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II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 677/2011

of 7 July 2011

laying down detailed rules for the implementation of air traffic management (ATM) network functions and amending Regulation (EU) No 691/2010

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) ⁽¹⁾, and in particular Article 11 thereof,

Having regard to Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation) ⁽²⁾, and in particular Article 6 thereof,

Whereas:

- (1) Regulation (EC) No 551/2004 aims at supporting the concept of a progressively more integrated operating airspace within the context of the common transport policy and to establish common procedures for design, planning and management ensuring the efficient and safe performance of air traffic management. Network functions should be aimed at supporting initiatives at national level and at the level of functional airspace blocks.
- (2) The network functions should be a 'service of general interest' exercised for the European aviation network and contributing to the sustainable development of the air transport system by ensuring the required level of performance, compatibility and coordination of activities including those to ensure the optimal use of scarce resources.
- (3) The design of the European route network and the coordination of scarce resources according to Regulation (EC) No 551/2004 should be without prejudice to Member States' sovereignty over their airspace and to the requirements of the Member States relating to public order, public security and defence matters according to Regulation (EC) No 549/2004.

- (4) Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) ⁽³⁾ creates a policy and legal framework for that area.
- (5) An impartial and competent body (the Network Manager) should be established to perform the tasks necessary for the execution of the network functions provided for in Regulation (EC) No 551/2004.
- (6) The European route network should be designed to optimise routings from a gate-to-gate perspective in all phases of flight taking in particular into account flight efficiency and environmental aspects.
- (7) The work of the International Civil Aviation Organization (ICAO) and Eurocontrol in route design, frequency and secondary surveillance radar (SSR) transponder code management is recognised and should be used as a basis when optimising the development and operation of the network at Union level.
- (8) The obligations of the Member States towards the ICAO regarding route design, frequency and SSR transponder code management should be respected and should be implemented more effectively for the network with coordination by and support from the Network Manager.
- (9) The allocation of radio spectrum takes place in the context of the International Telecommunication Union (ITU). The Member States have a responsibility to highlight the civil aviation requirements and to subsequently use the resource allocated to general air traffic in an optimal manner.
- (10) The ICAO has developed guidance material relevant for the SSR transponder code and radio frequency functions and operates a system of registering frequency assignments for general air traffic purposes in the ICAO European region, currently facilitated by Eurocontrol.

⁽¹⁾ OJ L 96, 31.3.2004, p. 1.

⁽²⁾ OJ L 96, 31.3.2004, p. 20.

⁽³⁾ OJ L 108, 24.4.2002, p. 1.

- (11) Regulation (EC) No 551/2004 requires the adoption of detailed implementing rules to coordinate and harmonise the processes and procedures to enhance the efficiency of aeronautical frequency management and a central function to coordinate the early identification and resolution of frequency needs to support the design and operation of the network.
- (12) As air traffic flow management (ATFM) is an integral part of the network functions, an appropriate link to Commission Regulation (EU) No 255/2010 of 25 March 2010 laying down common rules on air traffic flow management ⁽¹⁾ is required.
- (13) As the efficiency of network management depends on immediate commencement of network functions, the Member States have already entrusted Eurocontrol with the performance of ATFM.
- (14) It is beneficial to entrust a single body to coordinate the various network functions in order to develop consistent short and long term optimisation solutions at network level, compliant with the performance objectives. However, network functions should be delivered by the Network Manager and at Member State and functional airspace block level according to the responsibilities set out by this Regulation.
- (15) The Network Manager should be involved with aspects of Member State or functional airspace blocks air traffic management (ATM) plans, actions and performance, in particular when it can be expected that it has, or is likely to have, a material effect on the performance of the network.
- (16) The events linked to the eruption of the Eyjafjallajökull volcano in April 2010 have demonstrated the need to create a central entity that can take the lead in coordinating the management of mitigating measures at local, regional and network level in order to secure the provision of a timely response to future crisis situations affecting aviation.
- (17) There should be coordination between the network functions and the operations organised at level of functional airspace blocks.
- (18) Effective stakeholder consultations should take place at national, functional airspace block and network levels.
- (19) Airports being entry and exit points to the network are key contributors to overall network performance, therefore the network functions should liaise through the Union observatory on airports capacity with airport operators acting as ground coordinators with the objective to optimise capacity on the ground, thus improving the overall network capacity.
- (20) The implementation of network functions should be without prejudice to Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports ⁽²⁾.
- (21) Having due regard to military operation effectiveness, civil-military cooperation and coordination are of utmost importance in order to achieve the required objectives. Whilst decisions relating to the content, scope or carrying out of military operations and training performed under the operational air traffic regime, do not fall within the sphere of competence of the Union, it is important to cover the interfaces between these operations and those covered by this Regulation in the interest of safety and mutual efficiency.
- (22) The network functions should be without prejudice to Article 13 of Regulation (EC) No 549/2004 aiming at safeguarding essential security or defence policy interests or the application of flexible use of airspace provided for in Article 7 of Regulation (EC) No 551/2004.
- (23) The network functions should be provided in a cost-efficient manner, in particular avoiding any duplication of efforts, and therefore enabling the provision of these functions at reduced, or at least not higher, financial and human resources requirements in the Member States in the context of this Regulation, compared to the situation before a Network Manager was nominated.
- (24) The Commission should ensure an appropriate oversight of the Network Manager.
- (25) Safety requirements for the network functions have to be of comparable level with the European Aviation Safety Agency (the Agency) requirements on air navigation service provision. These requirements, as well as the requirements on the safety oversight, should be provided.
- (26) The consideration and involvement of third countries in the establishment and implementation of the network functions should contribute to the pan-European dimension of the single European sky.
- (27) The network functions may be expanded in accordance with Article 6 of Regulation (EC) No 551/2004.
- (28) The execution of the network functions should be subject to specific performance targets which require amendments to Commission Regulation (EU) No 691/2010 of 29 July 2010 laying down a performance scheme for air navigation services and network functions and amending Regulation (EC) No 2096/2005 laying down common requirements for the provision of air navigation services ⁽³⁾. Those specific performance targets may be further developed based on practical experience with the execution of the performance scheme.

⁽¹⁾ OJ L 80, 26.3.2010, p. 10.

⁽²⁾ OJ L 14, 22.1.1993, p. 1.

⁽³⁾ OJ L 201, 3.8.2010, p. 1.

- (29) Regulation (EU) No 691/2010 should therefore be amended accordingly.
- (30) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation lays down detailed rules for the implementation of air traffic management (ATM) network functions in accordance with Article 6 of Regulation (EC) No 551/2004 in order to allow optimum use of airspace in the single European sky and ensure that airspace users can operate preferred trajectories, while allowing maximum access to airspaces and air navigation services.

2. For the purpose of network management this Regulation shall apply in particular to Member States, European Aviation Safety Agency (the Agency), airspace users, air navigation service providers, airport operators, airport slot coordinators and operating organisations, at national or functional airspace block level.

3. In accordance with Article 1(3) of Regulation (EC) No 551/2004 and without prejudice to the operation of State aircraft under Article 3 of the Chicago Convention on International Civil Aviation, Member States shall apply this Regulation in airspace placed under their responsibility in ICAO EUR and AFI regions.

4. In accordance with Article 13 of Regulation (EC) No 549/2004, this Regulation shall not prevent the application of measures by a Member State to the extent to which these are needed to safeguard essential security or defence policy interests.

Article 2

Definitions

For the purposes of this Regulation, the definitions in Article 2 of Regulation (EC) No 549/2004 shall apply.

In addition, the following definitions shall apply:

- (1) 'airport operator' means the 'managing body of an airport' as defined in point (j) of Article 2 of Regulation (EEC) No 95/93;
- (2) 'airport slot coordinator' means the function established at coordinated airports in application of Regulation (EEC) No 95/93;
- (3) 'airspace design' means a process to contribute to the achievement of network related performance targets and to cater for airspace users needs as well as to ensure or increase the established safety level and increase the airspace capacity and environmental performance through the development and implementation of advanced navigational capabilities and techniques,
- improved route networks and associated sectorisation, optimised airspace structures and capacity enhancing ATM procedures;
- (4) 'airspace reservation' means a defined volume of airspace temporarily reserved for exclusive or specific use by categories of users;
- (5) 'airspace restriction' means a defined volume of airspace within which, variously, activities dangerous to the flight of aircraft may be conducted at specified times (a 'danger area'); or such airspace situated above the land areas or territorial waters of a State, within which the flight of aircraft is restricted in accordance with certain specified conditions (a 'restricted area'); or such airspace situated above the land areas or territorial waters of a State, within which the flight of aircraft is prohibited (a 'prohibited area');
- (6) 'airspace structure' means a specific volume of airspace designed to ensure the safe and optimal operation of aircraft;
- (7) 'airspace utilisation' means the way that airspace is operationally used;
- (8) 'airspace users' representative' means any legal person or entity representing the interests of one or several categories of users of air navigation services;
- (9) 'aviation frequency band' means an entry in the ITU Radio Regulations Table of Frequency Allocations of a given frequency band in which frequency assignments are made for the purpose of general air traffic;
- (10) 'ATC sector' means a defined volume of airspace for which an associated controller(s) has ATC responsibility at any given time;
- (11) 'air traffic service route (ATS route)' means a specified part of the airspace structure designed for channelling the flow of traffic as necessary for the provision of air traffic services;
- (12) 'civil-military coordination' means the interaction between civil and military authorities and components of air traffic management necessary to ensure safe, efficient and harmonious use of the airspace;
- (13) 'conditional route (CDR)' means an ATS route that is only available for flight planning and use under specified conditions;
- (14) 'cooperative decision making' means a process in which decisions are made based on a constant interaction and consultation with Member States, operational stakeholders and other actors as appropriate;
- (15) 'network crisis' means a state of inability to provide air navigation service at required level resulting in a major loss of network capacity, or a major imbalance between network capacity and demand, or a major failure in the information flow in one or several parts of the network following an unusual and unforeseen situation;

- (16) 'European Route Network Improvement Plan' means the plan developed by the Network Manager in coordination with the operational stakeholders that includes the result of its operational activities with respect to route network design on short and medium terms in accordance with the guiding principles of the Network Strategy Plan;
- (17) 'Free Route Airspace' means a specific airspace within which users can freely plan their routes between an entry point and an exit point without reference to the ATS route network;
- (18) 'frequency assignment' means authorisation given by a Member State to use a radio frequency or radio frequency channel under specified conditions;
- (19) 'impact on the network' means in the context of the radio frequency function set out in Annex II a situation when a radio frequency assignment will degrade, obstruct or interrupt the functioning of one or more radio frequency assignments of the network, or will counter the optimal use of aviation frequency bands within the scope of this Regulation;
- (20) 'multiple route options' means the availability to the airspace user of more than one routing option on the ATS route network;
- (21) 'third countries' means non-Member States that are members of Eurocontrol or have concluded an agreement with the Union on the implementation of the single European sky or are participating in a functional airspace block;
- (22) 'Network Manager' means the body established under Article 6 of Regulation (EC) No 551/2004 to perform the duties provided for in that Article and this Regulation;
- (23) 'Network Operations Plan' means the plan developed by the Network Manager in coordination with the operational stakeholders to organise its operational activities in the short and medium term in accordance with the guiding principles of the Network Strategic Plan. For the European route network design (ERND)-specific part of the Network Operations Plan, it includes the European Route Network Improvement Plan;
- (24) 'Network Strategy Plan' means the plan developed by the Network Manager, consistent with the European ATM Master Plan, in coordination with Member States and the operational stakeholders defining the guiding principles for the network operation and its long term perspective;
- (25) 'operating organisation' means an organisation responsible for the provision of engineering and technical services supporting air traffic, communication, navigation or surveillance services;
- (26) 'operational requirements' means the requirements of the network in terms of safety, capacity and efficiency;
- (27) 'operational stakeholders' means the civil and military airspace users, civil and military air navigation service providers, airport operators, airport slot coordinators and operating organisations and any additional stakeholder groups considered relevant for the individual functions;
- (28) 'sector configuration' means a scheme combining sectors that are constructed and best placed to satisfy the operational requirements and airspace availability;
- (29) 'user required route' means the desirable routing that is declared by the aircraft operators at the airspace design stage to meet their needs.

CHAPTER II

ORGANISATION AND MANAGEMENT OF NETWORK FUNCTIONS*Article 3***Establishment of a Network Manager**

1. For the purpose of the performance of the tasks necessary for the execution of functions provided for in Article 6 of Regulation (EC) No 551/2004 and in the Annexes to this Regulation, an impartial and competent body (the Network Manager) shall be established.

2. The length of the term of the Network Manager shall coincide with the reference periods for the performance scheme provided for in Article 7(1) of Regulation (EU) No 691/2010. It shall be sufficiently long to enable maturity to develop in performance of these functions. It shall not be shorter than two reference periods and may be renewed.

3. The nomination of the Network Manager shall take the form of a Commission Decision after consultation of the Single Sky Committee in accordance with Article 5(3) of Regulation (EC) No 549/2004 and not later than 3 months after the adoption of this Regulation. That Decision shall include the terms and conditions of the nomination, including the financing and the conditions of its withdrawal. The Commission shall assess compliance with those conditions at the end of each reference period referred to in paragraph 2.

4. The Network Manager shall perform the following functions:

(a) the design of the European Route Network as set out in Annex I;

(b) the coordination of scarce resources, in particular:

(i) radio frequencies within aviation frequency bands used by general air traffic as set out in Annex II;

(ii) SSR transponder codes as set out in Annex III.

The Commission may add other functions to the Network Manager under Articles 6(3) or (4)(c) of Regulation (EC) No 551/2004.

5. The Network Manager shall also perform the ATFM function referred to in Article 6(6) of Regulation (EC) No 551/2004 and in Regulation (EU) No 255/2010.

Article 4

Tasks of the Network Manager

1. To support the execution of the functions listed in Article 3, the Network Manager shall perform the following tasks, with a view to a continuous improvement of the network operations in the single European sky contributing to the European Union-wide performance targets provided for in Regulation (EU) No 691/2010, and in particular:

- (a) develop, maintain and implement a Network Strategy Plan specified in Article 5, in compliance with the performance scheme provided for in Regulation (EU) No 691/2010 and the European ATM master plan and taking into account any relevant ICAO Air Navigation Plans;
- (b) detail the Network Strategy Plan through a Network Operations Plan, as further specified in Article 6, addressing in particular European Union-wide performance targets covering 3 to 5 year, annual, seasonal, weekly and daily periods;
- (c) develop an integrated European Route Network Design set out in Annex I;
- (d) provide the central function for the coordination of radio frequencies as required by Article 6(4)(b) of Regulation (EC) No 551/2004 and set out in Annex II to this Regulation;
- (e) coordinate the improvement of the SSR transponder code allocation process set out in Annex III;
- (f) organise the management and operation of the functions and execute in particular the obligations of the Central Unit for ATFM;
- (g) provide a consolidated and coordinated approach to all planning and operational activities of the network, including monitoring and improvement of its overall performance;
- (h) provide support for network crisis management;
- (i) support the different operational stakeholders in the execution of the obligations that are placed on them, in the deployment of air traffic management and/or air navigation services (ATM/ANS) systems and procedures in accordance with the European ATM master plan;
- (j) provide support to entities entrusted with the investigation of civil aviation accidents and incidents or with the analysis of occurrences as requested by those entities; within the scope of Regulation (EU) No 996/2010 of the European Parliament and of the Council ⁽¹⁾;

(k) ensure coordination with other regions and third countries which do not participate in the work of the Network Manager.

2. The Network Manager shall contribute to the implementation of the performance scheme in accordance with Regulation (EU) No 691/2010.

3. To fulfil its tasks, the Network Manager shall ensure the following:

- (a) the availability, operations and sharing of tools, processes and consistent data to support the cooperative decision-making process at network level, including but not limited to, flight plan processing and data management systems;
- (b) the facilitation and coordination between operational stakeholders and support to these stakeholders in the deployment and implementation of the plans and the related network measures following cooperative decision-making;
- (c) the appropriate operational coordination, as well as optimisation, interoperability and interconnectivity within its area of responsibility;
- (d) the coordination of proposals for amendments to the appropriate ICAO documents relating to the network functions;
- (e) the reporting in accordance with Article 20 of all operational performance aspects, including scarce resources;
- (f) an appropriate liaison with other modes of transport.

4. The Network Manager shall comply with ad hoc requests for information, advice, analysis or other similar ancillary tasks linked to the various functions on request of the Commission or the Agency.

Article 5

Network Strategy Plan

1. To guide its long term perspective, the Network Manager shall develop, maintain and implement a Network Strategy Plan, which shall be aligned with the reference period provided for in Article 7(1) of Regulation (EU) No 691/2010. It shall contain the performance plan and targets for the next reference period and shall give an outlook for future reference periods.

2. The Network Strategy Plan shall provide information set out in Annex IV.

3. The Network Strategy Plan shall aim at achieving the performance targets for network functions provided for in Regulation (EU) No 691/2010.

⁽¹⁾ OJ L 295, 12.11.2010, p. 35.

4. The Network Strategy Plan shall be updated if appropriate.

Article 6

Network Operations Plan

1. To implement the Network Strategy Plan at operational level the Network Manager shall develop a detailed Network Operations Plan.
2. The Network Operations Plan shall provide the information set out in Annex V.
3. The Network Operations Plan shall in particular lay down measures for the achievement of the European Union-wide performance targets provided for in Regulation (EU) No 691/2010 covering a 3 to 5 year, an annual, a seasonal, a weekly and a daily period.
4. The Network Operations Plan shall include military requirements if provided by Members States.
5. The Network Operations Plan shall include the European Route Network Improvement Plan and the equivalent for radio frequencies and the SSR transponder codes.
6. The Network Operations Plan shall identify operational constraints, bottlenecks, measures of improvement and solutions for remediation or mitigation.
7. Air navigation service providers, functional airspace blocks and airport operators shall ensure that their operation plans are aligned with the Network Operations Plan. The Network Manager shall ensure the coherence of the Network Operations Plan.
8. The Network Operations Plan shall be updated at regular intervals, taking into account all relevant developments in the needs and requirements of the network functions.

Article 7

Competences of the Network Manager

1. Without prejudice to the responsibilities of the Member States, the Network Manager shall, in the execution of its tasks, adopt individual measures which result from the cooperative decision-making process. The parties concerned with those measures shall implement them.
2. Where a Member State's responsibilities prevent the adoption of such individual measures, the Network Manager shall refer such a case to the Commission for further consideration.
3. The Network Manager shall also recommend measures on other issues required by the performance of the network.
4. The Network Manager shall take, in its area of responsibility, measures aiming to ensure that applicable European Union-wide performance targets referred to in Article 9 of Regulation (EU) No 691/2010 are met.
5. The Network Manager shall collect, consolidate and analyse all relevant data identified in Annexes I to VI. It shall

provide this data to the Commission, the Agency or Performance Review Body provided for in Regulation (EU) No 691/2010 as requested.

Article 8

Relations with operational stakeholders

1. In order to perform its tasks of monitoring and improvement of the overall performance of the network, the Network Manager shall develop appropriate working arrangements, provided for in Article 15, with the operational stakeholders.
2. The operational stakeholders shall ensure that the measures implemented at local or functional airspace block level are compatible with those adopted, through the cooperative decision-making process, at network level.
3. The operational stakeholders shall provide the Network Manager with the relevant data listed in Annexes I to VI, complying with any deadlines, completeness requirements or accuracy requirements agreed with the Network Manager for its delivery.
4. Operational stakeholders concerned with the individual measures taken by the Network Manager under Article 7(1) may request the revision of such measures within 5 working days of their adoption. The request of revision shall not suspend the individual measures.
5. The Network Manager shall confirm or modify the measures concerned within 5 working days or within 48 hours in case of network crisis.

Article 9

Relations with Member States

1. In the execution of its tasks, the Network Manager shall take due consideration of the responsibilities of the Member States.
2. Member States shall inform the Network Manager where their sovereignty and responsibilities prevent the adoption of individual measures under Article 7(1).
3. When Member States are involved in operational issues related to the network functions they shall be part of the cooperative decision-making process and shall implement the results agreed in this process at national level.

Article 10

Relations with functional airspace blocks

1. Member States shall ensure close cooperation and coordination between the functional airspace block and the Network Manager, such as in strategic planning level and tactical daily flow and capacity management.
2. In order to facilitate operational interconnectivity between functional airspace blocks, the Network Manager shall establish, in close cooperation with all the functional airspace blocks, harmonised processes, procedures and interfaces including changes on aspects related to activities of the Network Manager.

3. Member States cooperating in a functional airspace block shall ensure that consolidated views are formulated related to the network functions.

4. Air navigation service providers cooperating in a functional airspace block shall ensure that consolidated views are formulated related to operational issues of the network functions.

