it is required by the national implementation plans established by the United Kingdom or France as appropriate; or
- (d) changes are made to the values of the parameters on the basis of which the authorisation was already granted.

The national safety authority shall take its decision within a predetermined, reasonable time, and, in any case, within four months of receipt of all relevant information.

8) A decision refusing a request for an authorisation for the placing in service of fixed installations shall be duly substantiated by the competent national safety authority. The applicant may, within one month of receipt of the negative decision, submit a request that the competent national safety authority review its decision. The request shall be accompanied by a justification. The competent national safety authority shall have two months from the date of receipt of the request for review in which to confirm or reverse its decision. If the negative decision of the national safety authority is confirmed, the applicant may bring an appeal before the appeal body designated by the United Kingdom or France as appropriate.

9) As regards the fixed installations located in the UK section of the Fixed Link, they shall, without prejudice to the English law on the continuing duty on operators

in relation to standards specified in NTSNs and national rules, comply with the NTSNs and national rules in force at the time of the submission of the application for authorisation to place in service. Their compliance with the relevant applicable technical standards shall be maintained at all times during their use.

10) As regards the fixed installations located in the French section of the Fixed Link, they shall, without prejudice to the strategy for the application of the TSIs, comply with the TSIs and national rules in force at the time of the submission of the application for authorisation to place in service. Their compliance with the relevant applicable technical standards shall be maintained at all times during their use.

## ARTICLE 22

### **European Rail Traffic Management System**

1) For any ERTMS trackside equipment project in the French section of the Fixed Link, the applicant shall submit an application for the Agency's approval accompanied by a file, which includes:

- (a) the draft tender specifications or the description of the envisaged technical solutions;
- (b) documentary evidence of the conditions necessary for the technical and operational compatibility of the subsystem with the vehicles intended to operate on the relevant network;
- (c) documentary evidence of the compliance of the technical solutions envisaged with the relevant TSIs;
- (d) any other relevant documents, such as opinions of the national safety authorities, declarations of verification or conformity certificates.

2) The application referred to in paragraph 1 shall be submitted to the Agency, through the OSS referred to in Article 12 of Regulation (EU) 2016/796. The stages of the relevant procedures in the European Union and their outcome, and, where applicable, the requests and decisions of the Board of Appeal established under Article 55 of Regulation (EU) 2016/796 are also accessible via the OSS.

3) The EPSF may issue an opinion on the application for approval, either to the applicant before the submission, or to the Agency after such a submission.

4) Before issuing its own opinion upon the application, the EPSF may request the ORR to share its views on the request for approval.

5) When the Agency informs the applicant of possible deficiencies within the application, if the applicant agrees with these deficiencies, it shall rectify the project design and introduce a new request for approval to the Agency.

6) If the decision of the Agency is not positive, or if the applicant does not agree with the deficiencies identified by the Agency, it may, within receipt of such a decision, submit a reasoned request that the Agency review its decision.

If the Agency confirms its initial decision, the applicant is entitled to bring an appeal before the Board of Appeal established by Article 55 of Regulation (EU) 2016/796.

7) In the case of a change to the draft tender specifications or to the description of the envisaged technical solutions that occurred after a positive Agency decision, the applicant shall inform the Agency and the EPSF, without undue delay, through the OSS.

8) Before issuing an authorisation to place into service of fixed installations in the French section of the Fixed Link, the EPSF shall check conformity of the project's technical files with the positive decision of the Agency and, where applicable, conformity with the result of the procedure mentioned in Article 30(2) of Regulation (EU) 2016/796, in accordance with Article 19 of the Interoperability Directive.

9) The EPSF may seek the ORR's views on the project's technical files and may take this into account in forming its own opinions.

## ARTICLE 23

### **Placing on the Market of Mobile Subsystems**

1) Mobile subsystems shall be placed on the market by the applicant and used on the Fixed Link only if they are designed, constructed and installed in such a way as to meet the essential requirements.

2) In particular, the applicant shall ensure that the relevant declarations of verification have been provided. In the United Kingdom, this is a 'UK' declaration. In France, this is an 'EC' declaration.

## ARTICLE 24

### **Vehicle Authorisation for Placing on the Market**

1) A vehicle shall be operated within the Fixed Link only if:

- (a) It holds one of the necessary vehicle authorisations, as specified in paragraph 2 of this Article, to operate in both the UK and French sections of the Fixed Link;

- (b) It was in lawful operation in the Fixed Link prior to 18th July 2008 and does not hold one of the necessary vehicle authorisations specified in paragraph 2 of this Article;
- (c) It holds a temporary authorisation as set out in paragraphs 7 and 8 of this Article; or
- (d) It is deemed to be authorised in accordance with Article 3a of Appendix G to COTIF.

2) The necessary vehicle authorisations required to operate on the Fixed Link are as follows:

- (a) all authorisations for vehicles in effect prior to 18th July 2008 which cover the Fixed Link, including authorisations delivered under international agreements;
- (b) a first authorisation for placing in service issued by the IGC in accordance with Directive 2008/57/EC;
- (c) an additional authorisation for placing in service on the Fixed Link issued by the IGC in accordance with Directive 2008/57/EC; or,
- (d) a GB vehicle authorisation and an EU vehicle authorisation.

