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## Contents

### II *Non-legislative acts*

#### INTERNATIONAL AGREEMENTS

- ★ **Council Decision (EU) 2018/538 of 7 December 2017 on the signing, on behalf of the Union, and provisional application of Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union** ..... 1
- Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union** ..... 3
- ★ **Council Decision (EU) 2018/539 of 20 March 2018 on the conclusion of the Bilateral Agreement between the European Union and the United States of America on prudential measures regarding insurance and reinsurance** ..... 36

#### REGULATIONS

- ★ **Commission Delegated Regulation (EU) 2018/540 of 23 November 2017 amending Regulation (EU) No 347/2013 of the European Parliament and of the Council as regards the Union list of projects of common interest** ..... 38
- ★ **Commission Delegated Regulation (EU) 2018/541 of 20 December 2017 amending Delegated Regulation (EU) 2017/2358 and Delegated Regulation (EU) 2017/2359 as regards their dates of application <sup>(1)</sup>** ..... 59
- ★ **Commission Delegated Regulation (EU) 2018/542 of 22 January 2018 correcting the Greek language version of Delegated Regulation (EU) 2017/86 establishing a discard plan for certain demersal fisheries in the Mediterranean Sea** ..... 61
- ★ **Commission Delegated Regulation (EU) 2018/543 of 23 January 2018 correcting the Spanish language version of Commission Delegated Regulation (EU) No 812/2013 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to the energy labelling of water heaters, hot water storage tanks and packages of water heater and solar device <sup>(1)</sup>** ..... 63

<sup>(1)</sup> Text with EEA relevance.

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

- ★ **Commission Regulation (EU) 2018/544 of 27 March 2018 establishing a prohibition of fishing for blue marlin in the Atlantic Ocean by vessels flying the flag of Spain ..... 64**
- ★ **Commission Implementing Regulation (EU) 2018/545 of 4 April 2018 establishing practical arrangements for the railway vehicle authorisation and railway vehicle type authorisation process pursuant to Directive (EU) 2016/797 of the European Parliament and of the Council<sup>(1)</sup> 66**

#### DECISIONS

- ★ **Decision (EU) 2018/546 of the European Central Bank of 15 March 2018 on delegation of the power to adopt own funds decisions (ECB/2018/10) ..... 105**
- ★ **Decision (EU) 2018/547 of the European Central Bank of 27 March 2018 nominating heads of work units to adopt delegated own funds decisions (ECB/2018/11) ..... 110**

---

#### Corrigenda

- ★ **Corrigendum to Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018) ..... 112**

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<sup>(1)</sup> Text with EEA relevance.

## II

*(Non-legislative acts)*

## INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2018/538

of 7 December 2017

**on the signing, on behalf of the Union, and provisional application of Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) in conjunction with Article 218(5) and (7) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Commission has negotiated, on behalf of the Union, an amendment to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union <sup>(1)</sup> ('Memorandum of Cooperation NAT-I-9406'), in accordance with the Council Decision of 8 May 2017 authorising the Commission to open negotiations.
- (2) Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union ('Amendment 1') was initialled on 28 July 2017.
- (3) Amendment 1 should be signed on behalf of the Union, subject to its conclusion at a later date.
- (4) Amendment 1, including the addendum thereto, should be applied on a provisional basis, in accordance with Article II.A of Amendment 1, pending the completion of the procedures necessary for its entry into force.
- (5) It is necessary to lay down procedural arrangements for the participation of the Union in the executive management of Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union on air traffic management modernisation, civil aviation research and development and global interoperability ('Memorandum of Cooperation NAT-I-9406A'), which is set out in the addendum to Amendment 1 and replaces Memorandum of Cooperation NAT-I-9406.
- (6) Pursuant to Article 218(7) of the Treaty, it is appropriate for the Council to authorise the Commission to approve amendments to the Annexes to Memorandum of Cooperation NAT-I-9406A and to the Appendices to those Annexes, as well as the adoption of additional annexes and appendices, subject to the prior and timely consultation of the special committee designated by the Council,

HAS ADOPTED THIS DECISION:

*Article 1*

The signing on behalf of the Union of Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union is hereby authorised, subject to the conclusion of the said Amendment.