5. Before the establishment of a functional airspace block, Member States and air navigation service providers shall cooperate in such a way that consolidated views are formulated on aspects related to activities of the Network Manager.

Article 11

Civil-military cooperation

1. The Network Manager shall ensure that appropriate arrangements are in place to allow and support adequate coordination with national military authorities.

2. The Member States shall ensure appropriate military involvement in all activities related to the network functions.

3. The Member States shall ensure appropriate representation of the military air navigation service providers and military airspace users in all operational working and consultation arrangements established by the Network Manager.

4. The function of European Route Network Design shall be executed without prejudice to the reservations or restrictions of a volume of airspace for exclusive or specific use by the Member States. The Network Manager shall encourage and coordinate the availability of conditional routes through those areas in accordance with Commission Regulation (EC) No 2150/2005 ⁽¹⁾.

Article 12

General requirements for network functions

The Network Manager shall ensure that the general requirements for network functions set out in Annex VI are met. Those requirements shall apply as from the date of adoption of the nomination Decision and the Network Manager shall comply with them within 12 months after such date.

CHAPTER III

GOVERNANCE OF NETWORK FUNCTIONS

Article 13

Cooperative decision-making

1. Network functions shall be managed through cooperative decision-making.

2. A cooperative decision-making process shall include:

- (a) a consultation process provided for in Article 14;
- (b) detailed working arrangements and processes for operations provided for in Article 15.

3. In order to adopt measures related to the governance of the network functions and to monitor their performance the

Network Manager shall establish a Network Management Board provided for in Article 16.

4. Where the Network Manager finds its actions hindered by one or several parties, the matter shall be referred to the Network Management Board for resolution.

Article 14

Consultation process

1. A process shall be established to organise the appropriate and regular consultation of the Member States and operational stakeholders.

2. The consultation shall focus on the detailed working arrangements provided for in Article 15, the Network Strategy Plan, the Network Operations Plan, progress in the implementation of the plans, reports to the Commission and on operational issues as appropriate.

3. The consultation process may vary depending on the nature of the individual network functions. In order to ensure that regulatory issues can be addressed, Member States shall be involved when required.

4. Where stakeholders are not satisfied with the consultation, the issue shall first be referred to the appropriate consultation arrangement at individual function level. Where resolution of the issue cannot be reached at individual function level, the matter shall be referred to the Network Management Board for resolution.

Article 15

Detailed working arrangements and processes for operations

1. The Network Manager shall develop detailed working arrangements and processes for operations to address planning and operational aspects, taking into account, in particular, the specificity and requirements of the individual network functions as specified in Annexes I to VI.

2. The Network Manager shall ensure that the detailed working arrangements and processes for operations contain rules for notification of interested parties concerned.

3. These detailed working arrangements and processes for operations need to respect the separation of service provision and regulatory issues and to ensure that Member States are involved, when required.

Article 16

Network Management Board

1. The Network Management Board shall be responsible for:

- (a) endorsing the Network Strategy Plan prior to adoption in accordance with Article 5(3) of Regulation (EC) No 549/2004;
- (b) approving the 3 to 5 year and the annual Network Operations Plans;

⁽¹⁾ OJ L 342, 24.12.2005, p. 20.

- (c) approving the cooperative decision-making processes, the consultation processes as well as detailed working arrangements and processes for operations for the network functions, after a positive opinion of the Single Sky Committee;
- (d) approving the Rules of Procedure of the European Aviation Crisis Coordination Cell provided for in Article 18(4), after a positive opinion of the Single Sky Committee;
- (e) monitoring progress in the implementation of the plans and addressing any potential deviations from initial plans;
- (f) monitoring the consultation process of operational stakeholders;
- (g) monitoring activities related to the management of the network functions;
- (h) monitoring Network Manager activities related to network crises;
- (i) approving the annual report referred to in Article 20. This report shall include, but not be limited to, the implementation of the Network Strategy Plan and the Network Operations Plan;
- (j) addressing issues which were not solved at individual network function level;
- (k) assessing if the Network Manager has the appropriate competences, resources and impartiality to carry out independently the tasks assigned to it, including security, liability and contingency arrangements;
- (l) endorsing the Network Managers annual budget, after a positive opinion of the Single Sky Committee;
- (m) approving its Rules of Procedure, after a positive opinion of the Single Sky Committee;
- (n) addressing any additional subject it identifies as relevant.
2. The following shall be voting members of the Network Management Board:
- (a) one representative of air navigation service providers per functional airspace block, established or under establishment, with a total number of four votes for all air navigation service providers;
- (b) four representatives of commercial and non-commercial civil airspace users;
- (c) two representatives of the airport operators;
- (d) two representatives of the military as air navigation service providers and airspace users.
3. The following shall also be members of the Network Management Board:
- (a) the chairperson, appointed on the basis of technical competence and expertise upon a proposal by the Commission, based in particular on proposals from the voting members of the Network Management Board, and after a positive opinion of the Single Sky Committee;
- (b) one representative of the Commission;
- (c) one representative of Eurocontrol;
- (d) one representative of the Network Manager.
4. Members shall have an alternate.
5. The voting members of the Network Management Board shall be appointed, upon proposals from their organisations, after a positive opinion of the Single Sky Committee.
6. The Commission may appoint independent and recognised experts as advisors who shall serve in their personal capacity and represent a broad range of disciplines encompassing major aspects of the network functions. States participating in the work of the Network Manager shall propose candidates to that effect.
7. The members listed in points (a), (b) and (c) of paragraph 3 shall have the right to reject proposals which impact on:
- (a) sovereignty and responsibilities of Member States, in particular relating to public order, public security and defence matters, as set out in Article 13 of Regulation (EC) No 549/2004;
- (b) the compatibility of Network Management Board activities with the aims and objectives of this Regulation;
- (c) the impartiality and equity of the Network Management Board.
8. The documents referred to in paragraph 1 shall be adopted by the Network Management Board by simple majority of its voting members.
9. Where agreement cannot be reached on issues of major network significance, the Network Management Board shall refer the case to the Commission for further action. The Commission shall inform the Single Sky Committee.

Article 17

Role of the Single Sky Committee

1. The Network Manager shall refer regulatory issues to the Commission; the Commission shall inform the Single Sky Committee of those issues.
2. The Single Sky Committee shall give an opinion on:
- (a) the nomination of the Network Manager;
- (b) the appointment of the chairperson of the Network Management Board;

- (c) the appointment of the voting members of the Network Management Board;
 - (d) the Rules of Procedure of the Network Management Board;
 - (e) the Network Strategy Plan, and in particular the objectives of this plan at an early stage;
 - (f) the annual budget of the Network Manager;
 - (g) the Rules of Procedure of the European Aviation Crisis Coordination Cell;
 - (h) the cooperative decision-making processes, the consultation processes as well as the detailed working arrangements and processes for operations for the network functions.
3. The Single Sky Committee may advise the Commission when agreement cannot be reached on issues of major network significance by the Network Management Board.

CHAPTER IV

NETWORK CRISIS MANAGEMENT

Article 18

Establishment of the European Aviation Crisis Coordination Cell

1. The management of network crises shall be supported by the establishment of a European Aviation Crisis Coordination Cell (the EACCC).
2. Permanent members of the EACCC shall consist of one representative of the Member State holding the Presidency of the Council, one representative of the Commission, one representative of the Agency, one representative of Eurocontrol, one representative of the military, one representative of the air navigation service providers, one representative of airports, and one representative of the airspace users.
3. The composition of the EACCC may be enhanced on a case-by-case basis by experts depending on the nature of the specific crisis.
4. The EACCC shall prepare its Rules of Procedure for adoption by the Network Management Board.
5. The Network Manager shall make available the resources required for the establishment and operation of the EACCC.

Article 19

Responsibilities of the Network Manager and the EACCC

1. The Network Manager in conjunction with the EACCC members shall be responsible for activating and deactivating the EACCC.
2. The Network Manager, with the support of the EACCC, shall be responsible for:
 - (a) coordinating the management of response to the network crisis, in accordance with the EACCC Rules of Procedure, involving close cooperation with corresponding structures in Member States;

- (b) supporting the activation and coordination of contingency plans at Member State level;
- (c) the elaboration of mitigating measures at network level to secure the provision of a timely response to such network crisis situations to protect and ensure the continued and safe operation of the network. For this purpose the Network Manager shall:
 - (i) monitor the network situation with regard to network crises on a 24-hour basis;
 - (ii) ensure an effective information management and communication through the dissemination of accurate, timely and consistent data to support the application of risk management principles and processes in decision-making processes;
 - (iii) facilitate the organised collection and centralised storage of that data;
- (d) highlighting, where appropriate, to the Commission, the Agency or Member States opportunities for additional support for mitigation of the crisis, including liaising with operators of other modes of transport who may identify and implement intermodal solutions;
- (e) monitoring and reporting on the network recovery and sustainability.

CHAPTER V

MONITORING, REPORTING AND OVERSIGHT

Article 20

Monitoring and reporting

1. The Network Manager shall establish a process of continuous monitoring of:
 - (a) the operational network performance;
 - (b) the measures taken and the performance outcome achieved by the operational stakeholders and States;
 - (c) the effectiveness and efficiency of each of the functions covered by this Regulation.
2. The continuous monitoring shall identify any potential deviation from the Network Strategy Plan and Network Operations Plans. The operational stakeholders shall assist the Network Manager in this task by performing certain tasks including but not limited to the provision of data.
3. The Network Manager shall submit annually a report to the Commission and the Agency on the measures taken to fulfil its tasks. The report shall address individual network functions as well as the total network situation and shall be closely linked to the content of the Network Strategy Plan and the Network Operations Plan. The Commission shall inform the Single Sky Committee.

*Article 21***Oversight of the Network Manager**

The Commission, assisted by the Agency in matters related to safety, shall ensure the oversight of the Network Manager, in particular in respect of the requirements contained in this Regulation and other Union legislation. The Commission shall report to the Single Sky Committee annually or when so specifically requested.

CHAPTER VI

FINAL PROVISIONS*Article 22***Relations with third countries**

Third countries together with their operational stakeholders may participate in the work of the Network Manager.

*Article 23***Financing of the Network Manager**

Member States shall take the necessary measures for the funding of the network functions entrusted to the Network Manager based on air navigation charges. The Network Manager shall establish its costs in a transparent manner.

*Article 24***Liability**

The Network Manager shall put arrangements in place to cover liability related to the execution of its tasks. The method employed to provide the cover shall be appropriate to the potential loss and damage in question, taking into account the legal status of the Network Manager and the level of commercial insurance cover available.

*Article 25***Review**

The Commission shall review the effectiveness of the execution of the network functions by 31 December 2013 at the latest and regularly thereafter, taking appropriate account of the reference periods for the performance scheme provided for in Regulation (EU) No 691/2010.

*Article 26***Amendments to Regulation (EU) No 691/2010**

Regulation (EU) No 691/2010 is amended as follows:

(1) in Article 3(3), the following point (m) is added:

'(m) the assessment of the performance plan of the Network Manager, including its consistency with the European-Union wide performance targets.;

(2) the following Article 5a is inserted:

'Article 5a

Network Manager

1. The Network Manager established by Article 3 of Commission Regulation (EU) No 677/2011 (*) shall carry out the following tasks in relation to the performance scheme:

- (a) support the Commission by providing relevant input for the preparation of European Union-wide performance targets before the reference periods and for monitoring during the reference period. In particular, the Network Manager shall draw the Commission's attention to any significant and persistent drops in operational performance;
- (b) in accordance with Article 20(5), provide access for the Commission to all data listed in Annex IV;
- (c) support Member States and air navigation service providers in reaching their performance target during reference periods;
- (d) elaborate a performance plan, which shall be adopted as part of the Network Strategy Plan before the beginning of each reference period. This performance plan shall be public and shall:
 - (i) contain an environment performance target that shall be consistent with the European Union-wide performance target for the entire reference period, with annual values to be used for monitoring purposes;
 - (ii) contain performance targets for other relevant key performance areas, consistent with the European Union-wide performance targets for the entire reference period, with annual values to be used for monitoring purposes;
 - (iii) contain a description of the actions planned to meet the targets;
 - (iv) contain, where necessary or where decided by the Commission, additional key performance indicators and targets.

(*) OJ L 185, 15.7.2011, p. 1.;

(3) in Article 17, the following paragraph 2a is inserted:

'2a. The Commission shall monitor the implementation of the performance plan of the Network Manager. If during the reference period targets are not met, the Commission shall apply the appropriate measures specified in the performance plan with a view to rectifying the situation. For this purpose, the annual values in the performance plan shall be used.;

(4) in Annex III, paragraphs 3 and 4 are replaced by the following:

'3. Environment

Route design: Not applicable during the first reference period. During the second reference period, assessment of the process on route design used in the performance plan and its consistency with the process for the development of the European Route Network Improvement Plan developed by the Network Manager.

4. Capacity

Delay level: Comparison of the expected level of en route ATFM delay used in the performance plans with a reference value provided by the capacity planning process of Eurocontrol and in the Network Operations Plan of the Network Manager.'

Article 27

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 7 July 2011.

For the Commission
The President
José Manuel BARROSO

ANNEX I

THE EUROPEAN ROUTE NETWORK DESIGN (ERND) FUNCTION

PART A

Objective

1. The ERND function shall:
 - (a) achieve an European Route Network Improvement Plan for the safe and efficient operation of air traffic, taking due account of the environmental impact;
 - (b) facilitate, within the European Route Network Improvement Plan, the development of an airspace structure offering the required level of safety, capacity, flexibility, responsiveness, environmental performance and seamless provision of expeditious air navigation services, with due regard to security and defence needs;
 - (c) ensure regional interconnectivity and interoperability of the European route network within the ICAO EUR Region and with adjacent ICAO Regions.
2. The development of an European Route Network Improvement Plan shall rely on a cooperative decision-making process. The European Route Network Improvement Plan shall form the ERND-specific part of the Network Operations Plan and present detailed rules implementing the ERND-part of the Network Strategy Plan.
3. Member States will remain responsible for the detailed development, approval and establishment of the airspace structures for the airspace under their responsibility.

PART B

Planning principles

1. Without prejudice to Member States' sovereignty over the airspace and to the requirements of the Member States relating to public order, public security and defence matters, the Network Manager, Member States, third countries, airspace users, functional airspace blocks and air navigation service providers as part of functional airspace blocks or individually shall develop, using a cooperative decision-making process, the European Route Network Improvement Plan, while applying the airspace design principles set out in this Annex. The European Route Network Improvement Plan shall meet the performance targets set for the Network Manager in the performance scheme.
2. The cooperative decision-making process shall be supported by appropriate permanent detailed working arrangements to be settled at expert level by the Network Manager with the participation of all stakeholders. The consultation arrangements will be organised with a periodicity that reflects the needs of the European Route Network Design function.
3. To ensure appropriate connectivity of the European Route Network Improvement Plan, the Network Manager and the Member States shall include third countries in the cooperative decision-making process in accordance with Article 22. Appropriate cooperation shall be ensured between, on the one hand, the Network Manager and its expert level detailed working arrangements supporting the development of the European Route Network Improvement Plan and, on the other hand, the relevant ICAO expert level working arrangements covering route network improvements at the interface.
4. The European Route Network Improvement Plan is a rolling plan that shall reflect all the elements necessary to ensure that European airspace is designed as a single entity and meets the applicable performance targets.
5. The plan shall include:
 - (a) common general principles complemented by technical specifications for airspace design;
 - (b) military airspace requirements;
 - (c) an agreed European route network and, where feasible, free route airspace structure designed to meet all user requirements with details covering all the airspace change projects;

- (d) route network and free route airspace utilisation rules and availability;
 - (e) indications on recommended ATC sectorisation in support of the ATS airspace structure to be designed, decided and implemented by the Member States;
 - (f) guidelines for airspace management;
 - (g) a detailed development timetable;
 - (h) the calendar for a common publication and implementation cycle, through the Network Operations Plan;
 - (i) an overview of the current and expected network situation, including expected performance based on current and agreed plans.
6. The Network Manager shall ensure appropriate arrangements in all activities to allow civil-military coordination in the cooperative decision-making process.
7. The Network Manager, Member States, functional airspace blocks and air navigation service providers as part of functional airspace blocks or individually shall ensure coherent integration of agreed airspace design projects, agreed through the cooperative decision-making process, in the European Route Network Improvement Plan.
8. Member States and functional airspace blocks shall ensure that, prior to implementation, national and functional airspace blocks airspace design projects are compatible and consistent with the European Route Network Improvement Plan and are coordinated with those States impacted by them and the Network Manager.
9. The data regarding the changes to projects that require checking for compatibility and that need to be made available to the Network Manager include, but are not limited to:
- (a) changes in route alignment;
 - (b) changes in route direction;
 - (c) changes in route purpose;
 - (d) free route airspace description, including associated utilisation rules;
 - (e) route utilisation rules and availability;
 - (f) changes in vertical or horizontal sector boundary;
 - (g) addition or removal of significant points;
 - (h) changes in cross-border airspace utilisation;
 - (i) changes to the coordinates of significant points;
 - (j) changes affecting data transfer;
 - (k) changes affecting data published in aeronautical information publications;
 - (l) changes affecting letters of agreement with regard to airspace design and utilisation.
10. The Network Manager and Member States shall, in the context of this Annex through the cooperative decision-making process, develop common proposals for amendment of the appropriate ICAO documents. In particular, for amendments of ICAO documents related to ATS routes over High Seas, Member States shall apply the applicable ICAO coordination procedures.
11. The Network Manager, Member States, airspace users, airport operators, functional airspace blocks and air navigation service providers as part of functional airspace blocks or individually shall, through the cooperative decision-making process, continuously review the European Route Network Improvement Plan to take into account new or changing demands on the airspace. Continuous coordination will be ensured with the military authorities.

PART C

Airspace design principles

1. With the development of the European Route Network Improvement Plan the Network Manager, Member States, third countries, functional airspace blocks and air navigation service providers as part of functional airspace blocks or individually, shall within the cooperative decision-making process, adhere to the following airspace design principles:
 - (a) the establishment and configuration of airspace structures shall be based on operational requirements, irrespective of national or functional airspace block borders or FIR boundaries, and shall not necessarily be bound by the division level between upper and lower airspace;
 - (b) the design of airspace structures shall be a transparent process showing decisions made and their justification through taking into account the requirements of all users whilst reconciling safety, capacity, environmental aspects and with due regard to military and national security needs;
 - (c) the present and forecast traffic demand, at network and local level, and the performance targets shall be the input for the European Route Network Improvement Plan with a view to satisfying the needs of the main traffic flows and airports;
 - (d) ensure vertical and horizontal connectivity, including terminal airspace and the airspace structure at the interface;
 - (e) the possibility for flights to operate along, or as near as possible to, user required routes and flight profiles in the en route phase of flight;
 - (f) the acceptance for assessment and possible development of all airspace structures proposals, including Free Route Airspace, multiple route options and CDRs, received from stakeholders having an operational requirement in that area;
 - (g) the design of airspace structures including Free Route Airspace and ATC sectors shall take into account existing or proposed airspace structures designated for activities which require airspace reservation or restriction. To that end only such structures that are in accordance with the application of FUA shall be established. Such structures shall be harmonised and made consistent to the largest possible extent across the entire European network;
 - (h) ATC sector design development shall commence with the required route or traffic flow alignments within an iterative process that will ensure compatibility between routes or flows and sectors;
 - (i) ATC sectors shall be designed to enable the construction of sector configurations that satisfy traffic flows and are adaptable and commensurate with variable traffic demand;
 - (j) agreements on service provision shall be established in cases where ATC sectors require, for operational reasons, to be designed across national or functional airspace block borders or FIR boundaries.
2. The Network Manager, Member States, functional airspace blocks and air navigation service providers as part of functional airspace blocks or individually, through the cooperative decision-making process, shall ensure that the following principles apply in relation to airspace utilisation and capacity management:
 - (a) airspace structures shall be planned to facilitate flexible and timely airspace use and management with regard to routing options, traffic flows, sector configuration schemes and the configuration of other airspace structures;
 - (b) airspace structures should accommodate the establishment of additional route options while ensuring their compatibility (capacity considerations and sector design limitations).

PART D

On-going monitoring of performance achievements at network level

1. To ensure the regular performance improvements, the Network Manager, in close cooperation with States, functional airspace blocks and operational stakeholders shall undertake a regular review of the effectiveness of the implemented airspace structures.