3) In its application for a GB vehicle authorisation or an EU vehicle authorisation, the applicant shall specify the area of use of the vehicle. The application shall include evidence that the technical compatibility between the vehicle and the network of the area of use has been checked.

4) The application for an EU vehicle authorisation shall be accompanied by a file concerning the vehicle or vehicle type and including documentary evidence of:

- (a) the placing on the market of the mobile subsystems of which the vehicle is composed in accordance with Article 23 of this Agreement on the basis of the 'EC' declaration of verification;
- (b) the technical compatibility of the subsystems referred to in point (a) within the vehicle, established on the basis of the relevant TSIs, and where applicable, national rules;
- (c) the safe integration of the subsystems referred to in point (a) within the vehicle, established on the basis of the relevant TSIs, and where applicable, national rules and the CSMs referred to in Article 6 of the Safety Directive; and
- (d) the technical compatibility of the vehicle with the network in the area of use referred to in paragraph 3 of this Article, established on the basis of

the relevant TSIs and, where applicable, national rules, registers of infrastructure and the CSM on risk assessment referred to in Article 6 of the Safety Directive.

This application and information relating to it, the stages of the relevant procedures and their outcome, and, where appropriate, the requests and decisions of the Board of Appeal provided for by Article 55 of Regulation (EU) 2016/796 shall be submitted through the OSS.

The Agency is responsible for issuing EU vehicle authorisations in respect of vehicles having an area of use in one or more Member States. Where the area of use is limited to a network or networks in France, the EPSF may, under its own responsibility and when the applicant so requests, issue the EU vehicle authorisation.

If the applicant already holds a vehicle authorisation issued by the EPSF or by the Agency and wishes to extend a vehicle's area of use such that it includes the French section of the Fixed Link, they shall supplement the file for the existing authorisation with the relevant documents referred to in this paragraph with regard to the additional area of use. This file must be submitted for assessment, where relevant, to the EPSF or to the Agency, in accordance with paragraph 13 of Article 21 of the Interoperability Directive.

The EPSF or the Agency, as applicable, shall issue an updated vehicle authorisation covering the extended area of use when the procedures specified in this paragraph have been completed and there is a positive assessment in relation to additional documents supplementing the file. If the EPSF does not respond within 3 months and 2 weeks of the submission of the additional documents, their assessment shall be deemed to be negative and no updated authorisation shall be issued.

5) The application for a GB vehicle authorisation shall be submitted to the ORR in writing, accompanied by a file concerning the vehicle or vehicle type and including documentary evidence of:

- (a) the placing on the market of the mobile subsystems of which the vehicle is composed in accordance with Article 23 of this Agreement on the basis of the 'UK' declaration of verification;
- (b) the technical compatibility of the subsystems referred to in point (a) within the vehicle, established on the basis of the relevant NTSNs, and where applicable, national rules;
- (c) the safe integration of the subsystems referred to in point (a) within the vehicle, established on the basis of the relevant NTSNs, and where applicable, national rules and the relevant CSMs; and
- (d) the technical compatibility of the vehicle with the network in the UK section of the Fixed Link, established on the basis of the relevant NTSNs

and, where applicable, national rules, registers of infrastructure and assimilated Commission Implementing Regulation (EU) No 402/2013.

Where an applicant holds a vehicle authorisation issued by the ORR and the vehicle's area of use does not cover the Fixed Link, they must apply for a GB authorisation in order to access the UK section of the Fixed Link. The applicant shall supplement the file for the existing authorisation with the relevant additional documents referred to above with regard to the vehicle's additional area of use. The applicant shall submit the file to the ORR, which, after following the procedures specified in this Article and unless it issues a negative decision, shall issue an authorisation covering the UK section of the Fixed Link.

6) The ORR and the EPSF shall inform each other when they receive an application for a GB vehicle authorisation or an EU vehicle authorisation and, should an application be successful, when one is issued. The national safety authority receiving an application shall, after informing its counterpart, share the details specified in paragraphs 3, 4 and 5 of this Article, and allow its counterpart to consider the application and offer a view on its contents.

7) Whenever tests are necessary in order to obtain documentary evidence of technical compatibility, the ORR and the EPSF may issue a temporary authorisation to the applicant to use the vehicle for practical verifications on the respective sections of the Fixed Link for which they are responsible. The Concessionaires, in consultation with the applicant, shall make every effort to ensure that any tests take place within three months of receipt of the applicant's request. Where appropriate, the national safety authority that has issued a temporary authorisation shall take measures to ensure that the tests take place.

When the competent authority is the EPSF, if the EPSF does not respond within 3 months and 2 weeks of receipt of a complete application, its decision shall be deemed to be negative.

8) Where the Agency is responsible for issuing an EU vehicle authorisation, the EPSF, when consulted by the Agency, shall check that the application file is complete, relevant and consistent in relation to point (d) of paragraph 4 of this Article. For the elements set out in points (a), (b), and (c) of paragraph 4 of this Article, the EPSF undertakes this check in relation to the relevant national rules.

