

SCHEDULE

Article 13

“SCHEDULE 2

Article 2(3)

TRIPARTITE ARTICLES

PART I

General Provisions

*ARTICLE 1*

*Definitions*

1. “Frontier controls” means police, immigration, customs, health, veterinary and phytosanitary, consumer protection, and transport controls, as well as any other controls provided for in national or European Community laws and regulations.

1A. “Border controls on persons” mean controls carried out to ensure that persons may be authorised to enter or leave the territory of the United Kingdom or the Schengen Area in accordance with the national legislation of the relevant Contracting Party or the Schengen Borders Code, as applicable.”

2. “Fixed Link” means the Channel Fixed Link defined in Article 1 of the Treaty done at Canterbury on 12 February 1986.

3. “Trains” means trains travelling between the territory of two or more Contracting Parties using the Fixed Link, other than those commencing or terminating in France.

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5. “Officers” means persons responsible for policing and frontier controls who are under the command of the persons or authorities designated in accordance with Article 3(2) and are assigned in accordance with their national law.

6. “Control zone” means that part of the territory of the Host State and the trains within which the officers of another State are empowered to effect controls, as defined by mutual agreement between the Host State and the State whose officers will be operating in the said zone.

7. “Host State” means the State in whose territory the controls of one or more other Contracting Parties are effected or where the officers of those Contracting Parties are present.

8. “State of arrival” means the State in whose territory a train makes its first commercial stop after using the Fixed Link.

9. “State of departure” means the State in whose territory a train commences its journey with the intention of using the Fixed Link.

10. “Commercial stop” means a stop by a train scheduled in the operator’s timetable for the purpose of embarking or disembarking passengers.

11. “Operator” means a rail carrier providing a scheduled high-speed international railway service via the Fixed Link.

12. “Schengen Area” means the territory of the Contracting Parties which apply the Schengen acquis in full.

13. “Security” consists of the measures taken to reduce the risks and mitigate the consequences of hostile acts against the Fixed Link and the persons, property and trains bound for or present within it.

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*ARTICLE 2*

*Scope*

1. This Agreement shall apply to rail traffic between the Contracting Parties in either direction, travelling via the Fixed Link, which passes through France but does not commence or terminate there.

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3. A Protocol concerning the organisation of frontier controls in the control zones is annexed to this Agreement and shall form an integral part thereof.

...

PART II

Authorities and General Principles of Co-operation

*ARTICLE 3*

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2. Each of the Contracting Parties shall designate the authorities or persons having charge of the services which in its territory have responsibility for the exercise of frontier controls and the maintenance of law and order.

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*ARTICLE 4*

1. On board trains, officers of the Contracting Parties may exercise frontier controls in the territory of another Contracting Party, provided the latter has been informed of this in advance and has agreed.

2. Any such controls may only take place to the extent permitted by the national law of the Contracting Party in whose territory they take place. If national law prohibits or limits the conduct of such controls, the Contracting Party shall make this clear when agreeing or declining permission under paragraph 1 above.

*ARTICLE 5*

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4. In the case of a Contracting Party that does not apply the Schengen acquis in full, border controls on persons shall be governed by its national legislation.

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*ARTICLE 8*

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2. Each Contracting Party has the right to recover, from an Operator or other third party, the costs of its own controls.

3. Any such recovery shall be by way of administrative agreement between the relevant Contracting Party and Operator or third party.

#### ARTICLE 9

Officers shall be authorised to circulate freely over the whole of the network for official purposes related to this Agreement simply by producing appropriate evidence of their identity and status. While doing so, they may wear their national uniform or other distinctive insignia in the Host State.

#### ARTICLE 10

The authorities of the Host State reserve the right to request the authorities of the other Contracting Parties to recall any of their officers. The Contracting Party receiving such a request shall comply with the same.