2. This review shall include, but it is not limited to:

- (a) traffic demand evolution;
 - (b) capacity and flight efficiency performance and constraints at State, functional airspace block or network level;
 - (c) evaluation of airspace utilisation aspects from both a civil and military perspective;
 - (d) evaluation of sectorisation and sector configurations used;
 - (e) evaluation of airspace structures integrity and continuity;
 - (f) informing the Commission in cases where the required remedial action exceeds the scope of Network Managers competencies.
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ANNEX II

THE RADIO FREQUENCY FUNCTION

PART A

Requirements for the execution of the function

1. Member States shall nominate a competent person, authority or organisation as national frequency manager with the responsibility for ensuring that frequency assignments are made, modified and released in accordance with this Regulation. Member States shall notify the Commission and the Network Manager of the names and addresses of those persons at latest 4 months after the adoption of this Regulation.
2. The Network Manager shall prepare and coordinate network related strategic spectrum aspects which are to be appropriately documented in the Network Strategy Plan and the Network Operations Plan. The Network Manager shall support the Commission and Member States in the preparation of common aviation positions for coordinated Member State contributions to international forums, and in particular to the European Conference of Postal and Telecommunications Administrations (CEPT) and International Telecommunications Union (ITU).
3. The Network Manager shall at the request of national frequency manager(s) undertake actions with the Commission and the CEPT to address any concerns with other industry sectors.
4. The national frequency managers shall report to the Network Manager, radio interference cases that impact the European aviation network. The Network Manager shall record their occurrence and support their assessment. The Network Manager shall at the request of national frequency manager(s) coordinate or provide any support necessary to resolve or mitigate such cases including actions with the Commission and the CEPT.
5. The Network Manager shall develop and maintain a central register which shall be designed to store all radio frequency assignment data as described in point 14.
6. The Member States shall make use of the central register to fulfil their administrative frequency assignment registration obligations towards ICAO.
7. The Network Manager and the national frequency managers shall further develop and enhance frequency management procedures, planning criteria, data sets and processes to optimise the use and occupancy of radio spectrum by general air traffic. The Network Manager shall at the request of Member State(s) propose these further at regional level.
8. When a frequency assignment is required, the applicant shall file a request with the appropriate national frequency manager, including all the relevant data and justification.
9. The national frequency managers and the Network Manager shall assess and prioritise frequency requests on the basis of operational requirements and agreed criteria. Furthermore, their impact on the network shall be determined by the Network Manager in conjunction with the national frequency managers. The Network Manager shall establish such criteria in consultation with the national frequency managers within 12 months after the adoption of this Regulation and maintain and update them thereafter as necessary.
10. Where there is an impact on the network, the Network Manager shall identify suitable frequency(ies) to satisfy the request, taking into account the following requirements:
 - (a) the need to provide safe communication, navigation and surveillance infrastructure services;
 - (b) the need to optimise the use of finite radio spectrum resources;
 - (c) the need for cost-effective, fair and transparent access to the radio spectrum;
 - (d) the operational requirements of the applicant(s) and operational stakeholders;
 - (e) the predicted future demand for radio spectrum;
 - (f) the provisions contained in the ICAO European Frequency Management Manual.

11. Where there is no impact on the network, the national frequency managers shall determine suitable frequency(ies) to satisfy the request taking into account the requirements of point 10.
12. When a frequency request cannot be satisfied, the national frequency managers may request the Network Manager to undertake a specific frequency search. In order to identify a solution for the national frequency managers, the Network Manager supported by the national frequency managers may undertake a specific examination of the frequency usage situation in the concerned geographical area.
13. The national frequency manager shall assign suitable frequency(ies) identified in points 10, 11 or 12.
14. The national frequency manager shall register each assignment in the central register by including the following information:
 - (a) data as defined in the ICAO European Frequency Management Manual including relevant associated technical and operational data;
 - (b) enhanced data requirements resulting from point 7;
 - (c) a description of the operational use of the frequency assignment;
 - (d) the contact details of the operational stakeholder making use of the assignment.
15. When making the assignment to the applicant, the national frequency manager shall include conditions of use. As a minimum, these conditions shall specify that the frequency assignment:
 - (a) remains valid as long as it is being used to meet the operational requirements described by the applicant;
 - (b) may be subject to a frequency shift request and that such shifts will need to be implemented within a limited timeframe;
 - (c) is subject to modification once the operational use described by the applicant changes.
16. The national frequency manager(s) shall ensure that any required frequency shift, modification or release is performed within the agreed timeframe and that the central register is updated accordingly. The national frequency manager(s) shall forward appropriate justification to the Network Manager when these actions cannot be performed.
17. The national frequency managers shall ensure that the operational, technical and administrative details referred to in point 14 of all frequency assignments used in the European aviation network are available in the central register by 31 December 2011 at the latest.
18. The Network Manager and the national frequency manager(s) shall perform monitoring and evaluations of aviation frequency bands and frequency assignments based on transparent procedures in order to ensure their correct and efficient usage. The Network Manager shall set up such procedures in consultation with the national frequency managers at the latest 12 months after the adoption of this Regulation and maintain and update them thereafter as necessary. In particular, the Network Manager shall identify any discrepancy between the central register, the operational purpose and the actual use of the frequency assignment. The Network Manager shall notify the national frequency manager of such discrepancies for their resolution, within an agreed timeframe.
19. The Network Manager shall ensure the availability of common tools to support central and national planning, coordination, registration, auditing and optimisation. In particular, tools shall be developed to support the analysis of the central register data to monitor the efficiency of the function and to design and implement the frequency optimisation process under point 7.

PART B

Requirements for the organisation of the function

1. The cooperative decision-making between national frequency managers and the Network Manager shall be based on arrangements subject to approval by the Network Management Board, in accordance with Article 16 of this Regulation, after a positive opinion of the Single Sky Committee in accordance with Article 5(2) of Regulation (EC) No 549/2004.

2. In case of disagreement on the arrangements referred to in paragraph 1 of Part B of this Annex, the Network Manager or the Member States concerned shall bring the matter to the Commission for action. The Commission shall act in accordance with the procedure referred to in Article 5(2) of Regulation (EC) No 549/2004.
 3. The arrangements shall at least specify:
 - (a) the criteria for the assessment of operational requirements and their prioritisation;
 - (b) minimum timescales for the coordination of new or amended radio frequency assignments;
 - (c) mechanisms to ensure that the relevant European Union-wide performance targets are met by the Network Manager and the national frequency managers;
 - (d) that enhanced frequency management procedures, criteria and processes do not adversely affect those applied by other countries in the context of ICAO Regional procedures;
 - (e) requirements to ensure that appropriate consultation on new or amended management arrangements is conducted by the Member States with all affected stakeholders at a national and European level.
 4. The initial arrangements for the coordination of radio frequencies shall be fully compatible with the existing ones. Evolution of these arrangements shall be specified in cooperation with the national frequency managers and reduce overheads as far as practical.
 5. Coordination on the strategic and tactical use of radio frequencies with adjacent countries not participating in the work of the Network Manager shall be conducted through the ICAO regional working arrangements. This will be done with a view to enable access of adjacent countries to the services of the Network Manager.
 6. The Network Manager and national frequency managers shall agree on overall priorities for the function to improve the design and operation of the European aviation network. These priorities shall be documented in the form of a frequency part of the Network Strategy Plan and the Network Operations Plan upon which stakeholders are to be consulted. In particular, prioritisation may consider specific bands, areas and services.
 7. Member States shall ensure that the use of aviation frequency bands by military users is appropriately coordinated with the national frequency managers and the Network Manager.
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ANNEX III

THE TRANSPONDER CODE FUNCTION

PART A

Requirements for the Transponder Code Function

1. The objectives of this function are:
 - (a) to improve the robustness of the code allocation process through allocation of clear roles and responsibilities to all involved stakeholders, with the overall network performance at the centre of code allocation determination;
 - (b) to provide increased transparency of code allocations and of the actual code usage enabling the better assessment of the overall network efficiency;
 - (c) through enshrinement in regulation, to provide the regulatory basis allowing better enforcement and oversight.
2. SSR transponder codes shall be allocated through the Network Manager to the Member States and the air navigation service providers in a manner that optimises their safe and efficient distribution taking the following into account:
 - (a) the operational requirements of all operational stakeholders;
 - (b) the actual and predicted levels of air traffic;
 - (c) the required use of SSR transponder codes in compliance with relevant provisions of the ICAO Regional Air Navigation Plan, European Region, Facilities and Services Implementation Document and guidance material.
3. An SSR transponder code allocation list that describes the complete and up-to-date allocation of SSR codes in the airspace laid down in Article 1(3) shall be made available to Member States, air navigation service providers and third countries at all times by the Network Manager.
4. A formal process for establishing, assessing and coordinating the requirements for SSR transponder code allocations shall be implemented by the Network Manager, taking into account all required civil and military uses of SSR transponder codes.
5. The formal process laid down in point 4 shall include, as a minimum, relevant agreed procedures, timescales and performance targets for the completion of the following activities:
 - (a) submission of applications for SSR transponder code allocations;
 - (b) assessments of applications for SSR transponder code allocations;
 - (c) coordination of proposed amendments to SSR code transponder allocations with Member States and third countries in accordance with the requirements laid down in Part B;
 - (d) periodic audit of the SSR code allocations and needs with a view to optimisation of the situation, including re-allocation of existing code allocations;
 - (e) periodic amendment, approval and distribution of the overall SSR code transponder allocation list laid down in point 3;
 - (f) notification, assessment and resolution of unplanned conflicts between assignments of SSR transponder codes;
 - (g) notification, assessment and resolution of wrong assignments of SSR transponder codes, detected at code retention checks;
 - (h) notification, assessment and resolution of unplanned shortfalls in allocations of SSR transponder codes;
 - (i) provision of data and information in accordance with the requirements laid down in Part C.

6. Applications for SSR transponder code allocations received as part of the process laid down in point 4 shall be checked by the Network Manager for compliance with the requirements of the process for format and data conventions, completeness, accuracy, timeliness, and justification.
7. Member States shall ensure that SSR transponder codes are assigned to aircraft in accordance with the SSR transponder code allocation list contained in point 3.
8. A centralised SSR transponder code assignment and management system for the automatic assignment of SSR transponder codes to general air traffic may be operated by the Network Manager on behalf of the Member States and air navigation service providers.
9. Procedures and tools for the regular evaluation and assessment of the actual use of SSR transponder codes by Member States and air navigation service providers shall be implemented by the Network Manager.
10. Plans and procedures shall be agreed between the Network Manager, Member States and air navigation service providers to support the periodic analysis and identification of future SSR transponder code requirements. This analysis shall include the identification of potential performance impacts created by any predicted shortfalls in the allocations of SSR transponder codes.
11. Operations manuals containing the necessary instructions and information to enable the network function to be conducted in accordance with the requirements of this Regulation shall be developed and maintained. These operations manuals shall be distributed and maintained in accordance with appropriate quality and documentation management processes.

PART B

Requirements for the specific consultation mechanism

1. A dedicated mechanism for the coordination and consultation of detailed SSR transponder code allocation arrangements shall be established by the Network Manager, that:
 - (a) ensures the impact of the use of SSR transponder codes in third countries is taken into account through participation in the SSR transponder code management working arrangements set out in the relevant provisions of the ICAO Regional Air Navigation Plan, European Region, Facilities and Services Implementation Document;
 - (b) ensures the SSR transponder code allocation list laid down in point 3 of Part A is compatible with the code management plan set out in the relevant provisions of the ICAO Regional Air Navigation Plan, European Region, Facilities and Services Implementation Document;
 - (c) specifies requirements to ensure that appropriate consultation on new or amended SSR transponder code management arrangements is conducted with the Member States concerned;
 - (d) specifies requirements to ensure that appropriate consultation on new or amended SSR transponder code management arrangements is conducted by Member States with all stakeholders concerned at a national level;
 - (e) ensures coordination with third countries on the strategic and tactical use of SSR transponder codes is conducted through the SSR transponder code management working arrangements set out in the relevant provisions of the ICAO Regional Air Navigation Plan, European Region, Facilities and Services Implementation Document;
 - (f) specifies minimum timescales for the coordination and consultation of proposed new or amended SSR transponder code allocations;
 - (g) ensures changes to the SSR transponder code allocation list are subject to the approval of those Member States concerned by the change;
 - (h) specifies requirements to ensure that changes to the SSR transponder code allocation list are communicated to all stakeholders immediately after its approval, without prejudice to national procedures for the communication of information on the use of SSR transponder codes by military authorities.
2. The Network Manager, in coordination with national military authorities, shall ensure that the necessary measures are taken to ascertain that the allocation and use of SSR transponder codes for military needs have no detrimental impact on the safety or efficient flow of general air traffic.

PART C

Requirements for the provision of data

1. Applications submitted for new or amended allocations of SSR transponder codes shall comply with the format and data conventions, completeness, accuracy, timeliness, and justification requirements of the process laid down in point 4 of Part A.
 2. The following data and information shall be provided to the Network Manager by Member States, as required, within agreed timescales prescribed by the Network Manager to support the provision of the network function for SSR transponder codes:
 - (a) an up-to-date record of the allocation and use of all SSR transponder codes within their area of responsibility, subject to any security constraints concerning full disclosure of specific military code allocations not used for general air traffic;
 - (b) justification to demonstrate that existing and requested allocations of SSR transponder codes are the minimum necessary to meet operational requirements;
 - (c) details of any allocations of SSR transponder codes that are no longer operationally required and that can be released for re-allocation within the network;
 - (d) reports of any actual unplanned shortfall in SSR transponder code allocations;
 - (e) details of any change in the installation planning or in the operational status of systems or constituents that may impact on the assignment of SSR transponder codes to flights.
 3. The following data and information shall be provided to the Network Manager by air navigation service providers, as required, within agreed timescales prescribed by the Network Manager to support the provision of the network function for SSR transponder codes:
 - (a) Enhanced Tactical Flow Management System's Correlated Position Reports containing SSR transponder code assignments for general air traffic conducting flights under instrument flight rules;
 - (b) reports of any actual unplanned conflict or hazard caused by an actual operational SSR transponder code assignment, including information of how the conflict was resolved.
 4. Responses by Member States and air navigation service providers to the coordination of proposed amendments to SSR code transponder allocations and updates of the SSR transponder code allocation list shall as a minimum:
 - (a) identify whether or not any conflict or hazard between SSR transponder code allocations is foreseen;
 - (b) confirm whether or not operational requirements or efficiency will be adversely affected;
 - (c) confirm that amendments to SSR transponder code allocations can be implemented in accordance with required timescales.
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ANNEX IV

TEMPLATE FOR NETWORK STRATEGY PLAN

The Network Strategy Plan shall be based on the following structure:

1. INTRODUCTION

1.1. Scope of the Network Strategy Plan (geographical and time period)

1.2. Preparation of the plan and validation process

2. OVERALL CONTEXT AND REQUIREMENTS

2.1. Description of the current and planned network situation including ERND, ATFM, airports and scarce resources

2.2. Challenges and opportunities related to the time period of the plan (including traffic demand forecast and worldwide evolution)

2.3. Performance objectives and business requirements as expressed by the different stakeholders and the European Union-wide performance targets

3. STRATEGIC VISION

3.1. Description of the strategic way the network will develop and progress to successfully respond to the performance targets and business requirements

3.2. Compliance with the performance Scheme

3.3. Compliance with the European ATM master plan

4. STRATEGIC OBJECTIVES

4.1. Description of the Network strategic objectives:

- including the cooperative aspects of the participating operational stakeholders in terms of roles and responsibilities,
- indicating how the strategic objectives will answer the requirements,
- identifying how progress towards these objectives will be measured,
- indicating how the strategic objectives will impact the industry and other concerned areas.

5. PERFORMANCE PLANNING

The Performance Plan shall be based on the following structure:

1. Introduction

1.1. Description of the situation (scope of the plan, functions covered, etc.)

1.2. Description of the macroeconomic scenario for the reference period including overall assumptions (traffic forecast, etc.)

1.3. Description of the outcome of the stakeholder consultation to prepare the performance plan (main issues raised by the participants and if possible agreed compromises)

2. Performance targets at network-manager level

2.1. Performance targets in each relevant key performance area, set by reference to each relevant key performance indicator, for the entire reference period, with annual values to be used for monitoring and incentive purposes

2.2. Description and explanation of the contribution and impact of the NM performance targets on the European Union-wide performance targets

3. Contribution of each function
 - 3.1. Individual performance targets for each function (ATFM, ERND, SSR transponder codes, frequencies)
 4. Military dimension
 - 4.1. Description of the civil-military dimension of the plan describing the performance of flexible use of airspace application in order to increase capacity with due regard to military operation effectiveness, and if deemed appropriate, relevant performance indicators and targets consistent with the indicators and targets of the performance plan
 5. Analysis of sensitivity and comparison with the previous performance plan
 - 5.1. Sensitivity to external assumptions
 - 5.2. Comparison with the previous performance plan.
 6. Implementation of the performance plan
 - 6.1. Description of the measures put in place by the Network Management Board to achieve the performance targets, such as:
 - monitoring mechanisms to ensure that the safety activities and business plans are implemented,
 - measures to monitor and report on the implementation of the performance plans including how to address the situation if targets are not met during the reference period.
 6. STRATEGIC PLANNING
 - 6.1. Description of the short/medium term planning:
 - the priorities for each of the strategic objectives,
 - the implementation of each of the strategic objectives in terms of required deployment of technology, architectural impact, human aspects, involved cost, benefits as well as the necessary governance, resources and regulation,
 - the required operational stakeholder participation on each element of the plan including their roles and responsibilities,
 - the agreed level of involvement of the Network Manager to support the implementation of each element of the plan for each individual function.
 - 6.2. Description of the long term planning:
 - the intent to reach each of the strategic objectives in terms of required technology and corresponding R & D aspects, architectural impact, human aspects, business case, governance required, and regulation required as well as the associated safety and economic justification for these investments,
 - the required operational stakeholder participation on each element of the plan including their roles and responsibilities.
 7. RISK ASSESSMENT
 - 7.1. Description of the risks associated with the implementation of the plan
 - 7.2. Description of the monitoring process (including potential deviation from initial objectives)
 8. RECOMMENDATIONS
 - 8.1. Identification of the actions to be taken by the Union and Member States to support the implementation of the plan.
-

ANNEX V

TEMPLATE FOR NETWORK OPERATIONS PLAN

The Network Operations Plan shall be based on the following general structure (that will be tailored to the various individual functions and to the time horizon of the Network Operations Plan to reflect its rolling nature and its 3 to 5 year, annual, seasonal, weekly and daily periods):

1. INTRODUCTION
 - 1.1. Scope of the Network Operations Plan (geographical and time period)
 - 1.2. Preparation of the plan and validation process
2. DESCRIPTION OF THE NETWORK OPERATIONS PLAN, OPERATIONAL TARGETS AND OBJECTIVES
 - including the collaborative aspect of the participating operational stakeholders in terms of roles and responsibilities,
 - indicating how the operational targets and objectives will be covered in the tactical, pre-tactical, short-term and medium-term phases of the Network Operations Plan and other performance targets set under the performance regulation,
 - priorities set and resources needed for the planning period,
 - indicating the impact on the ATM industry and other concerned areas.
3. OVERALL NETWORK OPERATIONS PLANNING PROCESS
 - description of the overall network operations planning process,
 - description of the strategic way the Network Operations Plan will evolve and progress to successfully respond to the operational performance requirements and other performance targets set under the performance Regulation,
 - description of tools and data used.
4. OVERALL CONTEXT AND OPERATIONAL REQUIREMENTS
 - 4.1. Summary description of the past network operational performance
 - 4.2. Challenges and opportunities related to the time period of the plan
 - 4.3. Network traffic forecast in accordance with Appendices 1 and 2, including:
 - network forecast,
 - air navigation service provider, functional airspace block and ACC forecast,
 - main airports forecast,
 - analysis of the traffic forecast, including a range of scenarios,
 - analysis of special events impact.
 - 4.4. Network operational performance requirements, including:
 - overall network capacity requirements,
 - air navigation service provider, functional airspace block and ACC capacity requirements,
 - airport capacity,
 - analysis of the capacity requirements,
 - overall network environment/flight efficiency requirements,
 - overall network safety requirements,
 - contingency requirements and continuity of services affecting the network.
 - 4.5. Operational needs as expressed by the different stakeholders, including military
5. NETWORK OPERATIONAL PERFORMANCE ENHANCEMENT PLANS AND ACTIONS AT NETWORK LEVEL
 - description of the plans and actions expected to be implemented at network level, including airspace, scarce resources and ATFM,
 - description of the operational performance contributions of each of the plans and actions.