The text of Amendment 1 is attached to this Decision.

<sup>(1)</sup> Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union (OJ L 89, 5.4.2011, p. 3).

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to sign Amendment 1 on behalf of the Union.

*Article 3*

Amendment 1, including the addendum thereto, shall be applied on a provisional basis, in accordance with Article II.A of Amendment 1, as from the signature thereof <sup>(1)</sup>, pending the completion of the procedures necessary for its entry into force.

*Article 4*

The Commission, after consultation with a special committee designated by the Council, shall determine the positions to be taken by the Union in the executive management of Memorandum of Cooperation NAT-I-9406A and the Annexes thereto, as referred to in Article III of Memorandum of Cooperation NAT-I-9406A, with respect to:

- (a) the adoption of additional annexes to Memorandum of Cooperation NAT-I-9406A and appendices to the Annexes to Memorandum of Cooperation NAT-I-9406A; and
- (b) the adoption of amendments to the Annexes to Memorandum of Cooperation NAT-I-9406A and to the Appendices to those Annexes.

*Article 5*

Without prejudice to Article 4 of this Decision, the Commission may take any appropriate action under Articles III, IV, V, VII and VIII of Memorandum of Cooperation NAT-I-9406A.

*Article 6*

The Commission shall represent the Union in consultations under Article XI of Memorandum of Cooperation NAT-I-9406A.

*Article 7*

The Commission shall regularly inform the Council of progress made in the implementation of Memorandum of Cooperation NAT-I-9406A.

*Article 8*

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 7 December 2017.

*For the Council*  
*The President*  
A. ANVELT

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<sup>(1)</sup> The date of signature of Amendment 1 will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

**AMENDMENT 1**  
**to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union**

WHEREAS the United States of America and the European Union desire to amend Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union signed at Budapest on 3 March 2011 (the '2011 Memorandum');

NOW, THEREFORE, the United States of America and the European Union agree as follows:

*Article I*

The 2011 Memorandum shall be deleted in its entirety, including all Annexes and Appendices to the 2011 Memorandum, and replaced with the addendum to this agreement, which includes Memorandum of Cooperation NAT-I-9406A, Annex 1 to Memorandum of Cooperation NAT-I-9406A, Appendices 1, 2 and 3 to Annex 1 to Memorandum of Cooperation NAT-I-9406A and Attachments 1,2,3,4, and 5 to Appendix 1 to Annex 1 to Memorandum of Cooperation NAT-I-9406A.

*Article II*

**Entry into force and termination**

- A. Pending its entry into force, this agreement, including its addendum, shall be applied provisionally from the date of signature.
- B. This agreement, including its addendum, shall enter into force when the United States of America and the European Union have notified each other in writing that their respective internal procedures for entry into force of the agreement have been completed and the agreement shall remain in force until terminated.
- C. Either Party may terminate this agreement, including its addendum, at any time by providing sixty (60) days' notice in writing to the other Party. Termination of this agreement shall terminate its addendum, including all Annexes, Appendices, and Attachments adopted by the Parties pursuant to the Memorandum of Cooperation.

*Article III*

**Authority**


The United States and the European Union agree to the provisions of this agreement as indicated by the signatures of their duly authorised representatives.

Done at Brussels on the thirteenth day of December in the year two thousand and seventeen, in duplicate, in the English language.