### PART III

#### Co-operation in Criminal Justice

#### ARTICLE 11

1. Policing matters relating to the rail traffic referred to in paragraph 1 of Article 2 and the combatting of terrorism, organised crime, migrant smuggling and human trafficking may be the subject of special bilateral or multilateral arrangements between all or some of the Contracting Parties, without prejudice to the provisions of this Agreement. Any such arrangements existing at the date this Agreement enters into force shall not be superseded by the provisions of this Agreement and shall continue in effect without modification.

2. For the purposes set out in paragraph 1 above, the Contracting Parties may also agree, between all or some of them, on other forms of collaboration by their officers, especially within control zones and on board trains. Any such agreement is to be recorded in writing and notified to all affected Contracting Parties.

#### ARTICLE 12

1. In connection with the duties performed by officers of a Contracting Party pursuant to their national law on the network used by trains but within their own territory, such officers shall be authorised to board trains within the territory of another Contracting Party or to disembark therefrom when they have completed their duties, provided that such travel within foreign territory has been notified to the competent authorities of the Host State before the officers leave their national territory.

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3. During their presence in the territory of the Host State pursuant to paragraph 1, officers of the other Contracting Parties shall wear their national uniform or other distinctive insignia unless the nature of the duties in their national territory requires otherwise. Without prejudice to the provisions of Article 12A of this Agreement, they shall be allowed to wear and carry in the Host State such service weapons, ammunition and equipment as agreed with the Host State.

4. Where officers from one Contracting Party have arrested an individual or seized an object on board a train within their own national territory and it is then necessary, for practical reasons, to cross the frontier, such arrest or seizure will remain lawful in the territory of the Host State. The competent authorities of the Host State shall be informed of any such situation without delay. If an officer is not wearing uniform when arresting persons or seizing goods within their own national territory, they must make themselves identifiable as an officer at the time they cross the frontier into Host State territory, or as soon as possible thereafter, by wearing national uniform or other visible distinctive insignia or otherwise taking appropriate steps to be visibly identified as an officer.

5. Following the eventuality set out in paragraph 4 above, unless agreement to the contrary is reached with the Host State or the Contracting Party deemed to have jurisdiction under Article 15,

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those Officers shall, as soon as is practicable, return to their national territory with the arrested individual and/or any seized objects.

#### ARTICLE 12A

1. Any service weapons or ammunition may only be carried in a Host State subject to separate arrangements being entered into between the relevant Contracting Parties. Any such arrangement shall be notified to all Contracting Parties that are not party to it by the date that it enters into force.

2. Each Contracting Party shall additionally notify the others of all existing arrangements permitting the carriage of service weapons or ammunition in a Host State to which they are party, by the date on which this Agreement comes into force. These existing arrangements shall not be superseded by the provisions of this Agreement and shall continue in effect without modification.

#### ARTICLE 13

Persons who are found committing, attempting to commit, or just having committed an offence and who are apprehended on the train during the journey shall be handed over as soon as possible to the empowered officers of the State which has jurisdiction under Article 15.

#### ARTICLE 14

1. In the event that a person is found committing, attempting to commit or just having committed on board a train in the territory of a State one of the following offences: terrorist acts, homicide, rape, arson, armed robbery, kidnapping and hostage taking, or use of explosives, the train must be stopped in order to enable the competent authorities of that State to take any measures relevant to their investigations and, where appropriate, detain the person suspected of having committed the offence.

2. If the train cannot be stopped because it is within the Fixed Link or because it is about to leave the territory of the State in which one of the offences referred to in the preceding paragraph has been committed, authorised officers who are present must take all appropriate interim measures to ensure that, the officers of the State which has jurisdiction under Article 15 are able to interview witnesses, take evidence or receive information relevant to their investigations and, where appropriate, take charge of the person suspected of having committed the offence.

#### ARTICLE 15

1. Without prejudice to the other provisions laid down by the Contracting Parties in this Agreement or pursuant to Articles 4 and 14(2) of the Protocol attached as an annex to this Agreement, when an offence is committed on board a train in the territory of one of the Contracting Parties, including within the Fixed Link up to that Contracting Party's frontier, that Contracting Party shall have jurisdiction.

