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Document Review – Comment Sheet

Document commented: Common Safety Methods on the assessment of Safety Level and Safety Performance of railway operators at national and Union level (CSM ASLP)

<i>Requestor:</i>	Consultation.ERA1219@era.europa.eu
<i>Deadline for submitting comments:</i>	17 March 2021

	<i>Reviewer 1</i>	<i>Reviewer 2</i>	<i>Reviewer 3</i>	<i>Reviewer 4</i>	<i>Reviewer 5</i>
<i>Date:</i>	16.03.2021				
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Document History

<i>Version</i>	<i>Date</i>	<i>Comments</i>
1.0	16.03.2021	

Conventions:

<i>Type of Comment</i>		<i>Reply by requestor</i>	
<i>G</i>	General	<i>R</i>	Rejected
<i>M</i>	Mistake	<i>A</i>	Accepted
<i>U</i>	Understanding	<i>D</i>	Discussion necessary
<i>P</i>	Proposal	<i>NWC</i>	Noted without need to change

Review Comments <if necessary add extra lines in the table>

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
1.	CSM in general	G	Bane NOR	<p>Bane NOR has been, along with the rest of the EIM members, participated in the development of the comments given by EIM (European Rail Infrastructure Managers) as part of this public consultation.</p> <p>To avoid double work for ERA we decided not to repeat the comments already given by EIM, but instead ask ERA to take into account that Bane NOR strongly support all the comments given by EIM and the position paper posted along with the comments.</p> <p>If ERA wish to receive the comments once again, please let us know.</p> <p>Comments given in this document are comments that emphasise Bane NORs point of view.</p>		Noted, thank you.

<p>2.</p>	<p>CSM in G general (including impact assessment)</p>	<p>G</p>	<p>Bane NOR</p>	<p>We consider the achievement of the purpose and objectives described in the CSM to be more limited than the predicted benefits shown in the impact assessment.</p> <p>Since most of the accident in Europe are related to accidents that is more or less dependent of location (level crossings and unauthorized persons), the learning possibilities are less then assumed in the impact assessment.</p> <p>Further on, the cost used in calculation of the impact assessments is not covering the actual cost for each operator and underestimate the cost for those elements listed.</p> <p>For instance, the hourly wage rate does not seem to take into account the social cost for the company (what it actually costs to have employees beside the payment for one hour). Compare to what ERA is planning to charge for their services, the cost used in the impact assessment is less than a third. The hourly wage rate should at least be double of what is stated in the impact assessment.</p> <p>It also seems that the cost to make the operators able to report, is based upon that only 10 operators have their own system and that there is no need to adjust the internal system (for instance adapt in order to keep historical data, which is important for the safety work of each operator).</p> <p>The impact assessment should be updated to reflect more realistic benefits and costs.</p>	<p>NWC</p>	<p>On the benefit side the calculation conservative assumptions have been used: For effectiveness 0.1% of accident related costs; for efficiency 1% of costs associated with monitoring and auditing the SMS. These percentages are put forward based on available studies from the transport sector as well as other safety-critical industries (e.g. nuclear or mining). In fact, compared to available evidence the modelled savings are in the lower end compared other sectors.</p> <p>Learning potential: This may not only be limited to the less frequent accidents (collisions, derailments, fires) but also to level crossings as well as related to precursors.</p> <p>Cost calculations: For the cost side the detailed analysis demonstrated the likely limited impacts compared to current existing obligations. Current existing obligations should not be included.</p> <p>Hourly rate: The assumed hourly labour cost figure of 42 EUR/h has been derived considering available national labour cost statistics for job profiles expected to correspond to the ones for CSM ASLP tasks (in the upper end of medior / lower end of senior). Particular attention in setting the assumption was given to remuneration in the Netherlands and Denmark. Therefore, it is likely that the assumed cost figure is in the higher end compared to an EU average (incl. social contributions etc.). Note that the hourly rate assumed in the IA from 2012 for aviation occurrence reporting at EU level was 32 EUR.</p> <p>Internal systems: The number of 10 operators is an assumption based on the information gathered from the recent DNV study (2015). Essentially, it is assumed that 10 countries would retain their National Occurrence Reporting system (the number of countries with a comprehensive NOR system). Furthermore, it would be assumed that each of these systems would involve 2 interfaces (1 for the Agency and 1 for the railway operators in the country). These interfaces' costs (one-off and ongoing) have been</p>
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						<p>apportioned evenly between NSAs and operators – hence the 500 K EUR for NSAs and 500 K EUR for operators. These costs are associated with facilitating the indirect reporting channel. In the final IA report this element has been revisited and updated, in particular it is now assumed that 15 countries would choose to use the indirect reporting channel.</p> <p>The IA has been revisited and updated to take into account the comments raised. This included review of key CBA-assumptions along with sensitivity testing</p>

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4.	CSM in general	P	Bane NOR	<p>As set out in article 11 the CSM ASLP will implement the first phase and then continue development.</p> <p>The process regarding the public consultation has shown that the CSM ASLP regulation is confusing, especially regarding how to implement the first phase. This is caused by all the text not related to the first phase that is part of the CSM ASLP to prepare for the next phases.</p> <p>In order to make the CSM ASLP understandable for all and ensure correct implementation of the CSM ASLP for the first phase, the text in the regulation not part of the first phase need be removed from the CSM ASLP.</p> <p>Those elements that is taken out will be part of the further development of the CSM ASLP already foreseen.</p> <p>When the CSM ASLP is ready for the next step (according to the gateways), the regulation will be update with the text needed for the updated regulation.</p>	<p>A</p> <p>R</p> <p>A</p>	<p>The CSM has been drastically simplified in its structure and several articles have been redrafted to directly indicate what is requested in each phase (Article2,4 and 11).</p> <p>All the parts of the CSM are needed to implement collective learning with the Group of Analysts (it is a basis for Article 6) and to allow harmonised preparation of operators for the next phases.</p> <p>The improvement process with Group of Analyst proposal allows to improve the methods developed by the Working Party, however the Agency considers that those development are based on robust elements, tested in the past which can be used as a baseline for the GoA.</p>