*For the European Union*



*For the United States of America*



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**ADDENDUM TO AMENDMENT 1****to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union****MEMORANDUM OF COOPERATION NAT-I-9406A****between the United States of America and the European Union on air traffic management modernisation, civil aviation research and development and global interoperability**

WHEREAS the United States of America and the European Union have as a common purpose the promotion and development of cooperation in civil aviation; and

WHEREAS such cooperation will encourage the development, safety, and efficiency of civil aeronautics in the United States of America and in the European Union;

NOW THEREFORE, the United States of America and the European Union (collectively, the 'Parties', and individually, a 'Party') agree to undertake joint programs in accordance with the following terms and conditions:

*Article I***Objective**

A. This Memorandum of Cooperation (this 'Memorandum'), and its Annexes, Appendices, and Attachments, establishes the terms and conditions for mutual cooperation in civil aviation research, development, and validation, and in all phases of air traffic management (ATM) modernisation. ATM modernisation shall include research, development, validation and deployment activities, with the goal of ensuring global interoperability. For this purpose the Parties may provide personnel, resources, and related services to cooperate to the extent called for in this Memorandum, and its Annexes, Appendices, and Attachments. All activities under this Memorandum and all Annexes, Appendices, and Attachments are subject to the availability of appropriated funds and other necessary resources for such purposes.

B. The objectives of this Memorandum may be achieved by cooperation in any of the following areas:

- (1) The exchange of information regarding programs and projects, research results, or publications;
- (2) The execution of joint analyses;
- (3) The coordination of civil aviation research, development and validation programs and projects, and the coordination of ATM modernisation activities and the Parties' respective execution thereof, based on shared effort;
- (4) The exchange of scientific and technical staff;
- (5) The exchange of specific equipment, software and systems for research activities and compatibility studies;
- (6) The joint organisation of symposia or conferences; and
- (7) Reciprocal consultations with the aim of establishing concerted action in appropriate international bodies.

C. Subject to applicable laws, regulations and policies, as may be amended or modified, the Parties shall foster, to the fullest extent practicable, the involvement of participants in cooperative activities under this Memorandum and its Annexes, Appendices and Attachments with a view to providing comparable opportunities for participation in their respective activities. The Parties shall involve participants in the cooperative activities, which shall be conducted on a reciprocal basis in accordance with the following principles:

- (1) Mutual benefit;
- (2) Comparable opportunities to engage in cooperative activities;

- (3) Equitable and fair treatment;
- (4) Timely exchange of information which may affect cooperative activities; and
- (5) Transparency.

D. Such cooperative activities shall take place pursuant to specific Annexes, Appendices, and Attachments defined in Article II.

## *Article II*

### **Implementation**

A. This Memorandum shall be implemented through specific Annexes, Appendices, and Attachments to this Memorandum. These Annexes, Appendices, and Attachments, which shall form an integral part of this Memorandum, shall describe, as appropriate, the nature and the duration of cooperation for a specific area or purpose, treatment of intellectual property, liability, funding, allocation of costs, and other relevant matters. Unless explicitly stated otherwise in this Memorandum or in an Annex thereto, in case of an incompatibility between a provision in an Annex, Appendix or Attachment and a provision in this Memorandum, the provision in this Memorandum shall have precedence.

B. The coordination and administration of cooperative activities under this Memorandum and its Annexes, Appendices and Attachments shall be accomplished on behalf of the Government of the United States of America by the Federal Aviation Administration and on behalf of the European Union by the European Commission.

C. The designated offices for the coordination and administration of this Memorandum, and where all requests for services under this Memorandum should be made, are:

1. For the United States of America:

Federal Aviation Administration  
Office of International Affairs  
Africa, Europe & Middle East Office, AEU  
Wilbur Wright Bldg., 6th Floor, East  
600 Independence Ave., S.W.  
Washington, D.C.  
20591 - USA  
Telephone: + 1-202-267-1000  
Facsimile: + 1-202-267-7198

2. For the European Union:

European Commission  
Directorate-General for Mobility and Transport  
Directorate for Aviation  
Rue de Mot, 24  
1040 Brussels - Belgium  
Telephone: + 32-2-299-19-15

D. Technical program liaisons for specific activities shall be established as indicated in the Annexes, Appendices, and Attachments to this Memorandum.

## *Article III*

### **Executive management**

- A. Executive management of this Memorandum

1. The Parties hereby establish a management process to be executed by representatives of:

- (a) The United States of America, which shall be the Administrator of the Federal Aviation Administration (FAA); and
- (b) The European Union, which shall be the Director-General of the European Commission's Directorate-General for Mobility and Transport (DG MOVE).