2. If it cannot be ascertained where an offence has been committed, the Contracting Party in whose territory the train makes its first subsequent commercial stop shall have jurisdiction.

3. A person lawfully detained under Articles 4, 13 or 14(2) of this Agreement may be transferred to the territory of the Contracting Party that has jurisdiction.

#### ARTICLE 15A

Nothing in Article 15 above, or any other provision of this Agreement, shall be deemed to exclude the jurisdiction of any Contracting Party in respect of offences carried out in their national territory

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or in respect of such offences that have, by virtue of national legislation or otherwise, extra-territorial effect.

#### *ARTICLE 15B*

1. Officers of a Contracting Party who are on board a train on the basis of a provision of this Agreement may, in the territory of another Contracting Party, without prior consent but in compliance with the national law of that Contracting Party regarding the right of persons other than police officers to effect an arrest, hold a person until the arrival of that Contracting Party's officers, but only to the extent permitted by that Contracting Party's national law.

2. When they intervene on the basis of paragraph 1, the officers must call the competent authority of the Host State immediately.

3. This Article is without prejudice to other international agreements binding the Contracting Parties, or some of them, which contain provisions of wider application regarding the intervention of officers of other States on board a train.

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### PART V

#### Co-operation Between the Competent Authorities

#### *ARTICLE 23*

1. Each State shall waive any claim which it may have against the other States for compensation in respect of damage caused to its officers or its property.

2. The provisions of this Article shall not affect in any way the rights of third parties under the laws of each State.

#### *ARTICLE 23A*

Officers of a State, when acting in pursuance of this Agreement, shall be subject at all times to the applicable legislation in relation to the processing of personal data in the exercise of their functions.

#### *ARTICLE 23B*

1. Without prejudice to the other provisions laid down by the Contracting Parties in this Agreement or the Protocol hereto, when a person submits a request for refugee status or any other kind of protection provided for by international law or in the national law of the State of departure during a control carried out at the station of the State of departure by the officers of the State of arrival, this request shall be examined by the authorities of the State of departure in accordance with the rules and procedures of its national law.

2. The same provision shall be applicable when the request is submitted after the person has passed through this control and before the train doors close at the last scheduled stop at a station located in the territory of the State of departure. If such a request is made after the train doors have closed, it shall be processed by the authorities of the State of arrival in accordance with the rules and procedures of its national law.

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## PART VI

### Final Clauses

#### ARTICLE 24

The implementation of this Agreement and its Protocol may, as far as necessary, be the subject of technical or administrative arrangement between the Contracting Parties or their competent authorities.

## PART II

### PROTOCOL

#### ARTICLE 1

This Protocol shall apply to rail traffic between the Contracting Parties in either direction travelling via the Fixed Link, which passes through France but does not commence or terminate there.

#### ARTICLE 2

1. The laws in force of the Host State shall apply at all times in the control zone. Without prejudice to the application of the provisions of article 18, officers of the Host State have the right to circulate and intervene at any moment within the control zone in order to perform their competences attributed by national law.

2. When performing frontier controls in the Host State, the officers of one Contracting Party shall apply the laws and regulations relating to frontier controls in their State and put them into effect in the control zone situated in the Host State in the same way as in their own territory, under the procedure and modalities as defined in Article 3.

#### ARTICLE 3

1. Each Contracting Party shall, at the time of signing this Agreement, set out in a written declaration which of the following procedures and modalities 3(1)(a) or 3(1)(b) shall apply to the control zones situated in their territory, in their capacity as Host State:

- (a) The officers of the other States shall, in exercise of their national powers, be permitted in the control zone situated in the Host State to detain or arrest persons in accordance with the laws and regulations relating to frontier controls of their own State or persons sought by the authorities of their own State. Any person arrested or detained shall be handed over immediately, along with any seized goods, to the competent authorities of the Host State. The Host State shall ensure that the competent authorities are available to receive such a person and to take the necessary measures.

The State whose officers have made the detention or arrest shall, should they wish to transfer the individual in question to their own territory, follow the relevant applicable procedure for making a formal request for such a transfer from the Host State.