When the agency disagrees with the EPSF's conclusion, the provisions of paragraph 14 of this Article apply.

Where the Agency is responsible for issuing an EU vehicle authorisation, the Agency or the EPSF may request that tests be conducted on the network. In order to facilitate those tests, the EPSF may issue temporary authorisations to the applicant to use the vehicle for tests in the French section of the Fixed Link. The Concessionaires shall make every effort to ensure that these tests take place within three months of receipt of the request of the Agency or the EPSF.

9) The ORR or the EPSF, respectively, shall issue a GB vehicle authorisation or an EU vehicle authorisation, or inform the applicant of a negative decision within a predetermined, reasonable time, and in any case within four months of receipt of all relevant information from the applicant. The ORR shall apply the practical arrangements referred to in assimilated Commission Implementing Regulation (EU) 2018/545. The EPSF shall apply the practical arrangements referred to in Article 21(9) of the Interoperability Directive.

The competent national safety authority shall take full responsibility for any safety certificate that it issues.

10) In order to issue a GB vehicle authorisation or an EU vehicle authorisation, the competent national safety authority shall assess the file submitted to them by the applicant in relation to the elements specified in paragraphs 4 or 5 of this Article. The ORR shall also assess the file submitted to them by the applicant in accordance with the practical arrangements referred to in assimilated Commission Implementing Regulation (EU) 2018/545. The EPSF shall also assess the file submitted to them by the applicant in accordance with the practical arrangements referred to in Article 21(9) of the Interoperability Directive. Within one month of receipt of the request of the applicant, the national safety authority shall inform the applicant that the file is complete or ask for relevant supplementary information within a reasonable period of time.

11) GB and EU vehicle authorisations shall state:

- (a) the area(s) of use;
- (b) the values of the parameters set out in the relevant technical standards and, where applicable, in the national rules, for checking the technical compatibility between the vehicle and the area of use;
- (c) the vehicle's compliance with the relevant technical standards and sets of national rules, relating to the parameters referred to in sub-paragraph (b); and
- (d) the conditions for use of the vehicle and other restrictions.

12) Any decision refusing the GB vehicle authorisation or the EU vehicle authorisation shall be duly substantiated. The applicant may, within a period of one month from receipt of the negative decision, request that the competent national safety authority review the decision. The competent national safety authority shall have two months from the date of receipt of the request for review in which to confirm or reverse its decision.

If the negative decision of the competent national safety authority is confirmed, the applicant may bring an appeal before an appeal body in accordance with the relevant national law of the national safety authority which took the decision.



13) In the event of the renewal or upgrading of existing vehicles which hold a GB vehicle authorisation and an EU vehicle authorisation or have an authorisation referred to in paragraph 2 (a) – (c) of this Article or have been in lawful operation in the Fixed Link prior to 18th July 2008 and do not hold an authorisation:

- (a) a new GB and EU vehicle authorisation is required if the overall safety level of the vehicle concerned may be adversely affected by the works envisaged;
- (b) a new GB vehicle authorisation is required if changes are made to the values of the parameters referred to in paragraph 11(b) of this Article which are outside the range of acceptable parameters as defined in the NTSNs or it is required by the relevant NTSN; and
- (c) a new EU vehicle authorisation is required if changes are made to the values of the parameters referred to in paragraph 11(b) of this Article which are outside the range of acceptable parameters as defined in the TSIs or it is required by the relevant TSI.

14) For the EU vehicle authorisations, when the Agency disagrees with an EPSF negative assessment, the EPSF shall cooperate with the Agency with a view to reaching a mutually acceptable assessment. If necessary, the EPSF and the Agency shall involve the applicant.

If no mutually acceptable assessment can be agreed within one month after the Agency has informed the EPSF of their disagreement, the EPSF may refer the matter for arbitration to the Board of Appeal as provided for by Article 55 of Regulation (EU) 2016/796.

When the Agency disagrees with an EPSF positive assessment, the EPSF shall cooperate with the Agency with a view to reaching a mutually acceptable assessment. If necessary, the EPSF and the Agency shall involve the applicant.

15) As regards vehicles operated in the UK section of the Fixed Link, they shall, without prejudice to the English law on the continuing duty on operators in relation to standards specified in NTSNs and national rules, comply with the NTSNs and national rules against which they were assessed for authorisation for placing on the market or authorisation for placing in service. Their compliance with the relevant applicable technical standards shall be maintained at all times during their use.

16) As regards vehicles operated in the French section of the Fixed Link, they shall, without prejudice to the strategy for the application of the TSIs, comply with any TSIs and national rules against which the vehicle was assessed for authorisation for placing on the market or authorisation for placing in service. Their compliance with the relevant applicable technical standards shall be maintained at all times during their use.