Hereafter referred to as the 'Representatives of the Parties'.

2. The Representatives of the Parties shall oversee the cooperation on the subjects addressed in the Annexes and the related Appendices and Attachments to this Memorandum.
3. The Representatives of the Parties shall:
  - (a) Adopt Annexes, and any amendments thereto; and
  - (b) Adopt proposals to otherwise amend this Memorandum.
4. The Representatives of the Parties shall address, within the scope of this Memorandum and its Annexes, Appendices, and Attachments:
  - (a) Issues that may arise and changes that may affect the implementation of this Memorandum and its Annexes, Appendices, and Attachments;
  - (b) Common approaches to the introduction of and transition to new technologies and procedures, including research, evaluation and ATM modernisation activities, and other areas of mutual interest; and
  - (c) Draft regulations and legislation by either Party that could affect the interests of the other Party, within the scope of this Memorandum and its Annexes, Appendices, and Attachments.
5. The Representatives of the Parties shall not be required to hold regular meetings. Meetings may be called on an ad-hoc basis. These meetings may be conducted by telephone, video-conference or face-to-face. Decisions by the Representatives of the Parties shall be documented and shall be taken by consensus.
6. The Representatives of the Parties may invite the participation of subject-specific experts on an ad-hoc basis, and may establish technical working groups as appropriate.

#### B. Executive management of the Annexes

1. Each Annex to this Memorandum shall be governed by its own Executive Committee. Each Executive Committee shall be co-chaired by FAA and European Commission representatives at the appropriate operational level and designated in the applicable Annex.
2. The Parties shall, as appropriate, designate other Executive Committee members to represent their areas of responsibility.
3. An Executive Committee may invite the participation of subject-specific experts on an ad-hoc basis.
4. Executive Committees shall oversee the work of any committees, working groups, and any other groups established pursuant to their respective Annexes, and related Appendices and Attachments. Executive Committees shall develop and adopt internal governing procedures.
5. All decisions of an Executive Committee shall be taken by consensus of its co-chairs. These decisions shall be in writing and signed by the co-chairs.
6. Executive Committees may consider any matter related to the functioning of their respective Annexes, and the related Appendices and Attachments. In particular they shall be responsible for:
  - (a) Overseeing cooperation on the subjects addressed in their respective Annexes, and the related Appendices and Attachments, giving appropriate guidance to the staff working thereunder;
  - (b) Providing a forum for discussion, within the scope of their respective Annexes, and the related Appendices and Attachments, of
    - Issues that may arise and changes that may affect the implementation of the Annexes, Appendices, and Attachments;
    - Common approaches to the introduction of new technologies and procedures, research, evaluation and ATM modernisation activities, and other areas of mutual interest; and
    - Draft regulations and legislation by either Party that could affect the interests of the other Party, within the scope of their respective Annex;



- (c) Approving and transmitting proposals to the Representatives of the Parties to amend their respective Annexes;
- (d) Adopting Appendices to their respective Annexes, after consulting with the Representatives of the Parties and any amendments thereto;
- (e) Adopting Attachments to the Appendices of their respective Annexes and any amendments thereto.

#### *Article IV*

### **Exchange of personnel**

The Parties may exchange technical personnel as required to pursue the activities described in an Annex, Appendix, or Attachment to this Memorandum. All such exchanges shall be in accordance with the terms and conditions set forth in this Memorandum, its Annexes, Appendices, and Attachments. Technical personnel exchanged by the Parties shall perform work as specified in the Annex, Appendix, or Attachment. Such technical personnel may be from United States or European Union bodies or contractors, as mutually agreed.