6. OPERATIONAL PERFORMANCE ENHANCEMENT PLANS AND ACTIONS AT LOCAL LEVEL
 - including description of each of the plans and actions expected to be implemented at local level,
 - description of the operational performance contributions of each of the plans and actions,
 - description of relations with third countries and work related to ICAO.
 7. SPECIAL EVENTS
 - overview of special events with significant ATM impact,
 - individual special events and their handling from a network perspective,
 - major military exercises.
 8. MILITARY AIRSPACE REQUIREMENTS
 - 8.1. Military ATM service providers responsible for areas of reserved or segregated airspace shall exchange with the Network Manager, through the relevant Airspace Management Cell, the following information according to national rules:
 - airspace availability: default days/times of availability of reserved airspace,
 - ad hoc requests for unplanned use of reserved airspace,
 - release of reserved airspace to civil use whenever not required, giving as much notice as possible.
 9. CONSOLIDATED FORECAST AND ANALYSIS OF THE OPERATIONAL PERFORMANCE OF THE NETWORK
 - network, air navigation service provider, functional airspace block and ACC ATM delay/capacity targets and forecast,
 - airport operational performance,
 - network environment/flight efficiency performance target and forecast,
 - impact of special events,
 - analysis of the operational performance targets and forecast.
 10. IDENTIFICATION OF OPERATIONAL BOTTLENECK AREAS AND MITIGATION SOLUTIONS AT NETWORK AND LOCAL LEVEL
 - identification of operational (safety, capacity, flight efficiency) bottlenecks and potential bottlenecks, their causes and agreed solutions or mitigation actions, including options for demand capacity balancing (DCB).
-

*Appendix 1***Area Control Centres (ACCs)**

The Network Operations Plan shall give a detailed description ACC by ACC of all the areas describing their planned operational enhancement measures, the prospects for the period, the traffic forecast, the delay target and forecast, the significant events that may affect the traffic, operational contacts.

The Network Manager shall include for each ACC:

- traffic forecast,
- an analysis of current operational performance,
- a quantified evaluation of the achieved capacity (capacity baseline),
- a quantified evaluation of the required capacity for various traffic evolutions scenarios (required capacity profile),
- a quantified evaluation of the planned operational enhancement actions at ACC level, as agreed with the air navigation service providers,
- delay target and forecast,
- an analysis of expected operational performance (safety, capacity, environment).

Each air navigation service provider shall provide the Network Manager with the following information to be included in the individual ACC description:

- local delay target,
 - assessment/confirmation of traffic forecast, taking into account local knowledge,
 - number of available sectors: sector configuration/opening scheme per season/day of week/time of day,
 - capacities/monitoring values for each sector/traffic volume per configuration/opening scheme,
 - planned or known special events, including dates/times and associated impact on operational performance,
 - details of operational enhancement measures planned, their implementation schedule and associated negative/positive impact on capacity and/or efficiency,
 - details of proposed and confirmed changes to the airspace structure and utilisation,
 - additional actions as agreed with the Network Manager,
 - ACC operational contacts.
-

*Appendix 2***Airports**

The Network Operations Plan shall give a detailed description for main European airports of all the areas describing their planned operational enhancement measures, the prospects for the period, the traffic and delay forecast, the significant events that may affect the traffic, operational contacts.

The Network Manager shall include for each main airport:

- traffic forecast,
- an analysis of expected operational performance (safety, capacity, environment).

Each airport included in the Network Operations Plan shall provide the Network Manager with the following information to be included in the individual airport description:

- assessment/confirmation of traffic forecast, taking into account local knowledge,
 - runway capacity for each runway configuration, current and projected arrivals and departures,
 - a capacity specification for and duration of night period, where relevant,
 - details of operational enhancement measures planned, their implementation schedule and associated negative/positive impact on capacity and/or efficiency,
 - planned or known special events, including dates/times and associated impact on operational performance,
 - other planned capacity enablers,
 - additional actions as agreed with the Network Manager.
-

ANNEX VI

GENERAL REQUIREMENTS FOR NETWORK FUNCTIONS**1. ORGANISATIONAL STRUCTURE**

The Network Manager shall set up and manage its organisation according to a structure that supports the safety of the network functions.

The organisational structure shall specify:

- (a) the authority, duties and responsibilities of the nominated post holders, in particular of the management personnel in charge of safety, quality, security and human resources related functions;
- (b) the relationship and reporting lines between different parts and processes of the organisation.

2. SAFETY

The Network Manager shall have a safety management system which covers all the network functions it performs according to the following principles. It shall:

- (a) describe the overall philosophies and principles of the organisation with regard to safety and in such a way as to meet the needs of relevant stakeholders as closely as possible, (hereinafter 'the policy');
- (b) set up a compliance monitoring function that contains procedures designed to verify that all functions are being provided in accordance with applicable requirements, standards and procedures. Compliance monitoring shall include a feedback system of findings to the responsible management personnel to ensure effective and timely implementation of corrective actions as necessary;
- (c) provide evidence of the functioning of the management system by means of manuals and monitoring documents;
- (d) appoint management representatives to monitor compliance with, and adequacy of, procedures to ensure safe and efficient operational practices;
- (e) perform reviews of the management system in place and take remedial actions, as appropriate;
- (f) manage the safety of all network functions allocated to it. In doing so, it shall establish formal interfaces with all the relevant stakeholders to be able to identify the aviation safety hazards entailed by its activities, to evaluate them and to manage the associated risks as appropriated;
- (g) contain procedures for managing the safety when introducing new functional systems or changing the existing functional systems.

3. SECURITY

The Network Manager shall have a security management system which covers all the network functions it performs according to the following principles. It shall:

- (a) ensure the security of its facilities and personnel so as to prevent an unlawful interference that could impact the safety of the network functions it manages;
- (b) ensure the security of operational data it receives or produces or otherwise employs, so that access to it is restricted only to those authorised;
- (c) define the procedures relating to security risk assessment and mitigation, security monitoring and improvement, security reviews and lesson dissemination;
- (d) define the means designed to detect security breaches and to alert personnel with appropriate security warnings;
- (e) define the means of containing the effects of security breaches and to identify recovery action and mitigation procedures to prevent reoccurrence.

4. OPERATIONS MANUALS

The Network Manager shall establish and keep up-to-date operations manuals relating to its operations, for the use and guidance of operations personnel. It shall ensure that:

- (a) operations manuals contain instructions and information required by the operations personnel to perform their duties;
- (b) relevant parts of the operations manuals are accessible to the personnel concerned;

- (c) the operations personnel are expeditiously informed of the amendments to the operations manual applying to their duties as well as of their entry into force.

5. PERSONNEL REQUIREMENTS

The Network Manager shall employ appropriately skilled personnel to ensure that the network functions allocated to it are performed in a safe, efficient, continuous and sustainable manner. In this context, it shall establish policies for the training of personnel.

6. CONTINGENCY PLANS

The Network Manager shall establish contingency plans for all the functions it provides in the case of events which result in significant degradation or interruption of its operations.

7. REPORTING REQUIREMENTS

In accordance with Article 20, the Network Manager shall provide an annual report of its activities. This report shall cover its operational performance, as well as significant activities and developments in particular in the area of safety.

The annual report shall include as a minimum:

- an assessment of the performance of the network functions it manages,
- the performance compared to the performance objectives established in the Network Strategy Plan, reconciling actual performance against the Network Operational plan by using the indicators of performance established in the Network Operational plan,
- provide an explanation for differences with the targets, and identify measures for closing any gaps during the Reference Period referred to in Article 11 of Regulation (EC) No 549/2004,
- developments in operations and infrastructure,
- information about the formal consultation process with the users and stakeholders,
- information about the human resources policy.

8. WORKING METHODS AND OPERATING PROCEDURES

The Network Manager shall be able to demonstrate that its working methods and operating procedures are compliant with other Union legislation and in particular with Regulation (EU) No 255/2010.

COMMISSION REGULATION (EU) No 678/2011

of 14 July 2011

replacing Annex II and amending Annexes IV, IX and XI to Directive 2007/46/EC of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) ⁽¹⁾, and in particular Article 39(2) and (3) thereof,

Whereas:

- (1) Directive 2007/46/EC establishes a harmonised framework containing the administrative provisions and general technical requirements for all new vehicles, systems, components and separate technical units. In particular it includes the specific definitions concerning vehicles that are necessary for the proper functioning of the European type-approval system.
- (2) One of the objectives of Directive 2007/46/EC is to extend the European vehicle type-approval system to all vehicle categories. Annex II to Directive 2007/46/EC that includes the necessary specific definitions has to be re-designed in order to take technical progress into account. It is therefore necessary to amend existing definitions or to establish new definitions.
- (3) Experience shows that the current criteria for determining whether a new model of vehicle is to be considered a new type are too vague. This lack of certainty can delay the implementation of new requirements laid down in EU legislation regarding new vehicle types. Moreover, experience shows that it is possible to circumvent the EU small series legislation by dividing a vehicle type into several sub-types under different type-approvals. Consequently, the number of new vehicles that may be put into service in the European Union under the small series regime can exceed what is permissible. It is therefore important to specify which vehicle technical features are to be used as criteria in determining what constitutes a new type.

(4) In accordance with the principles enshrined in the communications from the Commission entitled Action plan 'Simplifying and improving the regulatory environment' ⁽²⁾ and Action programme for 'Reducing administrative burdens in the European Union' ⁽³⁾, it is appropriate to reconsider the criteria to be used for the definition of the variants and versions within a vehicle type with a view to reducing the administrative burden placed on vehicle manufacturers. This would result, moreover, in making the type-approval process more transparent for the competent authorities of the Member States.

(5) Given the trends for globalisation on the automotive sector, the work of the World Forum for Harmonisation of Vehicle Regulations – 'the Working Party 29 (WP.29)' - is increasingly significant. As it is essential in order to meet the recommendations of the CARS 21 High Level Group to incorporate Regulations of the Economic Commission for Europe of the United Nations (UNECE) into EU law or even to replace EU Directives or Regulations by UNECE Regulations as well as to incorporate global technical Regulations into EU law, the consistency of the legislation of the European Union with the UNECE Regulations should be ensured.

(6) Given the harmonisation work in progress in the World Forum for Harmonisation of Vehicle Regulations, it is essential to take account of the most recent developments laid down in Resolution R.E. 3 on Classification and definition of power-driven vehicles and trailers in the framework of the Agreement of the UNECE concerning the adoption of uniform prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions (Revised 1958 Agreement) as well as the Special Resolution S.R. 1 concerning the common definitions of vehicle categories, masses and dimensions in the framework of the UNECE Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles ('Parallel or 1998 Agreement'). Only the inclusion of those developments in the Framework Directive can ensure the proper functioning of the European type-approval system. It is therefore necessary to introduce new criteria for determining whether a vehicle type should be categorised in an 'M' category or an 'N' category.

⁽¹⁾ OJ L 263, 9.10.2007, p. 1.

⁽²⁾ COM(2002) 278 final.

⁽³⁾ COM(2007) 23 final.

- (7) In accordance with Article 8 of Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles⁽¹⁾, Member States are required to keep a register containing data relating to inter alia the type, variant and version of each particular vehicle with regard to its specific emissions of CO₂ for each new vehicles registered in its territory. It is essential to specify the criteria in accordance with which a light-duty vehicle has to be type-approved as M₁ or as N₁ vehicle. These criteria should be objective and constitute guidance for vehicle manufacturers as well as for type-approval and registration authorities. In accordance with Article 13 (4) of Regulation (EC) No 443/2009, the presence of innovative technologies fostering further CO₂ emission reduction must be identified. This should be achieved by means of a 'code' assigned to the vehicle by the manufacturer so that each type/variant/version corresponds to a unique set of innovative technologies. Identification of those innovative technologies should thus be possible from the definition of the type-variant-version. It is therefore appropriate to add the corresponding entry into Annex II to Directive 2007/46/EC.
- (8) As the type of bodywork has to be specified in the certificate of conformity, which is intended to facilitate the registration of new vehicles in the Member States, the use of harmonised codes for each kind of bodywork should constitute a simplification in the registration process. A list of appropriate codes should be assigned to the kinds of bodywork in order to allow the data processing to be automated.
- (9) As trailers designed especially for abnormal load transport cannot meet all the provisions of the regulatory acts listed in Annex IV to Directive 2007/46/EC that are required to be complied with for the purpose of European type-approval, it is appropriate to include those trailers in the category of special purposes vehicles given their technical features. For the purposes of type-approval a simplified set of rules should be laid down in order to make their type-approval at European level possible. Consequently it is necessary to add a new Appendix to Annex XI to Directive 2007/46/EC.
- (10) New technical developments are currently in progress in order to cope with the demand for new solutions in the transport of goods. It is therefore necessary to include new definitions in the framework legislation in order to permit subsequently appropriate technical rules to be laid down in the relevant regulatory acts listed in Annex IV or XI to Directive 2007/46/EC. It is important to make clear that no EC type-approval should be granted for such vehicles until the type-approval legislation is amended for such purposes.
- (11) An error occurred in the adoption of Commission Directive 2010/19/EU of 9 March 2010 amending, for the purposes of adaptation to technical progress in the field of spray-suppression systems of certain categories of motor vehicles and their trailers, Council Directive 91/226/EEC, and Directive 2007/46/EC of the European Parliament and of the Council⁽²⁾ in so far as Annexes IV and XI to Directive 2007/46/EC were also amended by that Directive. Those annexes had previously been replaced by Commission Regulation (EC) No 1060/2008 of 7 October 2008 replacing Annexes I, III, IV, VI, VII, XI, and XV to Directive 2007/46/EC of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive)⁽³⁾. In the interest of legal certainty, any partial amendment to those annexes should henceforth only be introduced by a Regulation. As the corresponding Article 2 of Directive 2010/19/EU has been deleted by Commission Decision 2011/415/EU of 14 July 2011 correcting Directive 2010/19/EU amending, for the purposes of adaptation to technical progress in the field of spray-suppression systems of certain categories of motor vehicles and their trailers, Council Directive 91/226/EEC, and Directive 2007/46/EC of the European Parliament and of the Council as regards the amendment of the annexes to Directive 2007/46/EC⁽⁴⁾ in order to remedy that error, it is appropriate to effectuate the amendments previously contained in that Article by way of this Regulation.
- (12) It is appropriate with a view to ensuring the proper operation of the type-approval system to update the annexes to Directive 2007/46/EC in order to adapt them to the development of scientific and technical knowledge.
- (13) It is also appropriate to update the annexes to Directive 2007/46/EC in order to lay down technical requirements for special purpose vehicles to be type-approved.
- (14) Since the provisions of those annexes are sufficiently detailed and need no further transposition measures by Member States, it is therefore appropriate to replace Annex II and amend Annexes IV, IX and XI by means of a Regulation in accordance with Article 39 (8) of Directive 2007/46/EC.
- (15) Annex II should be replaced and Annexes IV, IX and XI should be amended accordingly.

(1) OJ L 140, 5.6.2009 p. 1.

(2) OJ L 72, 20.3.2010, p. 17.

(3) OJ L 292, 31.10.2008, p. 1.

(4) See page 76 of this Official Journal.

- (16) The measures provided for in this Regulation are in accordance with the opinion of the Technical Committee – Motor Vehicles,

HAS ADOPTED THIS REGULATION:

Article 1

Directive 2007/46/EC shall be amended as follows:

- (1) Annex II is replaced by the text set out in Annex I to this Regulation;
- (2) Annex IV is amended as set out in Annex II to this Regulation;
- (3) Annex IX is amended as set out in Annex III to this Regulation;
- (4) Annex XI is amended as set out in Annex IV to this Regulation.

Article 2

This Regulation shall not invalidate any vehicle type-approval granted before 29 October 2012 nor prevent extension of such approvals.

Article 3

1. This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply to new vehicle types for which approval will be granted on and after 29 October 2012.

However, the requirements set out in Annex II and in points 1 and 2 of Annex IV shall apply from 9 April 2011.

2. By way of derogation from paragraph 1 second subparagraph manufacturers may as from 4 August 2011 apply any provision of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 July 2011.

For the Commission
The President
José Manuel BARROSO

ANNEX I

ANNEX II

GENERAL DEFINITIONS, CRITERIA FOR VEHICLE CATEGORISATION, VEHICLE TYPES AND TYPES OF BODYWORK

INTRODUCTORY PART

General definitions and general provisions**1. Definitions**

1.1. "Seating position" means any location capable of accommodating one person seated who is at least as large as:

- (a) the manikin of the 50th percentile male in the case of the driver;
- (b) the manikin of the 5th percentile adult female in all other cases.

1.2. "Seat" means a complete structure with trim, integral or not with the vehicle body structure, which is intended to seat one person.

1.2.1. The term "seat" covers both an individual seat and a bench seat.

1.2.2. Folding seats and removable seats are included in this definition.

1.3. "Goods" means primarily any movable things.

The term "goods" includes products in bulk, manufactured goods, liquids, living animals, crops, indivisible loads.

1.4. "Maximum mass" means the "technically permissible maximum laden mass" as specified in point 2.8 of Annex I.

2. General provisions

2.1. Number of seating positions

2.1.1. The requirements regarding the number of seating positions apply to seats that are designed for use when the vehicle is travelling on the road.

2.1.2. They do not apply to seats that are designed for use when the vehicle is stationary and which are clearly identified to users either by means of a pictogram or a sign with an appropriate text.

2.1.3. The following requirements apply for the counting of the seating positions:

- (a) each individual seat shall be counted as one seating position;
- (b) in the case of a bench seat, any space having a width of at least 400 mm measured at the seat cushion level shall be counted as one seating position.

This condition shall not prevent the manufacturer from using the general provisions referred to in point 1.1;

- (c) however, a space as referred to in point (b) shall not be counted as one seating position where:
 - (i) the bench seat includes features that prevent the bottom of the manikin from sitting in a natural way - for example: the presence of a fixed console box, an unpadded area or an interior trim interrupting the nominal seating surface;
 - (ii) the design of the floor pan located immediately in front of a presumed seating position (for example the presence of a tunnel) prevents the feet of the manikin from being positioned in a natural way.

2.1.4. With respect to vehicles covered by Directive 2001/85/EC of the European Parliament and of the Council of 20 November 2001 relating to special provisions for vehicles used for the carriage of passengers comprising more than eight seats in addition to the driver's seat, and amending Directives 70/156/EEC and 97/27/EC ⁽¹⁾, the dimension referred to in point 2.1.3(b) shall be aligned with the minimum space required for one person in relation to the various classes of vehicles.

⁽¹⁾ OJ L 42, 13.2.2002, p. 1.

- 2.1.5. When seat anchors for a removable seat are present in a vehicle, the removable seat shall be counted in the determination of the number of the seating positions.
- 2.1.6. An area intended for an occupied wheelchair shall be regarded as one seating position.
- 2.1.6.1. This provision shall be without prejudice to the requirements of point 3.6.1 and point 3.7 of Annex VII to Directive 2001/85/EC.
- 2.2. Maximum mass
- 2.2.1. In the case of a tractor unit for semi-trailer, the maximum mass to be considered for classifying the vehicle shall include the maximum mass of the semi-trailer borne by the fifth wheel coupling.
- 2.2.2. In the case of a motor vehicle that can tow a centre-axle trailer or a rigid drawbar trailer, the maximum mass to be considered for classifying the motor vehicle shall include the maximum mass transferred to the towing vehicle by the coupling.
- 2.2.3. In the case of a semi-trailer, a centre-axle trailer and a rigid drawbar trailer, the maximum mass to be considered for classifying the vehicle shall correspond to the maximum mass transmitted to the ground by the wheels of an axle or group of axles when coupled to the towing vehicle.
- 2.2.4. In the case of a converter dolly, the maximum mass to be considered for classifying the vehicle shall include the maximum mass of the semi-trailer borne by the fifth wheel coupling.
- 2.3. Special equipment
- 2.3.1. Vehicles fitted primarily with fixed equipment such as machinery or apparatus shall be regarded as N or O category.
- 2.4. Units
- 2.4.1. Unless otherwise stated any unit of measurement and associated symbol shall conform to the provisions of Council Directive 80/181/EEC ⁽¹⁾.
3. **Categorisation into vehicle categories**
- 3.1. The manufacturer is responsible for the categorisation of a type of vehicle into a specific category.
- For such purposes, all the relevant criteria described in this Annex shall be met.
- 3.2. The approval authority may request from the manufacturer appropriate additional information with the aim of demonstrating that a vehicle type needs to be categorised as special purpose vehicle in the special group ("SG Code").

PART A

Criteria for vehicle categorisation

1. **Vehicle categories**
- For the purposes of European and national type-approval, as well as individual approval, vehicles shall be categorised according to the following classification:
- (It is understood that approval can only be granted for the categories referred to in points 1.1.1 to 1.1.3, 1.2.1 to 1.2.3 and 1.3.1 to 1.3.4.)
- 1.1. Category M Motor vehicles designed and constructed primarily for the carriage of persons and their luggage.
- 1.1.1. Category M₁ Vehicles of category M, comprising not more than eight seating positions in addition to the driver's seating position.
- Vehicles belonging to category M₁ shall have no space for standing passengers.
- The number of seating positions may be restricted to one (i.e. the driver's seating position).

⁽¹⁾ OJ L 39, 15.2.1980 p. 40.