## ARTICLE 25

### **Registration of Vehicles Authorised to be placed on the Market**

1) Before a vehicle is used for the first time, and after an authorisation to be placed on the market in accordance with Article 24 of this Agreement is granted, it shall be registered in the relevant vehicle register or registers at the request of the keeper of the vehicle. The relevant vehicle registers are as follows:

- (a) where a vehicle has been granted a GB authorisation for placing on the market, the area of use of which includes the UK section of the Fixed Link, the United Kingdom's national vehicle register;
- (b) where a vehicle has been granted an EU vehicle authorisation, the area of use of which is restricted solely to French territory, the European Vehicle Register set out in Decision (EU) 2018/1614 once it is operational or if it is not yet operational the French national vehicle register;
- (c) where a vehicle has been granted an EU vehicle authorisation, the area of use of which covers the territory of more than one Member State of the European Union, the European Vehicle Register once it is operational, or if it is not yet operational the national vehicle register of one of the Member States of the European Union concerned;

The keeper shall immediately declare any modification to the data entered in a vehicle register, the destruction of a vehicle, or its decision to no longer register a vehicle, to the entity in charge of maintaining the relevant vehicle register.

2) Vehicles registered in the United Kingdom's national vehicle register after receiving an authorisation to place in service in Great Britain do not need to be registered again following a GB vehicle authorisation for placing on the market the area of use of which includes the UK section of the Fixed Link.

## ARTICLE 26

### **Checks before the use of Authorised Vehicles**

1) Before the Concessionaires or a railway undertaking use a vehicle in the area of use specified in its GB or EU vehicle authorisation, it shall check:

- (a) that the vehicle has been authorised for placing on the market in accordance with Article 24 of this Agreement and is duly registered in accordance with Article 25 of this Agreement;
- (b) that the vehicle is compatible with the route on the basis of the infrastructure register, the relevant technical standards or any relevant

information, to be provided by the Concessionaires free of charge and within a reasonable period of time, where such a register does not exist or is incomplete;

- (c) that the vehicle is properly integrated in the composition of the train where it is intended to operate, taking into account the safety management system and, depending on whether the French section or the UK section of the Fixed Link is concerned, the TSI or the NTSN on operation and traffic management respectively.

2) For the purposes of paragraph 1, the railway undertaking may carry out tests in cooperation with the Concessionaires.

The Concessionaires, in consultation with the applicant, shall make every effort to ensure that any tests take place within three months of receipt of the applicant's request.

## ARTICLE 27

### **Type Authorisation of Vehicles**

1) The Agency or the EPSF may, where appropriate, in accordance with the procedure laid down in Article 24 of this Agreement, grant vehicle type authorisations for use on the French section of the Fixed Link. The ORR may, where appropriate, in accordance with the procedure laid down in Article 24, grant vehicle type authorisations for use on the UK section of the Fixed Link. Applications to the Agency or the EPSF for a vehicle type authorisation and information about all applications, the stages of the relevant procedures and their outcome, and, where applicable, the requests and decisions of the Board of Appeal provided for by Article 55 of Regulation (EU) 2016/796, shall be submitted through the OSS. Applications to the ORR shall be submitted in accordance with the procedure for applying for vehicle authorisations, as laid down in Article 24.

2) If the Agency or a national safety authority issues a vehicle authorisation, it shall at the same time, at the applicant's request, issue the vehicle type authorisation, which is related to the same area of use of the vehicle.

3) Concerning the UK section of the Fixed Link, in the event of changes to any relevant provisions in NTSNs or national rules, on the basis of which an authorisation of a vehicle type has been issued, the NTSN or national rule shall determine whether the vehicle type authorisation already granted remains valid or needs to be renewed. If that authorisation needs to be renewed, the checks performed by the ORR shall be limited to the changed rules.

Concerning the French section of the Fixed Link, in the event of changes to any relevant provisions in TSIs or national rules, on the basis of which an authorisation of a vehicle type has been issued, the TSI or national rules shall determine whether

the vehicle type authorisation already granted remains valid or needs to be renewed. If that authorisation needs to be renewed, the checks performed by the Agency or by the EPSF shall be limited to the changed rules.

4) Declarations of conformity to type relating to the French section of the Fixed Link shall be made in accordance with the template provided for by Commission Implementing Regulation (EU) 2019/250.

5) The declaration of conformity to type relating to the French section of the Fixed Link shall be established in accordance with:

- (a) the verification procedures of the relevant TSIs;
- (b) where TSIs do not apply, the conformity assessment procedures as defined in modules B+D, B+F and H1 of Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC; or
- (c) where appropriate, any other conformity assessment module established by the implementation acts referred to in Article 24(6) of the Interoperability Directive.

Declarations of conformity to type relating to the UK section of the Fixed Link shall be made according to the procedures contained in English law.

6) The authorisation of vehicle types for use on the French section of the Fixed Link shall be registered in the European register of authorised vehicle types referred to in Article 48 of the Interoperability Directive. The authorisation of vehicle types for use on the UK section of the Fixed Link shall be registered and published in the list of determinations of type for vehicles maintained by the ORR as a result of its obligations under English law.