However, no person may be held for more than 24 hours in the areas reserved for frontier controls in the Host State. Any such detention shall be subject to the requirements and procedures laid down by the legislation of the State of the officers who have made the detention or arrest.

Or

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- (b) The officers of the other States shall, in exercise of their national powers, only be permitted in the control zone situated in the Host State to detain or arrest persons for criminal offences during the execution of a border control on persons in accordance with the laws and regulations relating to frontier controls of their own State or persons sought by the authorities of their own State, as follows:
- (i) No arrest or detention may be made for a criminal offence for which there is no comparable criminal offence under the domestic legislation of the Host State, such offences to be agreed and set out in a separate bilateral agreement between the Host State and the State of arrival, to be signed at the same time as the written statement to which this Article applies.
  - (ii) While performing the controls envisaged in article 2, the officers of the State of arrival may require a person to submit to further examination in order to ensure that such a person may be authorised to enter the territory of the State of arrival. Persons required to submit to further examination may bring this examination to an end at any time by discontinuing their wish to enter the territory of the State of arrival. In such a case the person shall be escorted to the officers of the Host State who shall take the necessary measures to submit the person to frontier controls.
  - (iii) Any person arrested or detained shall be handed over immediately, along with any seized goods, to the competent authorities of the Host State. The Host State shall ensure that the competent authorities are available to receive such a person and to take the necessary measures.

2. Each Contracting party shall then provide to every other Contracting Party a copy of that declaration, irrespective of whether that other Contracting Party is intending to carry out frontier controls in Host State territory.

3. A Contracting Party may at any time, in agreement with the relevant State(s) of arrival, replace its written declaration on the modality to be operated according to paragraph 1 of this Article. All Contracting Parties shall consult one another to establish a practical way to accommodate such a modification. This declaration shall take effect on the first day of the sixth month following the day on which all contracting Parties were in receipt of its notification, pursuant to the requirement under paragraph 2 above.

#### ARTICLE 4

Without prejudice to the law of the Host State, breaches of the laws and regulations relating to frontier controls of the other Contracting Parties which are detected in the control zone situated in the Host State shall be subject to the laws and regulations of those other States, as if the breaches had occurred in the territory of the latter.

#### ARTICLE 5

1. The frontier controls of the State of departure shall normally be effected before those of the State of arrival.

2. The officers of the State of arrival are not authorised to begin to carry out such controls before the end of the controls of the State of departure. Any form of relinquishment of such controls shall be considered as a control.

3. The officers of the State of departure may no longer carry out their controls when the officers of the State of arrival have begun their own operations, except with the consent of the competent officers of the State of arrival.

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4. If exceptionally, in the course of the frontier controls, the sequence of operations provided for in paragraph 1 of this Article is modified, the officers of the State of arrival may not proceed to detentions, arrests or seizures until the frontier controls of the State of departure are completed. In such a case, these officers shall escort the persons, vehicles, merchandise, animals or other goods, for which the frontier controls of the State of departure are not yet completed, to the officers of that State. If these latter then wish to proceed to detentions, arrests or seizures, they shall have priority.

#### ARTICLE 6

If the State of arrival refuses admission to persons, vehicles, animals or goods, or if persons refuse to submit to the frontier controls of the State of arrival, or send or take back any vehicles, animals or goods which are accompanying them, the authorities of the State of departure may not refuse to take back such persons, vehicles, animals or goods. However, the authorities of the State of departure may take any measures to deal with them in accordance with the law applicable in that State and in a way which does not impose obligations either on the State of transit or on the State of arrival.

#### ARTICLE 7

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2. In an emergency, the local representatives of the authorities concerned may by mutual agreement provisionally bring into effect alterations to the delimitation of the control zones which may prove necessary. Any arrangements so reached shall come into effect immediately.

#### ARTICLE 8

Frontier controls on persons for the purpose of safeguarding public health shall be carried out in the control zone situated in the Host State by the competent authorities of the State of arrival in conformity with the regulations applicable in that State.