- 1.1.2. Category M₂ Vehicles of category M, comprising more than eight seating positions in addition to the driver's seating position and having a maximum mass not exceeding 5 tonnes.
- Vehicles belonging to category M₂ may have space for standing passengers in addition to the seating positions.
- 1.1.3. Category M₃ Vehicles of category M, comprising more than eight seating positions in addition to the driver's seating position and having a maximum mass exceeding 5 tonnes.
- Vehicles belonging to category M₃ may have space for standing passengers.
- 1.2. Category N Motor vehicles designed and constructed primarily for the carriage of goods.
- 1.2.1. Category N₁ Vehicles of category N having a maximum mass not exceeding 3,5 tonnes.
- 1.2.2. Category N₂ Vehicles of category N having a maximum mass exceeding 3,5 tonnes but not exceeding 12 tonnes.
- 1.2.3. Category N₃ Vehicles of category N having a maximum mass exceeding 12 tonnes.
- 1.3. Category O Trailers designed and constructed for the carriage of goods or of persons as well as for the accommodation of persons.
- 1.3.1. Category O₁ Vehicles of category O having a maximum mass not exceeding 0,75 tonnes
- 1.3.2. Category O₂ Vehicles of category O having a maximum mass exceeding 0,75 tonnes but not exceeding 3,5 tonnes.
- 1.3.3. Category O₃ Vehicles of category O having a maximum mass exceeding 3,5 tonnes but not exceeding 10 tonnes.
- 1.3.4. Category O₄ Vehicles of category O having a maximum mass exceeding 10 tonnes.

2. Vehicle subcategories

2.1. Off-road vehicles

"Off-road vehicle (ORV)" means a vehicle that belongs either to category M or N, having specific technical features which permit its use off the normal roads.

For those categories of vehicles, the letter "G" shall be added as suffix to the letter and numeral identifying the vehicle category.

The criteria for the subcategorisation of vehicles as "ORV" shall be specified in Section 4 of Part A of this Annex.

2.2. Special purpose vehicles

2.2.1. "Special purpose vehicle (SPV)" means a vehicle of category M, N or O having specific technical features in order to perform a function which requires special arrangements and/or equipment.

For incomplete vehicles that are intended to fall into the SPV subcategory, the letter "S" shall be added as suffix to the letter and numeral identifying the vehicle category.

The various types of special purpose vehicles are defined and listed in Section 5.

2.3. Off road special purpose vehicle

2.3.1. "Off road special purpose vehicle (ORV-SPV)" means a vehicle that belongs either to category M or N having the specific technical features referred to in points 2.1 and 2.2.

For those categories of vehicles, the letter "G" shall be added as suffix to the letter and numeral identifying the vehicle category.

Moreover, for incomplete vehicles that are intended to fall into the SPV subcategory, the letter "S" shall be added as second suffix.

3. **Criteria for the categorisation of vehicles in category N**
- 3.1. The categorisation of a vehicle type in category N shall be based on the technical features of the vehicle as referred to in points 3.2 to 3.6.
- 3.2. As a matter of principle, the compartment(s) where all the seating positions are located shall be completely separated from the loading area.
- 3.3. By way of derogation from the requirements of point 3.2, persons and goods may be transported in the same compartment under the condition that the loading area is provided with securing devices designed to protect persons transported against the displacement of the load during driving, including severe braking and cornering.
- 3.4. Securing devices - lashing devices - intended for securing the load as required in point 3.3 as well as partitioning systems, intended for vehicles up to 7,5 tonnes shall be designed in accordance with the provisions of Sections 3 and 4 of Standard ISO 27956:2009 "Road vehicles – Securing of cargo in delivery vans – Requirements and test methods".
- 3.4.1. The requirements referred to in point 3.4 may be verified by a statement of compliance provided by the manufacturer.
- 3.4.2. As an alternative to the requirements of point 3.4, the manufacturer may demonstrate to the satisfaction of the approval authority that the securing devices fitted show an equivalent level of protection as provided in the referred standard.
- 3.5. The number of seating positions excluding the driver's seating position shall not exceed:
- (a) 6 in the case of N₁ vehicles;
- (b) 8 in the case of N₂ or N₃ vehicles.
- 3.6. Vehicles shall show a goods-carrying capacity equal or higher than the person-carrying capacity expressed in kg.
- 3.6.1. For such purposes, the following equations shall be satisfied in all configurations, in particular when all seating positions are occupied:
- (a) when N = 0:
- $$P - M \geq 100 \text{ kg}$$
- (b) when $0 < N \leq 2$:
- $$P - (M + N \times 68) \geq 150 \text{ kg};$$
- (c) when N > 2:
- $$P - (M + N \times 68) \geq N \times 68;$$
- where the letters have the following meaning:
- "P" is the technically permissible maximum laden mass;
- "M" is the mass in running order;
- "N" is the number of seating positions excluding the driver's seating position.
- 3.6.2. The mass of equipment that is fitted to the vehicle in order to accommodate goods (e.g. tank, bodywork, etc.), to handle goods (e.g. crane, lift, etc.) and to secure goods (e.g. cargo securing devices) shall be included in M.
- The mass of equipment that is not used for the purposes referred to above (such as a compressor, a winch, an electric power generator, broadcasting equipment, etc.) shall not be included in M for the purposes of the application of the above formulae.
- 3.7. The requirements referred to in points 3.2 to 3.6 shall be met for all variants and versions within the vehicle type.
- 3.8. Criteria for the categorisation of vehicles as N₁.

3.8.1. A vehicle shall be categorised as N₁ when all the applicable criteria are met.

When one or more of the criteria are not met, the vehicle shall be categorised as M₁.

3.8.2. In addition to the general criteria referred to in points 3.2 to 3.6, the criteria specified in points 3.8.2.1 to 3.8.2.3.5 shall be met for the categorisation of vehicles for which the compartment where the driver is located and the load are within a single unit (i.e. bodywork "BB").

3.8.2.1. The fact that a wall or a partition, complete or partial, is fitted between a seat row and the cargo area shall not rule out the obligation to meet the required criteria.

3.8.2.2. The criteria shall be as follows:

(a) the loading of the goods shall be possible by a rear door, a tailgate or a side-door designed and constructed for that purposes;

(b) in the case of a rear door or a tailgate, the loading aperture shall meet the following requirements:

(i) in the case the vehicle is fitted with only one row of seats or with only the driver seat, the minimum height of the loading aperture shall be at least 600 mm;

(ii) in the case the vehicle is fitted with two or more rows of seats, the minimum height of the loading aperture shall be at least 800 mm and the aperture shall show a surface of at least 12 800 cm²;

(c) The cargo area shall meet the following requirements:

"cargo area" means the part of the vehicle located behind the row(s) of seats or behind the driver seat when the vehicle is fitted with only one driver seat;

(i) the loading surface of the cargo area shall be generally flat;

(ii) where the vehicle is fitted with only one row of seats or with one seat, the minimum length of the cargo area shall be at least 40 % of the wheelbase;

(iii) where the vehicle is fitted with two or more rows of seats, the minimum length of the cargo area shall be at least 30 % of the wheelbase.

Where the seats of the last row of seats can be easily removed from the vehicle without the use of special tools, the requirements regarding the length of the cargo area shall be met with all the seats installed in the vehicle;

(iv) the requirements regarding the length of the cargo area shall be met when the seats of the first row or of the last row, as the case may be, are upright in their normal position for use by the vehicle occupants.

3.8.2.3. Specific conditions for measurement

3.8.2.3.1. Definitions

(a) "*Height of the loading aperture*", means the vertical distance between two horizontal planes tangent respectively to the highest point of the lower part of the doorway and the lowest point of the upper part of the doorway;

(b) "*surface of the loading aperture*" means the greatest surface of the orthogonal projection on a vertical plane, perpendicular to the centreline of the vehicle, of the maximum aperture permitted when the rear door(s) or tailgate is (are) wide open;

(c) "*wheelbase*", for the purposes of application of the formulae in points 3.8.2.2 and 3.8.3.1, means the distance between:

(i) the centreline of the front axle and the centreline of the second axle in the case of a two axle vehicle;
or

(ii) the centreline of the front axle and the centreline of a virtual axle equally distant from the second and third axle in the case of a three axle vehicle.

3.8.2.3.2. Seat adjustments

- (a) the seats shall be adjusted at their rear outermost positions;
- (b) the seat back, if adjustable, shall be adjusted as to accommodate the three-dimensional H-point machine at a torso angle of 25 degrees;
- (c) the seat back, if not adjustable, shall be in the position designed by the vehicle manufacturer;
- (d) When the seat is adjustable in height, it shall be adjusted to its lowest position.

3.8.2.3.3. Vehicle conditions

- (a) the vehicle shall be in loaded conditions corresponding to its maximum mass;
- (b) the vehicle shall be with its wheels straight ahead.

3.8.2.3.4. The requirements of point 3.8.2.3.2 shall not apply when the vehicle is fitted with a wall or a partition.

3.8.2.3.5. Measurement of the length of the cargo area

- (a) When the vehicle is not fitted with a partition or a wall, the length shall be measured from a vertical plane tangent to the rear outermost point of the top of the seat back to the rear internal pane or door or tailgate, in closed position;
- (b) when the vehicle is fitted with a partition or a wall, the length shall be measured from a vertical plane tangent to the rear outermost point of the partition or the wall to the rear internal pane or door or tailgate, as the case may be, in closed position;
- (c) the requirements concerning the length shall be fulfilled at least along an horizontal line situated in the longitudinal vertical plane passing through the centreline of the vehicle, at the level of the load floor.

3.8.3. In addition to the general criteria referred to in points 3.2 to 3.6, the criteria specified in points 3.8.3.1 to 3.8.3.4 shall be met for the categorisation of vehicles for which the compartment where the driver is located and the load are not within a single unit (i.e. bodywork "BE").

3.8.3.1. Where the vehicle is fitted with an enclosure type body, the following shall apply:

- (a) the loading of the goods shall be possible by a rear door, a tailgate or a panel or other means;
- (b) the minimum height of the loading aperture shall be at least 800 mm and the aperture shall show a surface of at least 12 800 cm²;
- (c) The minimum length of the cargo area shall be at least 40 % of the wheelbase.

3.8.3.2. Where the vehicle is fitted with an open type cargo area, only the provisions referred to in points 3.8.3.1(a) and (c) shall apply.

3.8.3.3. For the application of the provisions referred to in point 3.8.3, the definitions in point 3.8.2 shall apply *mutatis mutandis*.

3.8.3.4. However, the requirements concerning the length of the cargo area shall be fulfilled along a horizontal line situated in the longitudinal plane passing through the centreline of the vehicle at the level of the load floor.

4. **Criteria for the subcategorisation of vehicles as off-road vehicles**

4.1. M₁ or N₁ vehicles shall be subcategorised as off-road vehicles if they satisfy at the same time the following conditions:

- (a) at least one front and at least one rear axle designed to be driven simultaneously irrespective of whether one powered axle can be disengaged;
- (b) at least one differential locking mechanism or a mechanism having similar effect is fitted;
- (c) they are able to climb at least a 25 % gradient as solo vehicle;
- (d) they satisfy five out of the following six requirements:
 - (i) the approach angle shall be at least 25 degrees;
 - (ii) the departure angle shall be at least 20 degrees;

- (iii) the ramp angle shall be at least 20 degrees;
 - (iv) the ground clearance under the front axle shall be at least 180 mm;
 - (v) the ground clearance under the rear axle shall be at least 180 mm;
 - (vi) the ground clearance between the axles shall be at least 200 mm.
- 4.2. M_2 , N_2 or M_3 vehicles whose maximum mass does not exceed 12 tonnes shall be subcategorised as off-road vehicles if they satisfy the condition set out in point (a) or both conditions set out in points (b) and (c):
- (a) all their axles are driven simultaneously, irrespective of whether one or more powered axles can be disengaged;
 - (b) (i) at least one front and at least one rear axle are designed to be driven simultaneously irrespective of whether one powered axle can be disengaged;
 - (ii) at least one differential locking mechanism or a mechanism having the same effect is fitted;
 - (iii) they are able to climb a 25 % gradient as a solo vehicle;
 - (c) they satisfy at least five out of the following six requirements if their maximum mass does not exceed 7,5 tonnes and at least four if their maximum mass exceeds 7,5 tonnes:
 - (i) the approach angle shall be at least 25 degrees;
 - (ii) the departure angle shall be at least 25 degrees;
 - (iii) the ramp angle shall be at least 25 degrees;
 - (iv) the ground clearance under the front axle shall be at least 250 mm;
 - (v) the ground clearance between axles shall be at least 300 mm;
 - (vi) the ground clearance under the rear axle shall be at least 250 mm.
- 4.3. M_3 or N_3 vehicles whose maximum mass exceeds 12 tonnes shall be subcategorised as off-road vehicles if they satisfy the condition set out in point (a) or both conditions set out in points (b) and (c):
- (a) all their axles are driven simultaneously, irrespective of whether one or more powered axles can be disengaged;
 - (b) (i) at least half of the axles (or two axles out of the three in the case of a three axle vehicle and *mutatis mutandis* in the case of a five axle vehicle) is designed to be driven simultaneously, irrespective of whether one powered axle can be disengaged;
 - (ii) there is at least one differential locking mechanism or a mechanism having similar effect;
 - (iii) they are able to climb a 25 % gradient as solo vehicle;
 - (c) they satisfy at least four out of the following six requirements:
 - (i) the approach angle shall be at least 25 degrees;
 - (ii) the departure angle shall be at least 25 degrees;
 - (iii) the ramp angle shall be at least 25 degrees;
 - (iv) the ground clearance under the front axle shall be at least 250 mm;
 - (v) the ground clearance between axles shall be at least 300 mm;
 - (vi) the ground clearance under the rear axle shall be at least 250 mm.
- 4.4. The procedure for checking compliance with the geometrical provisions referred to in this section shall be set out in Appendix 1.

5. **Special purpose vehicles**

	Name	Code	Definition
5.1.	Motor caravan	SA	A vehicle of category M with living accommodation space which contains the following equipment as a minimum: (a) seats and table; (b) sleeping accommodation which may be converted from the seats; (c) cooking facilities; (d) storage facilities. This equipment shall be rigidly fixed to the living compartment. However, the table may be designed to be easily removable.
5.2.	Armoured vehicle	SB	a vehicle intended for the protection of conveyed persons or goods with anti-bullet armour plating.
5.3.	Ambulance	SC	a vehicle of category M intended for the transport of sick or injured persons and having special equipment for such purpose. The patient compartment shall comply with the technical requirements of Standard EN 1789:2007 on "Medical vehicles and their equipment – Road ambulances" with the exception of Section 6.5 "List of equipment".
5.4.	Hearse	SD	a vehicle of category M intended for the transport of deceased persons and having special equipment for such purpose.
5.5.	Wheelchair accessible vehicle	SH	a vehicle of category M ₁ constructed or converted specifically so that they accommodate one or more persons seated in their wheelchairs when travelling on the road.
5.6.	Trailer caravan	SE	a vehicle of category O as defined in term 3.2.1.3 of Standard ISO 3833:1977.
5.7.	Mobile crane	SF	a vehicle of category N ₃ , not fitted for the carriage of goods, provided with a crane whose lifting moment is equal to or higher than 400 kNm.
5.8.	Special group	SG	a special purpose vehicle which does not enter in any of the definitions mentioned in this section.
5.9.	Converter dolly	SJ	a vehicle of category O equipped with a fifth-wheel coupling to support a semi-trailer with a view to converting the latter into a trailer.
5.10.	Exceptional load transport trailer	SK	a vehicle of category O ₄ intended for the transport of indivisible loads that is subject to speed and traffic restrictions because of its dimensions. Under this term are also included hydraulic modular trailers irrespective of the number of modules.

6. **Remarks**

6.1. Type-approval shall not be granted:

- (a) to converter dolly as defined in Section 5 of Part A of this Annex;
- (b) to rigid drawbar trailers as defined in Section 4 of Part C of this Annex;
- (c) to trailers in which persons may be carried when travelling on the road.

6.2. Paragraph 6.1 is without prejudice to the provisions of Article 23 on national small series type-approval.

PART B

Criteria for vehicle types, variants and versions1. **Category M₁**

1.1. Vehicle type

1.1.1. A "vehicle type" shall consist of vehicles which have all of the following features in common:

- (a) the manufacturer's company name.

A change in the legal form of ownership of the company does not require that a new approval has to be granted;

- (b) the design and assembly of the essential parts of the body structure in the case of a self-supporting body.

The same shall apply *mutatis mutandis* to vehicles the bodywork of which is bolted on or welded to a separate frame;

- (c) in the case of multi-stage built vehicles, the manufacturer and the type of the previous stage vehicle.

1.1.2. By way of derogation from the requirements of point 1.1.1(b), when the manufacturer uses the floor portion of the body structure as well as the essential constituent elements forming the front part of the body structure located directly in front of the windscreen bay, in the construction of different kinds of bodywork (for example a saloon and a coupe), those vehicles may be considered as belonging to the same type. Evidence thereof shall be provided by the manufacturer.

1.1.3. A type shall consist of at least one variant and one version.

1.2. Variant

1.2.1. A "variant" within a vehicle type shall group the vehicles which have all of the following construction features in common:

- (a) the number of lateral doors or the type of bodywork as defined in Section 1 of Part C when the manufacturer uses the criterion of point 1.1.2;
- (b) the power plant with regard to the following construction features:
- (i) the type of energy supply (internal combustion engine, electric motor or other);
 - (ii) the working principle (positive ignition, compression ignition or other);
 - (iii) the number and arrangement of cylinders in the case of internal combustion engine (L4, V6 or other);
- (c) the number of axles;
- (d) the number, and interconnection of powered axles;
- (e) the number of steered axles;
- (f) the stage of completion (e.g. complete/incomplete).

1.3. Version

1.3.1. A "version" within a variant shall group the vehicles which have all the following features in common:

- (a) the technically permissible maximum laden mass;
- (b) the engine capacity in the case of internal combustion engine;
- (c) the maximum engine power output or the maximum continuous rated power (electric motor);
- (d) the nature of the fuel (petrol, gas oil, LPG, bi-fuel or other);
- (e) the maximum number of seating positions;
- (f) drive-by sound level;
- (g) exhaust emission level (for example Euro 5, Euro 6 or other);
- (h) combined or weighted, combined CO₂ emissions;
- (i) electric energy consumption (weighted, combined);
- (j) combined or weighted, combined fuel consumption;
- (k) the existence of a unique set of innovative technologies, as specified in Article 12 of Regulation (EC) No 443/2009 ⁽¹⁾.

⁽¹⁾ OJ L 140, 5.6.2009, p. 1.

2. Categories M₂ and M₃

2.1. Vehicle type

2.1.1. A "vehicle type" shall consist of vehicles which have all of the following features in common:

(a) the manufacturer's company name.

A change in the legal form of ownership of the company does not require that a new approval has to be granted;

(b) the category;

(c) the following aspects of construction and design:

(i) the design and construction of the essential constituent elements forming the chassis;

(ii) the design and construction of the essential constituent elements forming the body structure in the case of a self-supporting body;

(d) the number of decks (single or double);

(e) the number of sections (rigid/articulated);

(f) the number of axles;

(g) the mode of energy supply (on-board or off-board);

(h) in the case of multi-stage built vehicles, the manufacturer and the type of the previous stage vehicle.

2.1.2. A type shall consist of at least one variant and one version.

2.2. Variant

2.2.1. A "variant" within a vehicle type shall group the vehicles which have all of the following construction features in common:

(a) the type of bodywork as defined in Section 2 of Part C;

(b) the class or combination of classes of vehicles as defined in point 2.1.1 of Annex I to Directive 2001/85/EC (only in the case of complete and completed vehicles);

(c) the stage of completion (e.g. complete/incomplete/completed);

(d) the power plant with regard to the following construction features:

(i) the type of energy supply (internal combustion engine, electric motor or other);

(ii) the working principle (positive ignition, compression ignition or other);

(iii) the number and arrangement of cylinders in the case of internal combustion engine (L6, V8 or other).

2.3. Version

2.3.1. A "version" within a variant shall group the vehicles which have all the following features in common:

(a) the technically permissible maximum laden mass;

(b) the ability of the vehicle to tow a trailer or not;

(c) the engine capacity in the case of internal combustion engine;

(d) the maximum engine power output or the maximum continuous rated power (electric motor);

(e) the nature of the fuel (petrol, gas oil, LPG, bi-fuel or other);

(f) drive-by sound level;

(g) exhaust emission level (for example Euro IV, Euro V or other).

3. Category N₁

3.1. Vehicle type

3.1.1. A "vehicle type" shall consist of vehicles which have all of the following features in common:

(a) the manufacturer's company name.