## ARTICLE 28

### **Conformity of Vehicles with an Authorised Vehicle Type**

1) A vehicle or a series of vehicles which is in conformity with an authorised vehicle type shall, without further checks, receive a vehicle authorisation for placing on the market for those parts of the Fixed Link to which the vehicle type authorisation pertains, in accordance with Article 24 of this Agreement on the basis of a declaration of conformity to that vehicle type submitted by the applicant.

2) The renewal of the authorisation of a vehicle type as referred to in Article 27(3) of this Agreement shall not affect vehicle authorisations for placing on the

market already issued on the basis of the previous authorisation to place that vehicle type on the market.

## ARTICLE 29

### **Non-compliance of Vehicles or Vehicle Types with Essential Requirements**

1) In the UK section of the Fixed Link, the applicable essential requirements are all the conditions which must be met by the UK rail system, the subsystems and the interoperability constituents, including interfaces. In the French section of the Fixed Link, the applicable essential requirements are all the conditions set out in Annex III of the Interoperability Directive which must be met by the Union rail system, the subsystems, and the interoperability constituents, including interfaces.

When a railway undertaking or the Concessionaires find, during operation in the Fixed Link, that a vehicle they are using does not meet one of the applicable essential requirements, they shall take the necessary corrective measures in order to bring the vehicle into conformity. Furthermore, the railway undertaking or Concessionaires shall inform the ORR and the EPSF of the measures taken to bring the vehicle into conformity, and when the non-compliance relates to the essential requirements applicable in the French section of the Fixed Link, they shall also inform the Agency and any European Union national safety authority concerned.

2) If the railway undertaking or Concessionaires have evidence that the non-compliance referred to in this Article existed at the time when the authorisation for placing on the market was issued, they shall inform the ORR and the EPSF. In those cases in the French section of the Fixed Link where the railway undertaking or the Concessionaires have evidence that there is a non-compliance and it existed at the time when the EPSF or the Agency issued the authorisation for placing on the market, they shall also inform the Agency and any European Union national safety authority concerned.

3) When a national safety authority becomes aware that a vehicle or a vehicle type to which an authorisation for placing on the market, the area of use of which includes the Fixed Link, that was granted either by that national safety authority or, in the French section of the Fixed Link, by the Agency, and that when used as intended does not meet one of the applicable essential requirements, it shall inform the Concessionaires or the railway undertaking using the vehicle or the vehicle type and ask them to take the necessary corrective measures in order to bring the vehicle(s) into conformity. Where this duty is discharged by the EPSF, as soon as possible, it shall inform the ORR, the Agency and any other national safety authorities concerned, of the corrective measures required of the railway undertaking or Concessionaires. Those informed shall include the national safety authorities in a territory where an application for authorisation for placing on the market for a vehicle of the same type is ongoing. Where this duty is discharged by the ORR, it shall inform the EPSF as soon as possible.

4) When, in the cases set out in paragraphs 1, 2 and 3 of this Article, the corrective measures applied by the railway undertaking or the Concessionaires do not ensure conformity with the applicable essential requirements and that non-conformity leads to a serious safety risk, the national safety authority concerned may apply temporary safety measures under its supervision tasks, in accordance with Article 17(9) of this Agreement.

5) Temporary safety measures in the form of a suspension of type authorisation of a vehicle may be applied in parallel by the national safety authority or, in the French section of the Fixed Link, by the Agency, and shall be subject to such review processes and remedies as are available in the jurisdiction where the decision to apply the measures was made, in particular, in the French section of the Fixed Link, the judicial review and arbitration procedures set out in paragraph 14 of Article 24 of this Agreement.

6) In the cases referred to in paragraph 4, the ORR, the EPSF or the Agency, whichever issued the authorisation, following a review of the effectiveness of any measures taken to address the serious safety risk, may decide to revoke or amend the authorisation when it is proven that an essential requirement was not met at the time of authorisation. To that end, the ORR, the EPSF or the Agency, as applicable, shall notify their decision to the holder of the authorisation for placing on the market or of the vehicle type authorisation, giving the reasons for their decisions. The holder may, within a period of one month from receipt of this decision, request the decision to be reviewed. In that case, the decision to revoke shall be temporarily suspended. The ORR, the EPSF or the Agency, as relevant, shall have one month from the date of receipt of the request for review in which to confirm or reverse their decision.

7) Where relevant, in the event of disagreement between the Agency and the EPSF concerning the need to restrict or revoke the authorisation, the arbitration procedure provided for in paragraph 14 of Article 24 of this Agreement shall be followed. If the result of that arbitration procedure is that the vehicle authorisation is neither to be restricted nor revoked, the temporary safety measures referred to in paragraph 4 of this Article shall be withdrawn.

8) If the decision of the ORR, the EPSF or the Agency is confirmed, the holder of the vehicle authorisation may bring an appeal using such review processes and remedies as are available in the jurisdiction where the decision to apply the measures was made.

9) When the EPSF decides to revoke an authorisation for placing on the market which it has granted, it shall forthwith inform the Agency, the ORR and the European Union national safety authorities, including those in a territory where application for authorisation for placing on the market for a vehicle of the same type is ongoing, thereof and give the reasons for its decision.