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6.	Art 6	P	Bane NOR	<p><i>“1. For facilitating the implementation of effective collective learning, the Agency shall establish a Group of Analysts, in accordance with Article 5 of Regulation (EU) 2016/796 and shall develop and maintain the necessary working arrangements in collaboration with this group.”</i></p> <p>It is important that the sector is represented in the GoA, both in the development and decision.</p> <p>Which means, for us, that EIM representatives is actively part of the GoA and that EIM is ensured the same role as now regarding development/changes of regulations.</p> <p>This is also an important part of the gateway approach.</p>	A	<p>The GoA will be established as a Working Party as mentioned in Regulation 2016/796.</p> <p>Article 5 of this Regulation states:</p> <p>. The working parties shall be composed of:</p> <ul style="list-style-type: none"> — representatives nominated by the competent national authorities to participate in the working parties, — professionals from the railway sector selected by the Agency from the list referred to in paragraph 3. The Agency shall ensure adequate representation of those sectors of the industry and of those users which could be affected by measures the Commission may propose on the basis of the recommendations addressed to it by the Agency. The Agency shall strive, where possible, for a balanced geographical representation

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7.	Art 11.	P	Bane NOR	<p>In art. 11 there is listed a set with dates for implementation.</p> <p>Some of the dates are related to development and some for implementation.</p> <p>Those dates that could be seen as development, for instance the test-phase of the ISS, should be removed and followed up as part of a step-by-step plan for development of the CSM ASLP.</p> <p>The rest of the dates (except for the first phase) are related to a high level of uncertainties (cost/benefit, implementation, ISS, etc) and should be removed, which also is in line with the earlier comment that CMS ASLP should only contain what is required for the first phase.</p> <p>Further development and implementation of the CSM ASLP should result in new dates that will replace the implementation of the first phase.</p>	A	<p>The Article 11 is redrafted with removing those dates. This is replaced by conditional phasing triggered by the recommendation and the proposals of the GoA.</p>

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8.	Art 11.	P	Bane NOR	<p>Although there are no dates in art 11, the working party work plan provides provisional dates for the start of first phase CSM application with the temporary IT tool and start of second phase CSM application with the ISS.</p> <p>In order to prepare our reporting processes (data, staff, process, systems) for the first phase the temporary IT tool needs to be known up to 6 months (depending on the characteristics of the IT tool) before the reporting obligations apply.</p>	A	<p>Minimum delay has been added for this purpose in Article 11.</p> <p>See also previous comment.</p>
9.	Annex I – General part	G	Bane NOR	<p>One of the data items to be reported is the occurrence location, which is to be reported as geographical coordinates (latitude, longitude). Of historical reasons the locations at network and its elements are all give in kilometres from a central point (normally Oslo).</p> <p>In order to report latitude and longitude we are either forced to do the conversion manually or do changes to our existing system.</p> <p>Either way there will be a cost that will need to be taken into account in the impact assessment and the time to report an incident.</p>	NWC A	<p>Many systems will more and more use the Geo Coordinates due to the generalisation of the digitalisation and georeferenced application.</p> <p>The dataset has been amended, at least for the implementation of the first phase, allowing more flexible definition of the location and also the usage of RINF datasets, as they are harmonised.</p> <p>However the geo referencing is kept because the other location elements can be automatically retrieved from the Geo referencing.</p>

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10	Annex I – Part A	U	Bane NOR	<p>Event code A-7 Suicides and attempted suicides are voluntary to report.</p> <p>However, in most cases suicides starts out as an accident/incident and after a time it may be concluded as suicide or attempted suicide, and sometimes it will not be concluded at all (since the Police don't have a solid proof - which is quite normal regarding suicides).</p> <p>Since accidents are part of the Safety Level calculation, how should we act regarding suicides to prevent a safety level that will not be correct (due to missing conclusion or long time before it is conclusion of suicides)?</p> <p>Suicides are also treated quite different in Europe. How to make sure that suicides are handled in the same way for all countries when it comes to the CSM ASLP and the safety level?</p>	NWC	<p>But we would like to say that this is also a topic affecting the current CSIs gathered by the NSAs from the operator's reports.</p> <p>However, in the case of the CSM it is requested to report the deemed cause as well and to report the scenario of occurrence. This may result in the reduction of inappropriate declarations.</p> <p>Potential improvements should be proposed by the Group of Analyst after a certain period of implementation, depending on the lessons learned.</p>
11	Annex III – General part	P	Bane NOR	<p>Even though it is now described that you can use "undeveloped" instead of OR-gate, the CSM ASLP text is still using OR-gate in its explanation.</p> <p>Use of OR-gate as a description of uncertainties will cause confusion and make it harder to understand the Annex III.</p> <p>Suggest to consequently use "undeveloped" in the description instead of OR-gate to avoid misunderstanding.</p>	R	<p>The use of OR gate is useful in the process of investigation, and it is not an obligation to use it.</p> <p>The experience shows that uncertainties are often present, even after long investigations. Thus it will allow correct reporting in those cases, instead of a biased (incorrect) reporting.</p> <p>We consider also that those uncertainties can be a source of information that is important for collective learning, understanding better why / what /when causes are uncertain.</p>

Note: This table could be changed according to the requestor's needs

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