A change in the legal form of ownership of the company does not require that a new approval has to be granted;

- (b) the design and assembly of the essential parts of the body structure in the case of a self-supporting body;
 - (c) the design and the construction of the essential constituent elements forming the chassis in the case of a non self-supporting body;
 - (d) in the case of multi-stage built vehicles, the manufacturer and the type of the previous stage vehicle.
- 3.1.2. By way of derogation from the requirements of point 3.1.1(b), when the manufacturer uses the floor portion of the body structure as well the essential constituent elements forming the front part of the body structure located directly in front of the windscreen bay, in the construction of different kinds of bodywork (for example a van and a chassis-cab, different wheelbases and different roof heights), those vehicles may be considered as belonging to the same type. Evidence thereof shall be provided by the manufacturer.
- 3.1.3. A type shall consist of at least one variant and one version.
- 3.2. Variant
- 3.2.1. A "variant" within a vehicle type shall group the vehicles which have all of the following construction features in common:
- (a) the number of lateral doors or the type of bodywork as defined in Section 3 of Part C (for complete and completed vehicles) when the manufacturer uses the criterion of point 3.1.2;
 - (b) the stage of completion (e.g. complete/incomplete/completed);
 - (c) the power plant with regard to the following construction features:
 - (i) the type of energy supply (internal combustion engine, electric motor or other);
 - (ii) the working principle (positive ignition, compression ignition or other);
 - (iii) the number and arrangement of cylinders in the case of internal combustion engine (L6, V8 or other);
 - (d) the number of axles;
 - (e) the number and interconnection of powered axles;
 - (f) the number of steered axles.
- 3.3. Version
- 3.3.1. A "version" within a variant shall group the vehicles which have all the following features in common:
- (a) the technically permissible maximum laden mass;
 - (b) the engine capacity in the case of internal combustion engine;
 - (c) the maximum engine power output or maximum continuous rated power (electric motor);
 - (d) the nature of the fuel (petrol, gas oil, LPG, bi-fuel or other);
 - (e) the maximum number of seating positions;
 - (f) drive-by sound level;
 - (g) exhaust emission level (for example Euro 5, Euro 6 or other);
 - (h) combined or weighted, combined CO₂ emissions;
 - (i) electric energy consumption (weighted, combined);
 - (j) combined or weighted, combined fuel consumption.
4. **Categories N₂ and N₃**
- 4.1. Vehicle type
- 4.1.1. A "vehicle type" shall consist of vehicles which have all of the following essential features in common:
- (a) the manufacturer's company name.

A change in the legal form of ownership of the company does not require that a new approval has to be granted;
 - (b) the category;
 - (c) the design and construction of the chassis that are common to a single line of product;
 - (d) the number of axles;
 - (e) in the case of multi-stage built vehicles, the manufacturer and the type of the previous stage vehicle.
- 4.1.2. A type shall consist of at least one variant and one version.

4.2. Variant

4.2.1. A "variant" within a vehicle type shall group the vehicles which have all of the following construction features in common:

- (a) the body structural concept or type of bodywork as referred to in Section 3 of Part C and in Appendix 2 (only for complete and completed vehicles);
- (b) the stage of completion (e.g. complete/incomplete/completed);
- (c) the power plant with regard to the following construction features:
 - (i) the type of energy supply (internal combustion engine, electric motor or other);
 - (ii) the working principle (positive ignition, compression ignition or other);
 - (iii) the number and arrangement of cylinders in the case of internal combustion engine (L6, V8 or other);
- (d) the number and interconnection of powered axles;
- (e) the number of steered axles.

4.3. Version

4.3.1. A "version" within a variant shall group the vehicles which have all the following features in common:

- (a) the technically permissible maximum laden mass;
- (b) the ability or not to tow a trailer as follows:
 - (i) an unbraked trailer;
 - (ii) a trailer with an inertia (or overrun) braking system as defined in point 2.12 of UNECE Regulation No 13;
 - (iii) a trailer with a continuous or semi-continuous braking system as defined in points 2.9 and 2.10 of UNECE Regulation No 13;
 - (iv) a trailer of category O₄ that results in a maximum mass of the combination not exceeding 44 tonnes;
 - (v) a trailer of category O₄ that results in a maximum mass of the combination exceeding 44 tonnes;
- (c) the engine capacity;
- (d) the maximum engine power output;
- (e) the nature of the fuel (petrol, gas oil, LPG, bi-fuel or other);
- (f) drive-by sound level;
- (g) exhaust emission level (for example Euro IV, Euro V or other).

5. **Categories O₁ and O₂**

5.1. Vehicle type

5.1.1. A "vehicle type" shall consist of vehicles which have all of the following features in common:

- (a) the manufacturer's company name.

A change in the legal form of ownership of the company does not require that a new approval has to be granted;

- (b) the category;
- (c) the concept as defined in section 4 of Part C;

- (d) the following aspects of construction and design:
 - (i) the design and construction of the essential constituent elements forming the chassis;
 - (ii) the design and construction of the essential constituent elements forming the body structure in the case of a self-supporting body;
 - (e) the number of axles;
 - (f) in the case of multi-stage built vehicles, the manufacturer and the type of the previous stage vehicle.
- 5.1.2. A type shall consist of at least one variant and one version.
- 5.2. Variant
- 5.2.1. A "variant" within a vehicle type shall group the vehicles which have all of the following construction features in common:
- (a) the kind of bodywork as referred to in Appendix 2 (for complete and completed vehicles);
 - (b) the stage of completion (e.g. complete/incomplete/completed);
 - (c) the type of braking system (e.g. unbraked/inertia/power).
- 5.3. Version
- 5.3.1. A "version" within a variant shall group the vehicles which have all the following features in common:
- (a) the technically permissible maximum laden mass;
 - (b) the concept of the suspension (air, steel or rubber suspension, torsion bar or other);
 - (c) the concept of the drawbar (triangle, tube or other).
6. **Categories O₃ and O₄**
- 6.1. Vehicle type
- 6.1.1. A "vehicle type" shall consist of vehicles which have all of the following features in common:
- (a) the manufacturer's company name.

A change in the legal form of ownership of the company does not require that a new approval has to be granted;
 - (b) the category;
 - (c) the concept of the trailer with relation to the definitions in section 4 of Part C;
 - (d) the following aspects of construction and design:
 - (i) the design and construction of the essential constituent elements forming the chassis;
 - (ii) the design and construction of the essential constituent elements forming the body structure in the case of trailers with a self-supporting body;
 - (e) the number of axles;
 - (f) in the case of multi-stage built vehicles, the manufacturer and the type of the previous stage vehicle.
- 6.1.2. A type shall consist of at least one variant and one version.
- 6.2. Variants
- 6.2.1. A "variant" within a vehicle type shall group the vehicles which have all of the following construction and design features in common:
- (a) the kind of bodywork as referred to in Appendix 2 (for complete and completed vehicles);
 - (b) the stage of completion (e.g. complete/incomplete/completed);
 - (c) the concept of the suspensions (steel, air or hydraulic suspension);
 - (d) the following technical features:
 - (i) the capability or not for the chassis to be extendible;
 - (ii) the deck height (normal, low loader, semi-low loader etc.).

6.3. Versions

6.3.1. A "version" within a variant shall group the vehicles which have all the following features in common:

- (a) the technically permissible maximum laden mass;
- (b) the subdivisions or combination of subdivisions referred to in points 3.2 and 3.3 of Annex I to Directive 96/53/EC into which the axle spacing between two consecutive axles forming a group belongs;
- (c) the definition of the axles in the following respects:
 - (i) lift axles (number and position);
 - (ii) loadable axles (number and position);
 - (iii) steered axle (number and position).

7. Common requirements for all vehicle categories

7.1. When a vehicle falls into several categories because of its maximum mass or the number of seating positions or both, the manufacturer may select to use the criteria of one or the other vehicle category for the definition of the variants and the versions.

7.1.1. Examples:

- (a) a vehicle "A" may be type-approved as N_1 (3,5 tonnes) and N_2 (4,2 tonnes) in relation to its maximum mass. In such a case, the parameters mentioned in category N_1 may be used also for the vehicle that falls into category N_2 (or vice-versa);
- (b) A vehicle "B" may be type-approved as M_1 and M_2 in relation to the number of seating positions ($7 + 1$ or $10 + 1$), the parameters mentioned in category M_1 may be used also for the vehicle that falls into category M_2 (or vice-versa).

7.2. A vehicle of category N may be type-approved against the provisions required for category M_1 or M_2 , as the case may be, when it is intended to be converted into a vehicle of that category during the next step of a multi-stage type-approval procedure.

7.2.1. This option shall only be permitted for incomplete vehicles.

Such vehicles shall be identified by a specific variant code given by the manufacturer of the base vehicle.

7.3. Type-, variant- and version designations

7.3.1. The manufacturer shall allocate an alphanumeric code to each vehicle type, variant and version, made up of Roman letters and/or Arabic numerals.

The use of brackets and hyphens is permitted provided they do not replace a letter or a numeral.

7.3.2. The whole code shall be designated: Type-Variant-Version or "TVV".

7.3.3. The TVV shall clearly and unequivocally identify a unique combination of technical features in relation to the criteria defined in Part B of this Annex.

7.3.4. The same manufacturer may use the same code in order to define a vehicle type when the latter falls in two or more categories.

7.3.5. The same manufacturer shall not use the same code in order to define a vehicle type for more than one type-approval within the same vehicle category.

7.4. Number of characters for the TVV

7.4.1. The number of characters shall not exceed:

- (a) 15 for the code of the vehicle type;
- (b) 25 for the code of one variant;
- (c) 35 for the code of one version.

7.4.2. The complete alphanumeric "TVV" shall not contain more than 75 characters.

7.4.3. When the TVV is used as a whole, a space shall be left between the type, the variant and the version.

Example of such TVV: 159AF[...space]0054[...space]977K(BE).

PART C

Definitions of types of bodywork**0. General**

- 0.1. The type of bodywork referred to in Section 9 of Annex I and Part 1 of Annex III as well as the code for bodywork referred to in Item 38 of Annex IX shall be indicated by means of codes.

The list of codes shall apply primarily to complete and completed vehicles.

- 0.2. As regards vehicles of categories M, the type of bodywork shall consist of two letters as specified in Sections 1 and 2.
- 0.3. As regards vehicles of categories N and O, the type of bodywork shall consist of two letters as referred to in Sections 3 and 4.
- 0.4. Where necessary (especially for the types of bodywork referred to respectively in points 3.1 and 3.6 and in points 4.1 to 4.4), they shall be supplemented by two digits.
- 0.4.1. The list of digits shall be laid down in Appendix 2 to this Annex.
- 0.5. For special purpose vehicles, the type of bodywork to be used shall be linked to the category of the vehicle.

1. Vehicles belonging to category M₁

Ref.	Code	Name	Definition
1.1.	AA	Saloon	a vehicle defined in term 3.1.1.1 of Standard ISO 3833:1977, fitted with at least four side windows.
1.2.	AB	Hatchback	a saloon as defined in 1.1 with a hatch at the rear end of the vehicle.
1.3.	AC	Station wagon	a vehicle defined in term 3.1.1.4 of Standard ISO 3833:1977.
1.4.	AD	Coupé	a vehicle defined in term 3.1.1.5 of Standard ISO 3833:1977.
1.5.	AE	Convertible	a vehicle defined in terms No 3.1.1.6 of Standard ISO 3833:1977. However a convertible may have no door.
1.6.	AF	Multi-purpose vehicle	a vehicle other than AG and those mentioned in AA to AE intended for carrying persons and their luggage or occasionally goods, in a single compartment.
1.7.	AG	Truck station wagon	a vehicle defined in terms No 3.1.1.4.1 of Standard ISO 3833:1977. However, the luggage compartment must be completely separated from the passenger compartment. In addition, the reference point of the driver's seating position needs not to be at least at 750 mm above the surface supporting the vehicle.

2. Vehicles belonging to category M₂ or M₃

Ref.	Code	Name	Definition
2.1.	CA	Single-deck vehicle	a vehicle where the spaces provided for persons are arranged in a single level or in a way that they do not constitute two superimposed levels;
2.2.	CB	Double-deck vehicle	a vehicle defined in point 2.1.6 of Annex I to Directive 2001/85/EC;
2.3.	CC	Single-deck articulated vehicle	a vehicle defined in point 2.1.3 of Annex I to Directive 2001/85/EC with a single deck;
2.4.	CD	Double-deck articulated vehicle	a vehicle defined in point 2.1.3.1 of Annex I to Directive 2001/85/EC;

Ref.	Code	Name	Definition
2.5.	CE	Low-floor single-deck vehicle	a vehicle defined in point 2.1.4 of Annex I to Directive 2001/85/EC with a single deck;
2.6.	CF	Low-floor double-deck vehicle	a vehicle defined in point 2.1.4 of Annex I to Directive 2001/85/EC with a double deck;
2.7.	CG	Articulated low-floor single-deck vehicle	a vehicle that combines the technical features of entries 2.3 and 2.5;
2.8.	CH	Articulated low-floor double-deck vehicle	a vehicle that combines the technical features of entries 2.4 and 2.6;
2.9.	CI	Open top single deck vehicle	a vehicle with partial roof or without roof;
2.10.	CJ	Open top double deck vehicle	a vehicle without roof over all or part of its upper deck;
2.11.	CX	Bus chassis	an incomplete vehicle with just chassis rails or tube assembly, power train, axles, which is intended to be completed with bodywork, customised to the needs of the transport operator.

3. Motor vehicles of category N₁, N₂ or N₃

Ref.	Code	Name	Definition
3.1.	BA	Lorry	a vehicle which is designed and constructed exclusively or principally for conveying goods. It may also tow a trailer.
3.2.	BB	Van	a lorry with the compartment where the driver is located and cargo area within a single unit;
3.3.	BC	Tractor unit for semi-trailer	a towing vehicle which is designed and constructed exclusively or principally to tow semi-trailers;
3.4.	BD	Road tractor	a towing vehicle which is designed and constructed exclusively to tow trailers other than semi-trailers;
3.5.	BE	Pick-up truck	a vehicle of a maximum mass not exceeding 3 500 kg in which the seating positions and the cargo area are not located in a single compartment;
3.6.	BX	Chassis-cab or chassis-cowl	an incomplete vehicle with just a cabin (complete or partial), chassis rails, power train, axles, which is intended to be completed with bodywork, customised to the needs of the transport operator.

4. Vehicles of category O

Ref.	Code	Name	Definition
4.1.	DA	Semi-trailer	a trailer which is designed and constructed to be coupled to a tractor unit or to a converter dolly and to impose a substantial vertical load on the towing vehicle or on the converter dolly. The coupling to be used for a vehicle combination shall consist of a king pin and a fifth wheel.
4.2.	DB	Drawbar trailer	a trailer having at least two axles, of which at least one is a steered axle: (a) equipped with a towing device which can move vertically (in relation to the trailer) and (b) that transmits less than 100 daN as a static vertical load to the towing vehicle.

Ref.	Code	Name	Definition
4.3.	DC	Centre-axle trailer	a trailer where the axle(s) is (are) positioned close to the centre of gravity of the vehicle (when uniformly loaded) so that only a small static vertical load, not exceeding 10 % of that corresponding to the maximum mass of the trailer or a load of 1 000 daN (whichever is the lesser) is transmitted to the towing vehicle.
4.4.	DE	Rigid drawbar trailer	<p>a trailer with one axle or one group of axles fitted with a drawbar which transmits a static load not exceeding 4 000 daN to the towing vehicle due to its construction and which does not meet the definition of a centre-axle trailer.</p> <p>The coupling to be used for a vehicle combination shall not consist of a king pin and a fifth wheel.</p>

*Appendix 1***Procedure for checking whether a vehicle can be categorised as off-road vehicle****0. General**

- 0.1. For the purposes of classification of a vehicle as off-road vehicle, the procedure described in this Appendix shall apply.

1. Test conditions for geometric measurements

- 1.1. Vehicles belonging to category M₁ or N₁ shall be in unloaded conditions with a manikin of the 50th percentile male installed on the driver's seat and fitted with coolant fluid, lubricants, fuel, tools, spare-wheel (if fitted as OEM equipment).

The manikin may be replaced by a similar device having the same mass.

- 1.2. Vehicles other than those referred to in point 1.1 shall be loaded to their technically permissible maximum laden mass.

The distribution of the mass on the axles shall be the one that represents the worst case with respect to compliance with the respective criteria.

- 1.3. A vehicle representative of the type shall be submitted to the technical service in the conditions specified in point 1.1 or 1.2. The vehicle shall be in a stationary position with its wheels set straight ahead.

The ground on which measurements are made shall be as flat and horizontal (maximum of inclination 0,5 %) as possible.

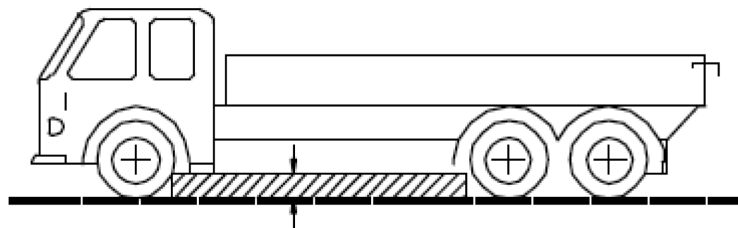
2. Measurement of approach, departure and ramp angles

- 2.1. The approach angle shall be measured in accordance with Item 6.10 of Standard ISO 612:1978.
- 2.2. The departure angle shall be measured in accordance with Item 6.11 of Standard ISO 612:1978.
- 2.3. The ramp angle shall be measured in accordance with Item 6.9 of Standard ISO 612:1978.
- 2.4. When measuring the departure angle rear underrun protection devices which are adjustable in height may be set in the upper position.
- 2.5. The prescription in point 2.4 shall not be construed as an obligation for the base vehicle to be fitted with a rear underrun protection as original equipment. However, the base vehicle manufacturer shall inform the next stage manufacturer that the vehicle has to comply with the requirements on departure angle when fitted with a rear underrun protection.

3. Measurement of ground clearance

- 3.1. Ground clearance between the axles
- 3.1.1. "Ground clearance between the axles" means the shortest distance between the ground plane and the lowest fixed point of the vehicle.

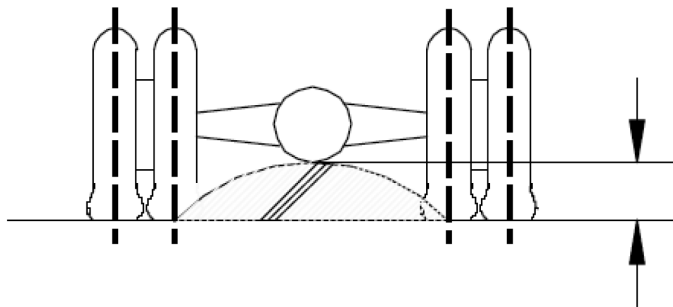
For the application of the definition, the distance between the last axle of a front group of axle and the first axle of a rear group of axle shall be considered.



3.1.2. No rigid part of the vehicle may project into the shaded area shown on the figure.

3.2. Ground clearance beneath one axle

3.2.1. "Ground clearance beneath one axle" means the distance beneath the highest point of the arc of a circle passing through the centre of the tyre footprint of the wheels on one axle (the inner wheels in the case of twin tyres) and touching the lowest fixed point of the vehicle between the wheels.



3.2.2. Where appropriate, the measurement of ground clearance shall be conducted on each of the several axles of a group of axles.

4. Gradeability

4.1. "Gradeability" means the ability of a vehicle to negotiate a gradient.

4.2. To the effect of checking the gradeability of an incomplete and a complete vehicle of category M₂, M₃, N₂ and N₃, a test shall be performed.

4.3. The test shall be conducted by the technical service on a vehicle representative of the type to be tested.

4.4. At the request of the manufacturer and under the conditions specified in Annex XVI, the gradeability of a vehicle type may be demonstrated by virtual testing.

5. Test conditions and pass-fail criterion

5.1. Until 31 October 2014, the conditions set out in section 7.5 of Annex I to Directive 97/27/EC shall apply.

As from 1 November 2014, test conditions adopted under Regulation (EC) No 661/2009 of the European Parliament and of the Council ⁽¹⁾ in accordance with Article 14 of that Regulation shall apply.

5.2. The vehicle shall climb the gradient at a steady speed without any wheel slipping, longitudinally or laterally.

⁽¹⁾ OJ L 200, 31.7.2009, p. 1.