Where the ORR decides to revoke an authorisation for placing on the market which it has granted, it shall forthwith inform the EPSF and give the reasons for its decision.

10) The decision of the competent national safety authority, and where applicable the decision of the Agency, to revoke the vehicle authorisation shall be reflected in the appropriate vehicle register, in accordance with Article 25 of this Agreement.

In the case of an authorisation of a vehicle type, the decision to revoke shall be reflected in the European register of authorised vehicle types, or in the list of determination of authorised vehicle types maintained by the ORR, in accordance with Article 27(6) of this Agreement in relation to authorisations of vehicle types in the French and UK sections of the Fixed Link respectively.

The competent national safety authorities shall ensure that railway undertakings, or where relevant the Concessionaires, using vehicles of the same type as the vehicle or type subject to the revocation are properly informed. Such railway undertakings, or where relevant the Concessionaires, shall first check whether the same problem of non-compliance applies. In that event, the procedure provided for in this Article shall apply.

11) When an authorisation for placing on the market is revoked, the vehicle concerned shall no longer be used in the Fixed Link and its area of use shall not be extended. When a vehicle type authorisation is revoked, vehicles built on the basis of it shall not be placed on the market for use in the Fixed Link or, if they had already been placed on the market with an area of use that includes the Fixed Link, they shall be withdrawn. A new authorisation may be requested on the basis of the procedure provided for in Article 24 of this Agreement in the case of individual vehicles or Article 27 in the case of a vehicle type.

12) When, in the cases provided for in paragraphs 1 to 3, the non-compliance with the essential requirements is limited to part of the area of use of the vehicle concerned and such non-compliance already existed at the time when the authorisation for placing on the market was issued, the latter shall be amended to exclude the parts of the area of use concerned.

## ARTICLE 30

### **Vehicle Numbering System**

1) Upon registration in accordance with Article 25 of this Agreement, each vehicle shall be assigned a European vehicle number (EVN) by the body responsible for keeping the vehicle register in the territory in which the vehicle is registered. In France, this body is the EPSF. In the United Kingdom, this body is determined by English law. Where a vehicle is registered in the United Kingdom, an EVN shall be assigned in accordance with English law. Where a vehicle is registered in France, an EVN shall be assigned in accordance with French law. Each vehicle shall be marked with the EVN assigned to it.

2) Each vehicle shall be assigned a unique EVN upon first registration. Where it is necessary to register a vehicle in multiple vehicle registers, the EVN assigned to

the vehicle upon first registration shall be assigned in each subsequent registration, unless otherwise specified in English or French law.

## ARTICLE 31

### **Register of Infrastructure**

1) The Concessionaires have obligations under European Union law and English law to maintain and update an infrastructure register. Under European Union law, these obligations are found in Commission Implementing Regulation (EU) 2019/777. Under English law, the obligations are found in Regulation 35 of RIR. The Concessionaires must comply with European Union law in respect of keeping an infrastructure register in relation to the French section of the Fixed Link and English law in respect of keeping an infrastructure register in relation to the UK section of the Fixed Link. References in this Agreement to “the infrastructure register” are to be construed as referring to the relevant infrastructure register kept in accordance with either European Union law, English law or both, as determined by the location of the infrastructure.

2) The Concessionaires are responsible for maintaining and updating the infrastructure register stating the values of the network parameters of each subsystem or part of a subsystem concerned, as set out in the relevant TSIs or NTSNs.

3) The Concessionaires are responsible in relation to the French section of the Fixed Link for collecting and inserting data, referred to in the first sentence of paragraph 5, into the web-based application set up and maintained by the Agency (“RINF Application”), in compliance with Commission Implementing Regulation (EU) 2019/777.

The Concessionaires are responsible in relation to the UK section of the Fixed Link for making the data, referred to in the last sentence of paragraph 5, available when requested by either an applicant for authorisation or an approved body under RIR.

4) The values of the network parameters, referred to in paragraph 2 of this Article, shall be used in combination with the values of the parameters recorded in the authorisation for placing on the market to check the technical compatibility between vehicle and network.

5) In France, the data content and format, the technical and functional architecture and the modalities of data operation, input and consultation are specified in Commission Implementing Regulation (EU) 2019/777. In the United Kingdom, the data content and format are specified in assimilated Commission Implementing Regulation (EU) 2019/777.



## **CHAPTER IV – TRANSITIONAL AND FINAL PROVISIONS**

### **ARTICLE 32**

#### **Non-freight Wagon Vehicles**

ECMs of vehicles other than freight wagons, used in the Fixed Link, which do not fall within the scope of Article 33 of this Agreement shall comply with the requirements set out in Article 16 of this Agreement.

