



Department
for Transport

From the Minister of State
Huw Merriman MP

Great Minster House
33 Horseferry Road
London
SW1P 4DR

Tel: 0300 330 3000
E-Mail: huw.merriman@dft.gov.uk

Web site: www.gov.uk/dft

Sir William Cash MP
Chairman, European Scrutiny Committee
House of Commons
14 Tothill Street
London
SW1H 9NB

13 April 2023

Dear Sir William,

Future operation of the Channel Fixed Link

In line with arrangements agreed with my predecessors, I am writing to provide a further update on negotiations with France regarding the long-term regulatory framework for the Channel Tunnel post Brexit, specifically the remaining two bilateral agreements.

As the Committee will be aware, the two highest priority agreements were signed and entered into force in March 2022. These agreements provide for the mutual recognition of train driving licences and rail operator licences within the Channel Tunnel and immediate cross-border area. Both agreements have been working well in practice and have supported the continued smooth operation of rail traffic through the Channel Tunnel, as well as reducing burdens on operators.

The safety certificate agreement

This agreement provides for the mutual recognition of rail safety certificates in the Channel Tunnel and cross-border area. The agreement has now been signed by both the UK and France. It fully respects UK red lines, which are: conferring no role for the EU courts or the European Rail Agency in UK territory, including the UK section of the Channel Tunnel, and avoiding dynamic alignment with EU law. We now intend to commence the ratification process for this agreement under the Constitutional Reform and Governance Act 2010, giving both Houses the opportunity to scrutinise the text of the agreement in full. We expect to begin this process in the coming weeks.

The technical framework agreement

The fourth and final agreement (which is now referred to as ‘the technical framework agreement’) has also been agreed between the UK and France at a technical level. This agreement was previously referred to as the ‘Intergovernmental Commission (IGC) Regulation’ as it was intended to be a regulation of the IGC made under the Treaty of Canterbury. It is now intended, however, that the agreement will be a Treaty in its own right, which is similar to the previous three Channel Tunnel agreements we have already negotiated. The Treaty of Canterbury will remain in force and will not be affected by this change. Given its scope and purpose, we are therefore referring to this agreement as the ‘technical framework agreement’, as it updates the safety, interoperability and governance framework for the Channel Tunnel.

As noted in the previous letter to the Committee of 21 July 2022, France has encountered delays in obtaining European Commission approval to sign the agreement, which it requires as the agreement relates to matters of exclusive Commission competence under EU law. France is continuing to work with the Commission to reach a consensus and DfT officials are continuing to support French officials in addressing any concerns which arise from the discussions. However, any further progress towards signing this agreement is ultimately dependent upon France reaching consensus with the European Commission.

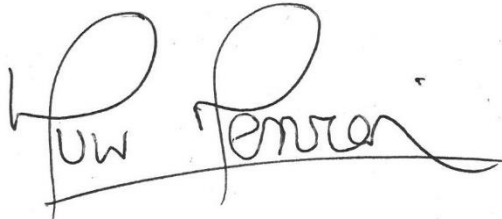
These delays have consequently pushed back the overall timetable for implementation of the technical framework agreement and the safety certificate agreement, which we intend to implement via a single Statutory Instrument on the UK side given interlinkages between the two agreements. While the draft implementing legislation is now at an advanced stage, it cannot be laid until the technical framework agreement has been fully finalised. We therefore now expect to begin the implementation process in late Autumn 2023 at the earliest.

As previously noted to the Committee, industry contingency arrangements in the form of contractual arrangements on safety certification have been in place to support the continuation of services since the end of March 2022, when the previous contingency arrangements (an EU contingency regulation) expired. These arrangements are robust and can be relied upon until the remaining agreements have been implemented. We therefore do not anticipate any impact on the continuation of services as a result of the current delays to implementation.

The working relationships between the UK and French Governments remain positive and strong – as reaffirmed in the recent UK-France summit attended by the Transport Secretary, and my officials continue to work closely with their counterparts in France to ensure that the technical framework agreement can be signed at the earliest opportunity. I look forward to providing a further update later in the year.

I am copying this letter to Lord Kinnoull, Chairman of the European Affairs Committee; and to Iain Stewart MP, Chairman of the Transport Committee; Angus Brendan MacNeil MP, Chairman of the International Trade Committee; Jessica Morden MP, Chair of the Joint Committee of Statutory Instruments; Lord Hodgson of Astley Abbotts, Chair of the Secondary Legislation Scrutiny Committee; Dr George Wilson, Clerk to your Committee; Nick Boorer, Clerk to the Lords Committee; Indira Rao, Legal Adviser to your Committee; Les Saunders, Cabinet Office; and Michal Cichowlas, departmental scrutiny coordinator.

Yours ever,

A handwritten signature in black ink, appearing to read 'Huw Merriman', with a long horizontal flourish extending to the right.

HUW MERRIMAN MP

MINISTER OF STATE FOR TRANSPORT