

SCHEDULE

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

Chapter 3

Safety management systems, safety authorisation of Concessionaires and Part B certification of railway undertakings

Safety management systems (SMS)

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

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

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

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

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

Safety authorisation for the Concessionaires

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

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

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

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

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

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

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

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

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- (a) The Concessionaires shall without delay inform the Intergovernmental Commission of any substantial changes proposed to the infrastructure, signalling, energy supply or rolling stock or to the principles of their operation and maintenance, and shall propose any appropriate modifications to the safety authorisation.
- (b) In proposing any introduction of a new element into the railway system or the modification of an existing element of that system the Concessionaires shall ensure that such new elements or modifications would not reduce the overall level of safety and, where reasonably practicable, would improve it.
- (c) The Intergovernmental Commission's procedures for considering such proposals will be the same as for considering an application for a safety authorisation.
- (d) The period of validity of the safety authorisation shall not be affected by the approval of any such proposals unless the decision of the Intergovernmental Commission indicates otherwise and the safety authorisation is modified accordingly.

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

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

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

38. A safety authorisation issued by the Intergovernmental Commission to the Concessionaires, including a deemed safety authorisation under Article 73(a), may also, if the Intergovernmental Commission thinks fit and so indicates in writing, constitute certification confirming acceptance by the Intergovernmental Commission of the Concessionaires' safety management system in accordance with Article 10(2) (a) of Directive [2004/49/EC](#) where this is required for the purposes of any operation by the Concessionaires of their rolling stock outside the fixed link.

Part B certification for railway undertakings

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

- (i) a Part A certificate; and

(ii) a Part B certificate issued by the Intergovernmental Commission.

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

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

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

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

43. To avoid duplication of work and reduce the amount of information only summary documentation should be submitted concerning elements that comply with TSIs and other requirements of Directives [96/48/EC](#) and [2001/16/EC](#).

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

45. The Part B certificate confirms acceptance by the Intergovernmental Commission of the measures taken by the railway undertaking to comply with the specific requirements necessary for safe use of the Common Section.

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

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

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

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

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

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

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- (a) The holder of a Part B certificate shall inform the Intergovernmental Commission without delay and propose appropriate modifications to its Part B certificate whenever it proposes to alter substantially the type or extent of its operations or where any proposed changes referred to in Article 51 would necessitate modifications to the certificate.
- (b) In proposing any introduction of a new element into the railway system or the modification of an existing element of that system the holder of a Part B certificate shall ensure that such new elements or modifications would not reduce the overall level of safety and, where reasonably practicable, would improve it.
- (c) The Intergovernmental Commission's procedures for considering such proposals will be the same as for considering an application for a Part B certificate. The period of validity of the Part B certificate shall not be affected by the approval of any such proposals unless the decision of the Intergovernmental Commission indicates otherwise and the Part B certificate is modified accordingly.

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

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

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