### **ARTICLE 33**

#### **ECM Attestations**

- 1) The attestation for an ECM of vehicles other than freight wagons used in the Fixed Link, issued by the certification body on the basis of French or English laws, applicable in the field governed by Article 16 of this Agreement, before 16 June 2020 shall be recognised as being equivalent to ECM certification issued in compliance with Article 16 until the end of its original period of validity or at the latest, until 16 June 2023.
- 2) Attestations of conformity with the principles and criteria equivalent to the requirements of Annex III of Commission Regulation (EU) No 445/2011 issued by a certification body for vehicles other than freight wagons used in the Fixed Link, by 16 June 2019 at the latest, shall be deemed equivalent to ECM certifications issued in compliance with Article 16 of this Agreement until the end of their original period of validity or at the latest, until 16 June 2023.
- 3) Attestations of conformity for outsourced maintenance functions for vehicles other than freight wagons used in the Fixed Link, issued by the certification body by 16 June 2022 at the latest, on the basis of French or English laws applicable in the field governed by Article 16 of this Agreement shall be deemed equivalent to ECM certifications for outsourced maintenance functions issued in compliance with Article 16 until the end of their original period of validity or at the latest, until 16 June 2025.

### **ARTICLE 34**

#### **ECM Certificates issued under Regulation (EU) No 445/2011**

ECM certificates issued under Commission Regulation (EU) No 445/2011 by a certification body shall be deemed equivalent to ECM certificates issued in compliance with Article 16 of this Agreement until the end of their original period of validity.

## ARTICLE 35

### **Safety Certificates and Authorisations and Safety Management Systems**

1) Subject to paragraphs 3 to 6, a Part A or Part B safety certificate issued for the Fixed Link prior to the entry into force of this Agreement shall remain valid in the United Kingdom until it expires. Under Article 3(1) of the bilateral agreement on safety certification, the railway undertaking holding such Part A and Part B safety certificates shall be authorised to operate on the French section of the Fixed Link until they expire.

2)

(i) Subject to sub-paragraph (ii), if a railway undertaking holds a valid Part A and Part B safety certificate for the Fixed Link, it shall in relation to the Fixed Link, maintain a safety management system that either:

- meets the requirements against which that safety management system was assessed when the railway undertaking applied for that safety certification, and any relevant additional requirements under English law including those brought about through amendment, modification or replacement of NTSNs and national rules,
- or that meets the requirements of assimilated Commission Delegated Regulation (EU) 2018/762.

(ii) From 31 October 2025, or the date on which this Agreement comes into force, whichever is later, if a railway undertaking holds a valid Part A and Part B safety certificate for the Fixed Link, it shall in relation to the Fixed Link, maintain a safety management system that meets the requirements of assimilated Commission Delegated Regulation (EU) 2018/762.

3) If the ORR finds that a railway undertaking has failed to comply with paragraph 2, it may, without prejudice to any emergency actions needed, after formal notice and giving the railway undertaking an opportunity to make representations and after considering any representations made, restrict or revoke the relevant safety certificate, giving reasons for its decision. It shall inform the EPSF of any such restriction or revocation as soon as possible.

4) Where a Part A or Part B safety certificate expires or is revoked, a railway undertaking shall not be permitted to apply for a new Part A or Part B certificate and shall not continue to operate on the railway infrastructure of the Fixed Link until it holds either an EU single safety certificate or a GB single safety certificate in accordance with Article 8 of this Agreement issued by the ORR, the EPSF or the Agency.

5) Where a railway undertaking with a Part A or Part B safety certificate issued for the Fixed Link prior to the entry into force of this Agreement seeks to make a change to the type or extent of the railway operations covered by that certificate or to make any other substantial change affecting the basis of which that certificate was issued, the railway undertaking shall apply for a single safety certificate under Article 8 of this Agreement.

6) If the ORR finds that a railway undertaking with a Part B safety certificate issued by the IGC prior to the entry into force of this Agreement no longer satisfies the conditions for certification, it may without prejudice to any emergency actions needed, after formal notice and giving the railway undertaking an opportunity to make representations and after considering any representations made, restrict or revoke that safety certificate, giving reasons for its decision. It shall inform the EPSF of any such restriction or revocation as soon as possible.

7) Subject to paragraphs 9 to 12, a safety authorisation issued for the Fixed Link prior to the entry into force of this Agreement shall remain valid until it expires.

8)

(i) Subject to sub-paragraph (ii), where the Concessionaires hold a valid safety authorisation for the Fixed Link prior to the entry into force of this Agreement, the Concessionaires shall maintain a safety management system that either:

- meets the requirements against which the safety management system was assessed when the Concessionaires applied for that safety authorisation and any relevant additional requirements under English law including those brought about through amendment, modification or replacement of NTSNs and national rules,
- or that meets the requirements of Commission Delegated Regulation (EU) 2018/762 for the French section of the Fixed Link and assimilated Commission Delegated Regulation (EU) 2018/762 for the UK section of the Fixed Link.

(ii) For the UK section of the Fixed Link, from 31 October 2025, or the date on which this Agreement comes into force, whichever is later, the Concessionaires may only manage and operate the Fixed Link if they maintain a safety management system that meets the requirements of assimilated Commission Delegated Regulation (EU) 2018/762.

9) If a national safety authority finds that the Concessionaires have failed to comply with paragraph 8, the national safety authority 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 safety authorisation that it granted, 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.