*Appendix 2***Digits used to supplement the codes to be used for various kinds of bodywork**

- 01 Flat bed;
 - 02 Drop-side;
 - 03 Box body;
 - 04 Conditioned body with insulated walls and equipment to maintain the interior temperature;
 - 05 Conditioned body with insulated walls but without equipment to maintain the interior temperature;
 - 06 Curtain-sided;
 - 07 Swap body (interchangeable superstructure);
 - 08 Container carrier;
 - 09 Vehicles fitted with hook lift;
 - 10 Tipper;
 - 11 Tank;
 - 12 Tank intended for transport of dangerous goods;
 - 13 Livestock carrier;
 - 14 Vehicle transporter;
 - 15 Concrete mixer;
 - 16 Concrete pump vehicle;
 - 17 Timber;
 - 18 Refuse collection vehicle;
 - 19 Street sweeper, cleansing and drain clearing;
 - 20 Compressor;
 - 21 Boat carrier;
 - 22 Glider carrier;
 - 23 Vehicles for retail or display purposes;
 - 24 Recovery vehicle;
 - 25 Ladder vehicle;
 - 26 Crane lorry (other than a mobile crane as defined in Section 5 of Part A of Annex II);
 - 27 Aerial work platform vehicle;
 - 28 Digger derrick vehicle;
 - 29 Low floor trailer;
 - 30 Glazing transporter;
 - 31 Fire engine;
 - 99 Bodywork that is not included in the present list.'
-

ANNEX II

Annex IV to Directive 2007/46/EC is amended as follows:

(1) the title of Annex IV is replaced by **'REQUIREMENTS FOR THE PURPOSE OF EC TYPE-APPROVAL OF VEHICLES'**;

(2) item 43 of Part I of Annex IV is replaced by the following:

'43	Spray suppression systems	Directive 91/226/EEC	L 103, 23.4.1991, p. 5					x	x	x	x	x	x	x'
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(3) the title of the Appendix to Annex IV is replaced by **'Requirements for type-approval of vehicles belonging to the category M₁, produced in small series pursuant to Article 22'**.

ANNEX III

Annex IX to Directive 2007/46/EC is amended as follows:

- (1) The text of the entry 31 in “Side 2 - Vehicle category N₂ (complete and completed vehicles)” of the template of the certificate of conformity is replaced by the following text:

'31. Position of lift axle(s): ...'

- (2) The text of the entry 31 in “Side 2 - Vehicle category N₃ (complete and completed vehicles)” of the template of the certificate of conformity is replaced by the following text:

'31. Position of lift axle(s): ...'

- (3) The text of the entry 31 in “Side 2 - Vehicle categories O₁ and O₂ (complete and completed vehicles)” of the template of the certificate of conformity is replaced by the following text:

'31. Position of lift axle(s): ...'

- (4) The text of the entry 31 in “Side 2 - Vehicle categories O₃ and O₄ (complete and completed vehicles)” of the template of the certificate of conformity is replaced by the following text:

'31. Position of lift axle(s): ...'

- (5) The text of the entry 31 in “Side 2 - Vehicle category N₂ (incomplete vehicles)” of the template of the certificate of conformity is replaced by the following text:

'31. Position of lift axle(s): ...'

- (6) The text of the entry 31 in “Side 2 - Vehicle category N₃ (incomplete vehicles)” of the template of the certificate of conformity is replaced by the following text:

'31. Position of lift axle(s): ...'

- (7) The text of the entry 31 in “Side 2 - Vehicle categories O₁ and O₂ (incomplete vehicles)” of the template of the certificate of conformity is replaced by the following text:

'31. Position of lift axle(s): ...'

- (8) The text of the entry 31 in “Side 2 - Vehicle categories O₃ and O₄ (incomplete vehicles)” of the template of the certificate of conformity is replaced by the following text:

'31. Position of lift axle(s): ...'

- (9) The text of the explanatory notes relating to Annex IX is amended as follows:

(a) The last sentence of the explanatory note (a) is deleted;

(b) The following sentence is added to the explanatory note (e):

'For a centre-axle trailer with one single axle, indicate the horizontal distance between the vertical axis of the coupling and the centre of the axle.'

ANNEX IV

Annex XI to Directive 2007/46/EC is amended as follows:

(1) item 43 of Appendix 2 to Annex XI is replaced by the following:

'43	Spray suppression systems	Directive 91/226/EEC					x	x	x	x	x	x	x'
-----	---------------------------	----------------------	--	--	--	--	---	---	---	---	---	---	----

(2) item 43 of Appendix 4 to Annex XI is replaced by the following:

'43	Spray suppression systems	Directive 91/226/EEC					x	x	x	x	x	x	x'
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(3) the following Appendix 6 is inserted after Appendix 5 and before the "Meaning of letters":

'Appendix 6

Exceptional load transport trailers

Item	Subject	Regulatory act reference	Trailer of category O ₄
3	Fuel tanks/rear protective devices	Directive 70/221/EEC	X
4	Rear registration plate space	Directive 70/222/EEC	X
5	Steering effort	Directive 70/311/EEC	X
9	Braking	Directive 71/320/EEC	X
10	Radio interference (electromagnetic compatibility)	Directive 72/245/EEC	X
18	Plates (statutory)	Directive 76/114/EEC	X
20	Installation of lighting and light signalling devices	Directive 76/756/EEC	A + N
21	Reflex reflectors	Directive 76/757/EEC	X
22	End-outline, front position (side), rear-position (side), stop, side marker, daytime running lamps	Directive 76/758/EEC	X
23	Direction indicators	Directive 76/759/EEC	X
24	Rear registration plate lamps	Directive 76/760/EEC	X
28	Rear fog lamps	Directive 77/538/EEC	X
29	Reversing lamps	Directive 77/539/EEC	X
36	Heating systems	Directive 2001/56/EC	N/A
42	Lateral protection	Directive 89/297/EEC	A
43	Spray-suppression systems	Directive 91/226/EEC	A

Item	Subject	Regulatory act reference	Trailer of category O ₄
46	Tyres	Directive 92/23/EEC	I
48	Masses and dimensions	Directive 97/27/EC	X
50	Couplings	Directive 94/20/EC	X
63	General safety Regulation	Regulation (EC) No 661/2009	P/A'

(4) the 'Meaning of letters' shall be amended as follows:

(a) point L shall be replaced by the following text:

'L: Application limited to seats designated for normal use when the vehicle is travelling on the road. At least anchorages for lap belts are required in the rear seating positions. Seats which are not designated for use when the vehicle is travelling on the road shall be clearly identified to users by means of a pictogram or a sign with an appropriate text.'

(b) the following point shall be inserted after point N/A:

'P/A: This regulatory act is partially applicable. The precise scope of application is established in the implementing measures to Regulation (EC) No 661/2009.';

(c) the following point shall be inserted after point H

'I: Tyres must be type-approved under the requirements of UNECE Regulation No 54 even if the maximum design speed of the vehicle is less than 80 km/h.

The load capacity may be adjusted in relation to the maximum design speed of the trailer in agreement with the tyre manufacturer.'

COMMISSION IMPLEMENTING REGULATION (EU) No 679/2011**of 14 July 2011****amending Regulation (EC) No 1974/2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ⁽¹⁾, and in particular Article 91 thereof,

Whereas:

- (1) Regulation (EC) No 1698/2005 established a single legal framework for the European Agricultural Fund for Rural Development (EAFRD) support for rural development throughout the Union. That legal framework has been complemented by implementing rules laid down by Commission Regulation (EC) No 1974/2006 ⁽²⁾. In the light of experience gained and problems that have arisen in the implementation of Rural Development Programmes it is necessary to amend certain provisions of that Regulation and to introduce certain additional implementing rules.
- (2) Operations concerning the production of renewable energy on agricultural holdings pursuant to Article 26 of Regulation (EC) No 1698/2005 may fall outside the scope of Article 42 of the Treaty. In order to ensure compliance with agricultural State aid rules, a specific provision should be laid down for investments in the production of renewable energy on agricultural holdings.
- (3) Article 27(12) of Regulation (EC) No 1974/2006 provides that adjustment of agri-environment or animal welfare commitments may take the form of an extension of the duration of the commitment. In order to avoid overlapping with the following programming period, such adjustment should be limited to the end of the premium period to which the 2013 payment claim refers.
- (4) Article 47 of Regulation (EC) No 1698/2005 provides that forest-environmental commitments are to be undertaken as a general rule for a period between 5 and 7 years. In order to avoid a situation in which

renewed commitments overlap with the following programming period, it should be provided that Member States may allow such commitments to be extended to the end of the premium period to which the 2013 payment claim refers.

- (5) Article 62(1)(b) of Regulation (EC) No 1698/2005 provides that, at the decision-making level of the local action group, economic and social partners, as well as other representatives of civil society, are to make up at least 50 % of the local partnership. Member States should ensure that local action groups comply with this minimum percentage with respect to voting, too, in order to prevent the public sector from dominating decision-making. Furthermore, it should be ensured that project promoters are not able to influence the project selection decision. Effective safeguards should therefore be established to avoid any conflict of interests with regard to the appraisal and vote on project proposals. The transparency of the decision making should also be guaranteed with the appropriate visibility.
- (6) Article 38(2) of Regulation (EC) No 1974/2006 provides for the possibility of paying advances for the running costs of local action groups. It has been proven that in order to ensure the cash flow needs of local action groups it is necessary to extend the possibility to pay advances to cover the costs related to acquiring skills and animating the territory as referred to in Article 63(c) of Regulation (EC) No 1698/2005.
- (7) Article 44(3) of Regulation (EC) No 1974/2006 allows Member States to take specific measures to ensure that minor changes to the situation of a holding do not lead to inappropriate results in relation to commitments entered into, in terms of the obligation of the beneficiary to repay the assistance where a commitment is not taken over by the transferee of a part of the holding. In order to ensure legal certainty, a definition should be provided of what constitutes a minor change in cases where the area of the holding is reduced.
- (8) Article 46 of Regulation (EC) No 1974/2006 provides for a revision clause in case of amendments to the baseline for certain measures. A revision clause should also be provided in case the duration of new agri-environment, animal welfare or forest-environmental commitments undertaken for a period between 5 and 7 years extends beyond the end of the current programming period, in order to avoid inconsistencies with the legal and policy framework to be laid down for the period following the current programming period.

⁽¹⁾ OJ L 277, 21.10.2005, p. 1.

⁽²⁾ OJ L 368, 23.12.2006, p. 15.

- (9) In order to clarify the application of Article 52(1) of Regulation (EC) No 1974/2006, the basis on which the co-financing rate is applied in the case of financial engineering should be set out.
- (10) As regards guarantee funds in the context of financial engineering under subsection 3 of Section 1 of Chapter IV of Regulation (EC) No 1974/2006, additional details on the method of calculating the eligible expenses of the operation related to such interventions should be provided to ensure the most efficient use of Union resources.
- (11) While acknowledging the specificities of rural development, relating essentially to the small scale of supported operations, it is necessary, in order to maximise the leverage effect of the financial engineering tool, to clarify the reuse of the resources returned to the financial engineering operation during the programming period as well as to make a distinction between it and the reuse after the final date of eligibility of the rural development programme.
- (12) Taking into account the nature of some investments in forestry and the fact that payments could in certain cases be area-related, it should be possible to use standard costs calculations as an alternative to the invoice-based system used to determine the level of support for the measure referred to in Article 27 of Regulation (EC) No 1698/2005. Article 53(1) of Regulation (EC) No 1974/2006 should therefore be adapted accordingly.
- (13) Article 54(1) of Regulation (EC) No 1974/2006 provides for the conditions under which contributions in kind may be considered as eligible expenditure. In its present form, Article 54(1) considers contributions in kind to be eligible only for investment operations. Experience has shown that this condition is too restrictive for the efficient implementation of measures. Therefore, it should be provided that contributions in kind may be eligible for all types of operation.
- (14) Article 55 of Regulation (EC) No 1974/2006 lays down a set of rules for the definition of eligible expenditure for investment operations. In order to bring additional clarity to the implementation of this Article, the acquisition of payment entitlements should be explicitly excluded from eligibility. It should also be clarified that, given their nature, investments replacing agricultural production potential after natural disasters constitute eligible expenditure.
- (15) In order to increase the impact of advances in the context of the ongoing financial crisis, taking due account of the specific role of regional governments in implementing rural development policy, the possibility for advance payments provided for in Article 56 of Regulation (EC) No 1974/2006 should be opened up to regional authorities as well.
- (16) To facilitate the implementation of investment projects in the context of the ongoing economic and financial crisis, the maximum ceiling for advance payments was raised to 50 % for investments in 2009 and 2010. In order to take account of the continuing negative effects of the economic and financial crisis, this higher ceiling should be maintained until the end of the programming period. In order to ensure continuity in the implementation of Rural Development Programmes between the end of 2010 and the entry into force of this Regulation, the relevant provision should be applied retroactively from 1 January 2011.
- (17) To take account of the relatively small size of rural development projects and the difficulty such projects have in obtaining bank guarantees for advance payments, measures should be taken allowing those guarantees to be replaced by written guarantees from public authorities.
- (18) To make the best use of advances, it should be left to the competent paying agency to define when guarantees are released.
- (19) Regulation (EC) No 1974/2006 should therefore be amended accordingly.
- (20) The measures provided for in this Regulation are in accordance with the opinion of the Rural Development Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1974/2006 is amended as follows:

- (1) the following Article 16a is inserted:

'Article 16a

For the purpose of Article 26 of Regulation (EC) No 1698/2005, where investments are made in the production of thermal energy and/or electricity from renewable sources on agricultural holdings, renewable energy production facilities shall be eligible for support only if their production capacity is no more than equivalent to the combined average annual energy consumption of thermal energy and electricity on the agricultural holding, including the farm household.

Where investments are made in the production of biofuels within the meaning of Directive 2009/28/EC of the European Parliament and of the Council (*) on agricultural holdings, renewable energy production facilities shall be eligible for support only if their production capacity is no more than equivalent to the annual average transport fuel consumption on the agricultural holding.

(*) OJ L 140, 5.6.2009, p. 16.;

- (2) in Article 27(12), the second subparagraph is replaced by the following:

'Such adjustments may also take the form of an extension of the duration of the commitment. The extension may not go beyond the end of the period to which the 2013 payment claim refers.;

- (3) the following Article 32a is inserted:

Article 32a

For the purpose of Article 47 of Regulation (EC) No 1698/2005, Member States may allow forest-environmental commitments to be extended until the end of the period to which the 2013 payment claim refers.;

- (4) in Article 37, the following paragraph is added:

'5. For the purposes of Article 62(4) of Regulation (EC) No 1698/2005, decisions on the selection of projects by the decision-making body of local action groups shall be taken by a vote in which the economic and social partners as well as other representatives of the civil society, as provided for in Article 62(1)(b) of that Regulation, shall make up at least 50 % of the votes. As regards the decision-making process with regard to project selection, appropriate rules to guarantee transparency and to avoid situations of conflicts of interest shall be respected.;

- (5) in Article 38, paragraph 2 is replaced by the following:

'2. Member States may, upon request, pay an advance to local action groups. The amount of the advance shall not exceed 20 % of the public aid related to the costs referred to in Article 63(c) of Regulation (EC) No 1698/2005, and its payment shall be subject to the establishment of a bank guarantee or an equivalent guarantee corresponding to 110 % of the amount of the advance. The guarantee shall be released upon closure of the local development strategy at the latest.

Article 24(6) of Commission Regulation (EU) No 65/2011 (*) shall not apply for the payment referred to in the first subparagraph.

(*) OJ L 25, 28.1.2011, p. 8.;

- (6) in Article 44(3), the following subparagraph is added:

'A reduction in the area of the holding of up to 10 % of the area under commitment shall be considered as a minor change for the purpose of the first subparagraph.;

- (7) in Article 46, the following paragraph is added:

'A revision clause shall be provided from 2012 onwards for commitments undertaken for a period of between 5 and 7 years, pursuant to Articles 39, 40 and 47 of Regulation (EC) No 1698/2005, which extend beyond the end of the current programming period, to allow for their adjustment to the legal framework of the following programming period. However, Member States may decide to introduce such a revision clause already in 2011. The second paragraph shall apply also with respect to this paragraph.;

- (8) Article 52 is replaced by the following:

Article 52

1. As regards financial engineering actions referred to in Article 51 of this Regulation, the expenditure declared to the Commission in accordance with Article 26(3)(a) of Regulation (EC) No 1290/2005 shall be the total expenditure paid in establishing or contributing to such funds.

However, when paying the balance and closing the rural development programme in accordance with Article 28 of Regulation (EC) No 1290/2005, the eligible expenditure shall be the total of:

- (a) any payment for investment in enterprises out of each of the funds concerned, or any guarantees provided including amounts committed as guarantees by guarantee funds;

- (b) eligible management costs.

The co-financing rate to be applied shall correspond to the co-financing rate of the measure to which the fund contributes. If the fund contributes to several measures with different co-financing rates, these rates shall apply at the ratio of the respective eligible expenditure.

The difference between the EAFRD contribution actually paid pursuant to the first subparagraph and the eligible expenditure under points (a) or (b) of the second subparagraph shall be cleared in the context of the annual accounts of the last year of implementation of the programme. These accounts shall include the detailed financial information needed.

2. Where EAFRD co-finances operations comprising guarantee funds for repayable investments pursuant to Article 50 of this Regulation, an appropriate *ex ante* assessment of expected losses shall be carried out, taking into account current market practices for similar operations for the type of investments and market concerned. The assessment of the expected losses may be reviewed, if justified by subsequent market conditions. The resources committed to honour guarantees shall reflect such an assessment.

3. Resources returned to the operation during the programming period from investments undertaken by funds or left over after a guarantee has been honoured shall be reused by the fund according to the funding agreement referred to in Article 51(6) of this Regulation or cleared in the context of the annual accounts. After the final date of eligibility of the rural development programme, resources returned to the operation from investments undertaken by funds or left over after all guarantees have been honoured shall be used by the Member States concerned for the benefit of individual undertakings.

Interest generated by payments from rural development programmes to funds shall be used according to the first subparagraph.;

- (9) in Article 53(1), the first subparagraph is replaced by the following:

'Where appropriate, Member States may fix the level of support provided for in Articles 27, 31, 37 to 41 and 43 to 49 of Regulation (EC) No 1698/2005 on the basis of standard costs and standard assumptions of income foregone.;

- (10) in Article 54(1), the introductory phrase of the first subparagraph is replaced by the following:

'Contributions in kind from a public or private beneficiary, namely the provision of goods or services for which no

cash payment supported by invoices or documents of equivalent probative value is made, may be eligible expenditure provided that the following conditions are fulfilled.;

- (11) Article 55(2) is replaced by the following:

'2. In the case of agricultural investments, the purchase of agricultural production rights, payment entitlements, animals, annual plants and their planting shall not be eligible for investment support.

Simple replacement investments shall not be eligible expenditure.

However, in cases of restoration of agricultural production potential damaged by natural disasters pursuant to Article 20(b)(vi) of Regulation (EC) No 1698/2005, expenditure for the purchase of animals and replacement investments may be eligible expenditure.;

- (12) Article 56 is replaced by the following:

'Article 56

1. By way of derogation from Article 24(6) of Regulation (EU) No 65/2011, Member States may, upon request, pay an advance to the beneficiaries of investment support. As regards public beneficiaries, such an advance may be paid to municipalities and associations thereof, to regional authorities and to public law bodies.

2. The amount of the advances shall not exceed 50 % of the public aid related to the investment, and its payment shall be subject to the establishment of a bank guarantee or an equivalent guarantee corresponding to 110 % of the amount of the advance.

A facility provided as a guarantee by a public authority shall be considered equivalent to the guarantee referred to in the first subparagraph, provided that the authority undertakes to pay the amount covered by that guarantee should entitlement to the advance paid not be established.

3. The guarantee may be released when the competent paying agency establishes that the amount of actual expenditure corresponding to the public aid related to the investment exceeds the amount of the advance.;

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

Article 1(12), as concerns the first subparagraph of Article 56(2) of Regulation (EC) No 1974/2006, shall apply from 1 January 2011.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 July 2011.