#### ARTICLE 9

1. Where there is information giving rise to suspicion of an infringement, controls may be carried out on animals, animal products, plants, plant products and foodstuffs for human or animal consumption.

2. The bringing into the State of arrival of pets which travellers take with them for non-profit purposes may be subject to controls in compliance with the current regulations.

#### ARTICLE 10

1. The controls referred to in Article 9 shall include:

- (a) inspection of certificates or accompanying documents, termed documentary inspection;
- (b) physical examination, including where necessary the taking of samples;
- (c) inspection of means of transport.

2. Such controls may be limited to documentary inspection, while physical examination may be undertaken as considered necessary.

#### ARTICLE 11

Veterinary inspection of living animals shall be without prejudice to any subsequent quarantine measures which may be imposed by the importing State.



#### ARTICLE 12

Officers of the other States may wear their national uniform or visible distinctive insignia in the Host State.

#### ARTICLE 13

1. The authorities of the Host State shall grant the same protection and assistance to officers of the other States, in the exercise of their functions, as they grant to their own officers.
2. The provisions of the criminal law in force in the Host State for the protection of officers in the exercise of their functions shall be equally applicable to the punishment of offences committed against officers of the other States in the exercise of their functions.

#### ARTICLE 14

1. Without prejudice to the application of the provisions of Article 23 of the Agreement, claims for compensation for loss, injury or damage caused by or to officers of the other States in the exercise of their functions in the Host State shall be subject to the law and jurisdiction of the State to which those officers belong as if the circumstance giving rise to the claim had occurred in that State.
2. Officers of the other States may not be prosecuted by authorities of the Host State for any acts performed in the control zone whilst in the exercise of their functions. In such a case, they shall come under the jurisdiction of their own State as if the act had been committed in that State.
3. The judicial authorities or police of the Host State who take steps to record the complaint and assemble the facts relating thereto shall communicate all the particulars and evidence thereof to the competent authorities of the State to which the accused officer belongs for the purposes of a possible prosecution according to the laws in force in that State.

#### ARTICLE 15

1. Officers of the other States shall be permitted freely to transfer to their own States sums of money levied on behalf of their Governments in the control zone situated in the Host State, as well as merchandise and other goods seized there.
2. They may equally sell such merchandise and other goods in the Host State in conformity with the provisions in force in the Host State and transfer the proceeds to their own State.

#### ARTICLE 16

The competent authorities of each Contracting Party shall, in consultation with one another, determine their respective requirements for accommodation, installations and equipment. Where these requirements are to be satisfied by other parties, they shall be notified to them, where appropriate, through the Intergovernmental Committee.

#### ARTICLE 17

1. The authorities of each Contracting Party shall use their best endeavours to ensure that the authorities of the other party are able to make use in the Host State of the accommodation, installations and equipment necessary for the performance of their functions.
2. The Host State has the right to provide for an operator or third party to make available the accommodation, installations and equipment necessary for the performance of the other Contracting Parties' functions and similarly has the right to recover the costs of such provision from an Operator

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or other third party. Any such provision or recovery shall be by way of administrative agreement between the relevant Contracting Party and Operator or third party.

*ARTICLE 18*

1. The officers of the other States are empowered to keep order within the accommodation appointed for their exclusive use in the Host State.

2. The officers of the Host State shall not have access to such accommodation, except at the request of the officers of the State concerned or in accordance with the laws of the Host State applicable to entry into and searches of private premises.

*ARTICLE 19*

All goods which are necessary to enable the officers of the other States to carry out their functions in the Host State shall be exempt from all taxes, duties and fees on entry and exit.

*ARTICLE 20*

1. The officers of the other States, whilst exercising their functions in the Host State shall be authorised to communicate with their national authorities.

...

3. The Host State has the right to provide for an Operator to make available the accommodation, installations and equipment necessary for the performance of the other Contracting Parties' functions, and similarly has the right to recover the cost of such provision from an Operator or other third party. Any such provision or recovery shall be by way of administrative agreement between the relevant Contracting Party and Operator or third party."