10) Where the Concessionaires with a safety authorisation issued by the IGC prior to the entry into force of this Agreement propose any substantial changes to the infrastructure, signalling, energy supply or vehicles or to the principles of their operation and maintenance covered by the authorisation, the Concessionaires shall apply to the ORR for a new safety authorisation under Article 14 of this Agreement.

11) If the ORR finds that the Concessionaires no longer satisfy the conditions for a safety authorisation issued by the IGC prior to the entry into force of this Agreement, 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, it may 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.

12) The ORR may, following substantial changes to the safety regulatory framework, require the revision of a safety authorisation or a safety certificate issued for the UK section of the Fixed Link prior to the entry into force of this Agreement and valid at the date this Agreement comes into force.

13) The holder of a Part A or Part B safety certificate, or a safety authorisation, whose certificate or authorisation has been restricted or revoked by the ORR under paragraph 3, 6, 9 or 11 of this Article may bring an appeal against that decision in accordance with English law.

14) Where:

- (a) a railway undertaking is required to maintain a safety management system which meets the requirements set out in the first indent of paragraph 2(i), the ORR shall supervise that railway undertaking's continued application of that safety management system in accordance with the principles for supervision set out in assimilated Commission Regulation 1158/2010 on a common safety method for assessing conformity with the requirements for obtaining railway safety certificates;
- (b) a railway undertaking is required to maintain a safety management system which meets the requirements set out in the second indent of paragraph 2(i), the ORR shall supervise that railway undertaking's continued application of that safety management system in accordance with Article 17;
- (c) the Concessionaires are required to maintain a safety management system which meets the requirements set out in the first indent of

paragraph 8(i), the ORR shall supervise the Concessionaires' continued application of that safety management system in accordance with the principles for supervision set out in assimilated Commission Regulation 1169/2010;

- (d) the Concessionaires are required to maintain a safety management system which meets the requirements set out in the second indent of paragraph 8(i), the ORR shall supervise the Concessionaires' continued application of that safety management system in accordance with Article 17;
- (e) a railway undertaking is, or the Concessionaires are, required to maintain a safety management system which meets the requirements in either paragraph 2(ii) or 8(ii), the ORR shall supervise the railway undertaking or Concessionaires' continued application of the safety management system in accordance with Article 17.

#### ARTICLE 36

##### **Repeal**

The Regulation of the Intergovernmental Commission on the safety of the Channel Fixed Link done on 24th January 2007 and the Regulation of the Intergovernmental Commission 2013 done on 6th February are repealed.

#### ARTICLE 37

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

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.

#### ARTICLE 38

##### **Examination of the Operational Impact and Effectiveness of this Agreement**

Officials from the Parties shall meet at least every six months to examine the operational impact and effectiveness of this Agreement.

## ARTICLE 39

### **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 40

### **Dispute Settlement**

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 41

### **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 this Agreement to enter into force.
- 2) This Agreement shall remain in force until it is suspended or terminated in accordance with paragraph 3.
- 3) Either Party may suspend or terminate this Agreement by written notification transmitted to the other Party through diplomatic channels. The suspension or termination shall take effect six months after the date of receipt of such notification. The Parties may decide to terminate the suspension by exchange of written notifications transmitted through diplomatic channels.

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

Done in duplicate at London on this Tenth day of April 2025 in the English and French languages, both texts being equally authentic.

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

**HEIDI ALEXANDER**

**For the Government of the  
French Republic:**

**PHILLIPPE TABART**

## **Annex**

### **SAFETY MANAGEMENT SYSTEM**

#### **1. Requirements for the safety management system**

The safety management system shall ensure the control of all risks associated with the activity of the infrastructure manager or railway undertaking, including the provision of maintenance services, without prejudice to the provisions of Article 16, and material, and the use of contractors.

The safety management system shall be documented in all relevant parts and shall in particular describe the distribution of responsibilities within the organisation of the Concessionaires or railway undertaking, as the case may be. 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. It shall include a clear commitment to consistently apply knowledge and methods with regards to human and organisational factors. The safety management system shall allow the Concessionaires and railway undertakings to promote a culture of mutual trust, confidence and learning in which staff are encouraged to contribute to the development of safety while ensuring confidentiality.

#### **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 NTSNs, or in the national rules referred to in Article 6 of this Agreement, in other applicable rules or authority decisions;
- (d) procedures to assure compliance with the standards and other prescriptive conditions throughout the life-cycle of equipment and operations;
- (e) procedures and methods for identifying risks, 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 the man-machine organisation interface;

- (f) provision of programmes for training of staff and systems to ensure that the staff's competence is maintained and tasks carried out accordingly, including arrangements with regard to physical or psychological fitness;
- (g) arrangements for the provision of sufficient information within the organisation and, where appropriate, between organisations operating on the same infrastructure;
- (h) procedures and formats for how safety information is to be documented and designation of procedure for configuration control of vital safety information;
- (i) procedures to ensure that accidents, incidents, near misses and other dangerous occurrences are reported, investigated and analysed and that necessary preventive measures are taken;
- (j) provision of plans for action and alerts and information in case of emergency, agreed upon with the appropriate public authorities; and
- (k) provisions for recurrent internal auditing of the safety management system.



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