For the Commission
The President
José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) No 680/2011**of 14 July 2011****establishing budgetary ceilings for 2011 applicable to certain direct support schemes provided for in Council Regulation (EC) No 73/2009**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006 and (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 ⁽¹⁾, and in particular the first subparagraph of Article 51(2), Articles 69(3), 87(3) and 123(1), the second subparagraph of Article 128(1), the second subparagraph of Article 128(2), and Article 131(4) thereof,

Whereas:

- (1) For the Member States implementing, in 2011, the single payment scheme provided for under Title III of Regulation (EC) No 73/2009, the budgetary ceilings for each of the payments referred to in Articles 52, 53 and 54 of that Regulation should be established for 2011.
- (2) For the Member States making use, in 2011, of the option provided for in Article 87 of Regulation (EC) No 73/2009, the budgetary ceilings applicable to the direct payments excluded from the single payment scheme should be fixed for 2011.
- (3) For the Member States making use, in 2011, of the options provided for in Article 69(1) or 131(1) of Regulation (EC) No 73/2009, the budgetary ceilings for the specific support referred to in Chapter 5 of Title III of Regulation (EC) No 73/2009 should be established for 2011.
- (4) Article 69(4) of Regulation (EC) No 73/2009 limits the resources that can be used for any coupled measure provided for in points (i), (ii), (iii) and (iv) of Article 68(1)(a) and in Article 68(1)(b) and (e) to 3,5 % of the national ceiling referred to in Article 40 of the same Regulation. For the sake of clarity, the Commission should publish the ceiling resulting from the amounts notified by the Member States for the measures concerned.
- (5) Pursuant to Article 69(6)(a) of Regulation (EC) No 73/2009, the amounts calculated in accordance with Article 69(7) of that Regulation have been laid down in Annex III to Commission Regulation (EC) No 1120/2009 of 29 October 2009 laying down detailed rules for the implementation of the single payment scheme provided for in Title III of Council Regulation (EC) No 73/2009 ⁽²⁾. For the sake of clarity, the Commission should publish the amounts notified by Member States which they intend to use in accordance with Article 69(6)(a) of Regulation (EC) No 73/2009.
- (6) For the sake of clarity, the 2011 budgetary ceilings for the single payment scheme, resulting from deduction of the ceilings established for the payments referred to in Articles 52, 53, 54, 68 and 87 of Regulation (EC) No 73/2009 from the ceilings given in Annex VIII to the same Regulation, should be published. The amount to be deducted from the said Annex VIII in order to finance the specific support provided for in Article 68 of Regulation (EC) No 73/2009 corresponds to the difference between the total amount for the specific support notified by the Member States and the amounts notified to finance the specific support in accordance with Article 69(6)(a) of the same Regulation. Where a Member State implementing the single payment scheme decides to grant the support referred to in point (c) of Article 68(1), the amount notified to the Commission is to be included in the single payment scheme ceiling, as this support takes the form of an increase in the unit value and/or the number of the farmer's payment entitlements.
- (7) For Member States implementing, in 2011, the single area payment scheme provided for in Chapter 2 of Title V of Regulation (EC) No 73/2009, the annual financial envelopes should be established in accordance with Article 123(1) of that Regulation.
- (8) For the sake of clarity, the maximum amount of funds available to Member States applying the single area payment scheme for granting separate sugar payments in 2011 pursuant to Article 126 of Regulation (EC) No 73/2009, established on the basis of their notification, should be published.
- (9) For the sake of clarity, the maximum amount of funds available to Member States applying the single area payment scheme for granting separate fruit and vegetables payments in 2011 pursuant to Article 127 of Regulation (EC) No 73/2009, established on the basis of their notification, should be published.

⁽¹⁾ OJ L 30, 31.1.2009, p. 16.

⁽²⁾ OJ L 316, 2.12.2009, p. 1.

- (10) For Member States applying the single area payment scheme, the 2011 budgetary ceilings applicable to transitional payments for fruit and vegetables payments in 2011 in accordance with Article 128(1) and (2) of Regulation (EC) No 73/2009, should be published on the basis of their notification.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

5. The amounts that can be used by the Member States in accordance with Article 69(6)(a) of Regulation (EC) No 73/2009 to cover the specific support provided for in Article 68(1) of the same Regulation are set out in Annex V to this Regulation.

6. The budgetary ceilings for 2011 for the single payment scheme referred to in Title III of Regulation (EC) No 73/2009 are set out in Annex VI to this Regulation.

7. The annual financial envelopes for 2011 referred to in Article 123(1) of Regulation (EC) No 73/2009 are set out in Annex VII to this Regulation.

8. The maximum amounts of funding available to the Czech Republic, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia for granting the separate sugar payment in 2011, as referred to in Article 126 of Regulation (EC) No 73/2009, are set out in Annex VIII to this Regulation.

9. The maximum amounts of funding available to the Czech Republic, Hungary, Poland and Slovakia for granting the separate fruit and vegetables payment in 2011, as referred to in Article 127 of Regulation (EC) No 73/2009, are set out in Annex IX to this Regulation.

10. The budgetary ceilings for 2011 referred to in the second subparagraph of Article 128(1) and (2) of Regulation (EC) No 73/2009 are set out in Annex X to this Regulation.

HAS ADOPTED THIS REGULATION:

Article 1

1. The budgetary ceilings for 2011 referred to in Article 51(2) of Regulation (EC) No 73/2009 are set out in Annex I to this Regulation.

2. The budgetary ceilings for 2011 referred to in Article 87(3) of Regulation (EC) No 73/2009 are set out in Annex II to this Regulation.

3. The budgetary ceilings for 2011 referred to in Articles 69(3) and 131(4) of Regulation (EC) No 73/2009 are set out in Annex III to this Regulation.

4. The budgetary ceilings for 2011 for the support provided for in points (i), (ii), (iii) and (iv) of Article 68(1)(a) and in Article 68(1)(b) and (e) of Regulation (EC) No 73/2009 are set out in Annex IV to this Regulation.

Article 2

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 July 2011.

For the Commission
The President
José Manuel BARROSO

ANNEX I

Budgetary ceilings for direct payments to be granted in accordance with Articles 52, 53 and 54 of Regulation (EC) No 73/2009

2011 calendar year

(thousand EUR)

	BE	DK	ES	FR	IT	AT	PT	SI	FI	SE
Sheep and goat premium		855					21 892		600	
Sheep and goat supplementary premium							7 184		200	
Suckler cow premium	77 565		261 153	525 622		70 578	78 695			
Additional suckler cow premium	19 389		26 000			99	9 462			
Special beef premium		33 085						10 077		37 446
Slaughter premium, adults			47 175				8 657			
Slaughter premium, calves	6 384		560				946			
Tomatoes – Article 54(1)				4 017			16 667			
Fruit and vegetables, other than tomatoes – Article 54(2)				33 025	850					

ANNEX II

Budgetary ceilings for direct payments to be granted in accordance with Article 87 of Regulation (EC) No 73/2009

2011 Calendar year

(thousand EUR)

	Spain	France	Italy	Netherlands	Portugal	Finland
- Aid for seeds	10 347	2 310	13 321	726	272	1 150

ANNEX III

**Budgetary ceilings for the specific support provided for in Article 68(1) of Regulation (EC) No 73/2009
2011 Calendar year**

(thousand EUR)

Member State	
Belgium	6 389
Bulgaria	19 326
Czech Republic	31 826
Denmark	15 800
Germany	2 000
Estonia	1 253
Ireland	25 000
Greece	108 000
Spain	247 865
France	456 600
Italy	316 950
Latvia	5 130
Lithuania	9 503
Hungary	77 290
Netherlands	21 965
Austria	11 900
Poland	40 800
Portugal	32 411
Romania	25 545
Slovenia	11 699
Slovakia	11 000
Finland	47 555
Sweden	3 434
United Kingdom	29 800

Note: Amounts notified by the Member States to grant the support referred to in point (c) of Article 68(1) which are included in the single payment scheme ceiling.
Greece: 30 000 thousand EUR
Slovenia: 4 800 thousand EUR

ANNEX IV

Budgetary ceilings for the support provided for in points (i), (ii), (iii) and (iv) of Article 68(1)(a) and in Article 68(1)(b) and (e) of Regulation (EC) No 73/2009**2011 Calendar year***(thousand EUR)*

Member State	
Belgium	6 389
Bulgaria	19 326
Czech Republic	31 826
Denmark	4 300
Germany	2 000
Estonia	1 253
Ireland	25 000
Greece	78 000
Spain	178 265
France	272 600
Italy	147 950
Latvia	5 130
Lithuania	9 503
Hungary	46 164
Netherlands	14 000
Austria	11 900
Poland	40 800
Portugal	19 510
Romania	25 545
Slovenia	6 899
Slovakia	11 000
Finland	47 555
Sweden	3 434
United Kingdom	29 800

ANNEX V

Amounts to be used by the Member States in accordance with Article 69(6)(a) of Regulation (EC) No 73/2009 to cover the specific support provided for in Article 68(1) of that Regulation

2011 Calendar year

(thousand EUR)

Member State	
Belgium	6 389
Denmark	15 800
Ireland	23 900
Greece	70 000
Spain	144 200
France	74 000
Italy	144 900
Netherlands	21 965
Austria	11 900
Portugal	21 700
Slovenia	4 800
Finland	4 762

ANNEX VI

**Budgetary ceilings for the single payment scheme
2011 Calendar year***(thousand EUR)*

Member State	
Belgium	508 479
Denmark	997 381
Germany	5 769 994
Ireland	1 339 421
Greece	2 223 798
Spain	4 676 132
France	7 477 752
Italy	4 048 143
Luxembourg	37 679
Malta	4 726
Netherlands	852 443
Austria	676 748
Portugal	435 505
Slovenia	105 247
Finland	521 080
Sweden	724 349
United Kingdom	3 946 682

ANNEX VII

**Annual financial envelopes for the single area payment scheme
2011 Calendar year**

(thousand EUR)

Member State	
Bulgaria	400 035
Czech Republic	667 365
Estonia	80 656
Cyprus	40 902
Latvia	111 260
Lithuania	289 729
Hungary	958 593
Poland	2 280 455
Romania	877 278
Slovakia	292 357

ANNEX VIII

**Maximum amounts of funding available to Member States for granting the separate sugar payments referred to
in Article 126 of Regulation (EC) No 73/2009**

2011 Calendar year

(thousand EUR)

Member State	
Czech Republic	44 245
Latvia	3 308
Lithuania	10 260
Hungary	41 010
Poland	159 392
Romania	5 051
Slovakia	19 289

ANNEX IX

Maximum amounts of funding available to Member States for granting the separate fruit and vegetables payments referred to in Article 127 of Regulation (EC) No 73/2009**2011 Calendar year***(thousand EUR)*

Member State	
Czech Republic	414
Hungary	4 756
Poland	6 715
Slovakia	690

ANNEX X

Budgetary ceilings for the transitional payments in the fruit and vegetable sector referred to in Article 128 of Regulation (EC) No 73/2009**2011 Calendar year***(thousand EUR)*

Member State	Cyprus	Romania	Slovakia
Tomatoes – Article 128(1)		869	335
Fruit and vegetables other than tomatoes – Article 128(2)	3 359		

COMMISSION IMPLEMENTING REGULATION (EU) No 681/2011**of 14 July 2011****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 15 July 2011.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 July 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	AL	49,0
	AR	19,4
	EC	19,4
	MK	50,0
	ZZ	34,5
0707 00 05	AR	22,0
	TR	105,8
	ZZ	63,9
0709 90 70	AR	24,9
	EC	26,5
	TR	110,5
	ZZ	54,0
0805 50 10	AR	60,9
	TR	64,0
	UY	70,0
	ZA	76,3
	ZZ	67,8
0808 10 80	AR	132,6
	BR	78,0
	CA	106,0
	CL	95,5
	CN	87,0
	EC	60,7
	NZ	111,4
	US	170,2
	ZA	95,9
	ZZ	104,1
	0808 20 50	AR
AU		75,6
CL		86,0
CN		46,2
NZ		118,4
ZA		98,6
ZZ		93,1
0809 10 00	AR	75,0
	TR	224,8
	XS	138,6
	ZZ	146,1
0809 20 95	TR	312,3
	ZZ	312,3
0809 40 05	BA	62,0
	EC	75,9
	ZZ	69,0

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION IMPLEMENTING REGULATION (EU) No 682/2011

of 14 July 2011

on the minimum customs duty to be fixed in response to the first partial invitation to tender within the tendering procedure opened by Implementing Regulation (EU) No 634/2011

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Article 187, in conjunction with Article 4 thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) No 634/2011 ⁽²⁾ opened a standing invitation to tender for the 2010/2011 marketing year for imports of sugar of CN code 1701 at a reduced customs duty.
- (2) In accordance with Article 6 of Implementing Regulation (EU) No 634/2011, the Commission is to decide, in the light of the tenders received in response to a partial invitation to tender, either to fix a minimum customs duty or not to fix a minimum customs duty per eight digit CN code.
- (3) On the basis of the tenders received for the first partial invitation to tender, a minimum customs duty should be fixed for certain eight digit codes for sugar falling within

CN code 1701 and no minimum customs duty should be fixed for the other eight digit codes for sugar falling within that CN code.

- (4) In order to give a rapid signal to the market and to ensure efficient management of the measure, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*.
- (5) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

For the first partial invitation to tender within the tendering procedure opened by Implementing Regulation (EU) No 634/2011, in respect of which the time limit for the submission of tenders expired on 13 July 2011, a minimum customs duty has been fixed, or has not been fixed, as set out in the Annex to this Regulation for the eight digit codes for sugar falling within CN code 1701.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 July 2011.

For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 170, 30.6.2011, p. 21.

ANNEX

Minimum customs duties*(EUR/tonne)*

Eight digit CN code	Minimum customs duty
1	2
1701 11 10	131,11
1701 11 90	150,00
1701 12 10	X
1701 12 90	X
1701 91 00	X
1701 99 10	217,00
1701 99 90	180,00

(—) no minimum customs duty fixed (all offers rejected)

(X) no offers

DECISIONS

COMMISSION DECISION

of 14 July 2011

correcting Directive 2010/19/EU amending, for the purposes of adaptation to technical progress in the field of spray-suppression systems of certain categories of motor vehicles and their trailers, Council Directive 91/226/EEC, and Directive 2007/46/EC of the European Parliament and of the Council as regards the amendment of the Annexes to Directive 2007/46/EC

(Text with EEA relevance)

(2011/415/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) ⁽¹⁾, and in particular Article 39(2) thereof,

Whereas:

- (1) An error has occurred in the adoption of Commission Directive 2010/19/EU of 9 March 2010 amending, for the purposes of adaptation to technical progress in the field of spray-suppression systems of certain categories of motor vehicles and their trailers, Council Directive 91/226/EEC and Directive 2007/46/EC of the European Parliament and of the Council ⁽²⁾. Directive 2010/19/EU introduced harmonised requirements with regard to spray-suppression for all vehicle categories covered by Council Directive 91/226/EEC ⁽³⁾. Accordingly, Annexes IV and XI to Directive 2007/46/EC were also amended in that Directive for the purposes of adaptation to technical progress. As those Annexes have already been replaced by Commission Regulation (EC) No 1060/2008 of 7 October 2008 replacing Annexes I, III, IV, VI, VII, XI and XV to Directive 2007/46/EC of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units

intended for such vehicles (Framework Directive) ⁽⁴⁾ and amended by several regulations, their subsequent amendments should also have been done by means of a regulation. It is therefore appropriate, in the interest of legal clarity, to correct Directive 2010/19/EU.

- (2) Article 2 of Directive 2010/19/EU should therefore be deleted.
- (3) The measures provided for in this decision are in accordance with the opinion of the Technical Committee – Motor Vehicles,

HAS ADOPTED THIS DECISION:

Article 1

Article 2 of Directive 2010/19/EU is deleted.

*Article 2*This Decision shall enter into force on the day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 14 July 2011.

*For the Commission**The President*

José Manuel BARROSO

⁽¹⁾ OJ L 263, 9.10.2007, p. 1.

⁽²⁾ OJ L 72, 20.3.2010, p. 17.

⁽³⁾ OJ L 103, 23.4.1991, p. 5.

⁽⁴⁾ OJ L 292, 31.10.2008, p. 1.

COMMISSION IMPLEMENTING DECISION

of 14 July 2011

approving certain amended programmes for the eradication and monitoring of animal diseases and zoonoses for the year 2011 and amending Decision 2010/712/EU as regards the financial contribution from the Union for certain programmes approved by that Decision

(notified under document C(2011) 4993)

(2011/416/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Decision 2009/470/EC of 25 May 2009 on expenditure in the veterinary field ⁽¹⁾, and in particular Article 27(5) and (6) thereof,

Whereas:

(1) Decision 2009/470/EC lays down the procedures governing the Union financial contribution for programmes for the eradication, control and monitoring of animal diseases and zoonoses.

(2) Commission Decision 2008/341/EC of 25 April 2008 laying down Community criteria for national programmes for the eradication, control and monitoring of certain animal diseases and zoonoses ⁽²⁾ provides that in order to be approved under the Union financial measures programmes submitted by the Member States must meet at least the criteria set out in the Annex to that Decision.

(3) Commission Decision 2010/712/EU of 23 November 2010 approving annual and multiannual programmes and the financial contribution from the Union for the eradication, control and monitoring of certain animal diseases and zoonoses presented by the Member States for 2011 and following years ⁽³⁾ approves certain national programmes and sets out the rate and maximum amount of financial contribution from the Union for each programme submitted by the Member States.

(4) Spain submitted an amended programme for the monitoring and eradication of bluetongue to introduce compulsory vaccination against serotype 8 in certain regions following outbreaks of that disease.

(5) Slovakia submitted an amended vaccination programme for the eradication of rabies to extend the area in which baits are distributed, following the occurrence of the disease in bordering areas of Poland.

(6) Poland and Finland have submitted amended programmes for the eradication of rabies to include oral vaccination activities in certain areas of neighbouring third countries adjacent to the Union, in order to protect the Union from a reintroduction of rabies through the movement of infected wild animals across the common borders.

(7) The Commission has assessed the amended programmes submitted by Spain, Poland, Slovakia and Finland from both the veterinary and the financial point of view. The programmes were found to comply with relevant Union veterinary legislation and in particular with the criteria set out in Decision 2008/341/EC.

(8) The amended programmes submitted by Spain, Poland, Slovakia and Finland should therefore be approved.

(9) Decision 2010/712/EU provides for a financial contribution from the Union for Slovakia for those oral vaccination activities included in the annual programme for the eradication of rabies in that Member State that are implemented in bordering areas of neighbouring third countries. In addition, that Decision provides for a financial contribution from the Union for Lithuania for those oral vaccination activities included in the multiannual programme for the eradication of rabies in that Member State that are implemented in bordering areas of neighbouring third countries.

(10) It is therefore appropriate to also provide for a financial contribution from the Union for those parts of the programmes for the eradication of rabies in Poland and Finland that are implemented in bordering areas of neighboring third countries adjacent to the Union.

⁽¹⁾ OJ L 155, 18.6.2009, p. 30.

⁽²⁾ OJ L 115, 29.4.2008, p. 44.

⁽³⁾ OJ L 309, 25.11.2010, p. 18.

- (11) The approval by this Decision of the amended programmes for the eradication of rabies submitted by Poland and Finland has an impact on the amounts needed for carrying out the programmes for those Member States as approved under Decision 2010/712/EU. The maximum amount of Union financial contribution for the programmes for the eradication of rabies in Poland and Finland, laid down in that Decision, should therefore be adjusted accordingly.
- (12) Decision 2010/712/EU should therefore be amended accordingly.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

The amended programme for the monitoring and eradication of bluetongue submitted by Spain on 1 February 2011 is hereby approved for the period from 1 January 2011 to 31 December 2011.

Article 2

The amended programmes for the eradication of rabies submitted by Poland on 5 April 2011, by Slovakia on 13 December 2010 and by Finland on 12 April 2011 are hereby approved for the period from 1 January 2011 to 31 December 2011.

Article 3

Article 10 of Decision 2010/712/EU is amended as follows:

- (1) in paragraph 2, point (c) is replaced by the following:

‘(c) shall not exceed the following:

- (i) EUR 1 800 000 for Bulgaria;
- (ii) EUR 620 000 for Estonia;

- (iii) EUR 1 450 000 for Hungary;
- (iv) EUR 7 110 000 for Poland;
- (v) EUR 5 000 000 for Romania;
- (vi) EUR 700 000 for Slovakia;
- (vii) EUR 200 000 for Finland.’;

- (2) paragraph 4 is replaced by the following:

‘4. Notwithstanding paragraphs 2 and 3, for the parts of the Polish, Slovakian and Finnish programmes that will be implemented outside the Union territory, the financial contribution by the Union shall:

- (a) be granted only for the costs of the purchase and of the distribution of oral vaccine plus baits;
- (b) be at the rate of 100 %; and
- (c) not exceed:
 - (i) EUR 630 000 for Poland;
 - (ii) EUR 250 000 for Slovakia;
 - (iii) EUR 65 000 for Finland.’.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 14 July 2011.

For the Commission
John DALLI
Member of the Commission

CORRIGENDA**Corrigendum to Council Decision 2011/332/CFSP of 7 June 2011 amending Decision 2011/137/CFSP concerning restrictive measures in view of the situation in Libya**

(Official Journal of the European Union L 149 of 8 June 2011)

On page 10, Article 1, the text of the new paragraph 2a of Article 6 of Decision 2011/137/CFSP:

for: “2a The prohibition on making funds, financial assets or economic resources available to persons or entities referred to in paragraph 1(b), in so far as it applies to port authorities, shall not prevent the execution, until 15 July 2011, of contracts concluded before the date of entry into force of this Decision, with the exception of contracts relating to oil, gas and refined products.”,

read: “2a The prohibition on making funds, financial assets or economic resources available to persons or entities referred to in paragraph 1(b), in so far as it applies to port authorities, shall not prevent the execution, until 15 July 2011, of contracts concluded before 7 June 2011, with the exception of contracts relating to oil, gas and refined products.”.

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