

SCHEDULE

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

Chapter 2

Duties and responsibilities

Safety Authority

2. The Intergovernmental Commission is the Safety Authority for the Fixed Link.
3. The Intergovernmental Commission, taking into account the specific characteristics of the railway system, shall ensure that the overall safety level of the Fixed Link is maintained and, where that is reasonably practicable, continuously improved, by taking account of changes to Community legislation, as well as technical and scientific progress, and by giving priority to the prevention of serious accidents.
4. The tasks of the Intergovernmental Commission, as Safety Authority, shall be at least the following:
 - (i) authorising the placing in service (in accordance with the requirements of Article 14 of both Directive [96/48/EC](#) and Directive [2001/16/EC](#)), of any structural subsystems which would constitute part of the trans-European high speed rail system, or part of the trans-European conventional rail system, which are proposed to be located or operated within the Fixed Link;
 - (ii) verifying that any such structural subsystems placed in service are operated and maintained in accordance with the relevant essential requirements;
 - (iii) supervising, in so far as relevant for the railway system, that the interoperability constituents are in compliance with the essential requirements as required by Article 12 of both Directives [96/48/EC](#) and [2001/16/EC](#);
 - (iv) authorising the placing in service in the Fixed Link of new or substantially modified rolling stock that is not covered by a technical specification of interoperability;
 - (v) as already established through the Concession, authorising the placing in service in the Fixed Link of new or substantially modified rolling stock used for operating shuttle services for road vehicles;
 - (vi) issuing, renewing, amending and revoking relevant parts of safety certification granted to railway undertakings in so far as it relates to the Fixed Link;
 - (vii) issuing, renewing, amending and revoking relevant parts of the safety authorisation granted to the Concessionaires;
 - (viii) verifying that with regard to the Fixed Link the conditions and requirements of safety certification and authorisation are fulfilled and that the activities of railway undertakings and the Concessionaires comply with the requirements of Community and national legislation and the regulations of the Intergovernmental Commission;
 - (ix) monitoring, promoting and, where appropriate, enforcing and developing the safety regulatory framework applicable to the railway system, including the unified safety rules;
 - (x) checking that the rolling stock authorised to run on the Fixed Link is duly registered with safety related information in a national register drawn up in accordance with Article 14 of both Directive [96/48/EC](#) and Directive [2001/16/EC](#), and that the information so registered is correct and kept up to date;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (xi) by 30th September 2007 and thereafter annually by 30th September at the latest each year, publishing and sending to the Agency an annual report concerning its activities in the preceding year, including information on the development of railway safety, common safety indicators, safety certification and safety authorisation; any important changes in legislation and regulation concerning railway safety in the Fixed Link; and the results of and experience relating to the supervision of the Concessionaires and railway undertakings.

5

- (a) The Intergovernmental Commission shall perform its tasks in an open, non-discriminatory and transparent way. In particular, it shall allow all parties to be heard and shall indicate the reasons for its decisions.
 - (b) It shall promptly respond to requests and applications and communicate its requests for information without delay and adopt all its decisions within four months after all requested information has been provided.
- (a) (a) To carry out the aforementioned tasks, the Intergovernmental Commission:
 - (i) may request, at any time, technical assistance from the Concessionaires, the railway undertakings or other qualified bodies;
 - (ii) shall carry out any inspections and investigations necessary, invoking the assistance of the authorities of each Government or any body or expert of its choice in accordance with the provisions of Articles 10(7), 10(8), 11(6) and 11(8) of the Treaty. Without prejudice to the powers of inspection granted to the Intergovernmental Commission under the Concession, in France such inspections and investigations are conducted under the same conditions as those established for inspections and investigations undertaken by the safety authorities of the French Republic in fulfilling their functions outside the Fixed Link, and in Great Britain are conducted in accordance with relevant statutory powers.
 - (b) To assist the Intergovernmental Commission in carrying out the aforementioned tasks the Concessionaires and railway undertakings shall, on request, give the Intergovernmental Commission access to all relevant documents and to their premises, installations and equipment.

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

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

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

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

10. In order to monitor and evaluate the implementation of the safety requirements applicable to the Fixed Link, and without prejudice to its rights under the Concession to receive reports and

information from the Concessionaires, the Intergovernmental Commission shall collect relevant material through the common safety indicators described in Annex 2 and through any other indicators relating to the Fixed Link which it thinks appropriate.

Infrastructure manager

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

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

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

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

Railway undertakings

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

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

- (i) implement any necessary risk control measures, where appropriate in cooperation with the Concessionaires;
- (ii) comply with the requirements of the unified safety rules applying to the railway system;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (iii) ensure that their staff undertaking safety-related work have been trained, and possess and maintain the appropriate certification and skills, including those relating to the procedures for preventing and protecting against risks in the tunnel;
- (iv) ensure that the rolling stock used for carrying out their railway transport activities is authorised to run on the Common Section;
- (v) ensure that the rolling stock used for carrying out their railway transport activities is in safe condition.

Annual safety report

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

- (i) information on the extent to which the Concessionaires or the railway undertakings have achieved their own safety objectives;
- (ii) the results of their safety plans;
- (iii) the common safety indicators referred to in Annex 2 insofar as these indicators are relevant to their activities;
- (iv) the results of their internal safety audits; and
- (v) observations on deficiencies and malfunctions of railway operations and infrastructure management that might be relevant for the Intergovernmental Commission.

Unified safety rules

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

18. The unified safety rules supplement the requirements of the technical specifications for interoperability (TSIs) which apply to all or part of the railway system.

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

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

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