#### *Article V*

### **Equipment loan arrangements**

Equipment may be loaned by one Party (the 'Lending Party') to the other Party (the 'Borrowing Party') under an Annex, Appendix, or Attachment to this Memorandum. The following general provisions shall apply to all loans of equipment unless otherwise specified in an Annex, Appendix or Attachment:

- A. The Lending Party shall identify the value of the equipment that is to be loaned.
- B. The Borrowing Party shall assume custody and possession of the equipment at the Lending Party's facility as designated by the Parties in the Annex, Appendix, or Attachment. The equipment shall remain in the custody and possession of the Borrowing Party until it has been returned to the Lending Party in accordance with paragraph H below.
- C. The Borrowing Party shall, at its own expense, transport any equipment to the facility designated by the Parties in the Annex, Appendix or Attachment.
- D. The Parties shall cooperate in securing any authorisations, including export licenses, required for the shipment of the equipment.
- E. The Borrowing Party shall be responsible for installing the equipment at the facility designated by the Parties in the Annex, Appendix, or Attachment. The Lending Party shall, if necessary, provide assistance to the Borrowing Party for installing the equipment that is lent on the basis of terms agreed on by the Parties.
- F. During the period of the loan, the Borrowing Party shall operate and maintain equipment in proper condition, ensure the continued operability of the equipment, and permit inspection by the Lending Party at any reasonable time.
- G. The Lending Party shall assist the Borrowing Party in locating sources of supplies for common items and parts peculiar which are not readily available to the Borrowing Party.
- H. Upon the expiration or termination of the pertinent Annex, Appendix, or Attachment or this Memorandum, or when the use of the equipment is complete, the Borrowing Party shall return the equipment to the Lending Party at the Borrowing Party's expense.
- I. In the event of loss or damage of any equipment loaned under this Memorandum and for which the Borrowing Party assumed custody and possession, the Borrowing Party, at the Lending Party's discretion, shall repair or compensate the Lending Party for the value (as identified by the Lending Party in accordance with paragraph A above) of the lost or damaged equipment.
- J. Any equipment exchanged under this Memorandum shall be solely for research, developmental and validation purposes and shall not be used in any way whatsoever for active civil aviation or other operational use.
- K. Any transfers of technology, equipment or other items pursuant to this Memorandum shall be subject to the applicable laws and policies of the Parties.

*Article VI***Funding**

- A. Unless otherwise specified in an Annex, Appendix, or Attachment to this Memorandum, each Party shall bear the costs of the activities it performs pursuant to this Memorandum.
- B. Memorandum number NAT-I-9406A has been assigned by the United States to identify this cooperative program and shall be referenced in all correspondence related to this Memorandum.

*Article VII***Release of information**

- A. Except as required by applicable law or by prior written agreement between the Parties, neither Party shall release any information or material pertinent to the tasks or related to the agreed programs under this Memorandum and its Annexes, Appendices, or Attachments to third parties other than (i) contractors or subcontractors engaged in the tasks or programs insofar as they are necessary for the execution of those tasks and programs; or (ii) other governmental authorities of the Parties.
- B. If one of the Parties becomes aware that, under its laws or regulations, it will be, or may reasonably be expected to become necessary to release information within the scope of paragraph A of this Article, it shall inform the other Party and shall, to the greatest extent possible, do so immediately and prior to disclosure. The Parties shall thereafter consult to identify an appropriate course of action.

*Article VIII***Intellectual property rights**

- A. A Party providing intellectual property (which for purposes of this Memorandum includes analyses, reports, databases, software, know-how, technical and commercially sensitive information, data, and records, and associated documentation and materials, regardless of form or the media on which it may be recorded) to the other Party in accordance with the terms of an Annex, Appendix, or Attachment to this Memorandum shall retain such proprietary rights in the intellectual property as it had at the time of the exchange. The Party providing a document or other intellectual property pursuant to an Annex, Appendix, or Attachment to this Memorandum shall clearly mark the document or intellectual property as business confidential, proprietary, or a trade secret, as appropriate.
- B. Except as may be specified in an Annex, Appendix or Attachment to this Memorandum, the Party receiving intellectual property from the other Party under this Memorandum:
1. Shall not acquire any proprietary rights in the intellectual property by reason of its receipt from the other Party; and
  2. Shall not disclose the intellectual property to a third party, other than contractors or subcontractors engaged in a program related to an Annex, Appendix, or Attachment to this Memorandum, without the prior written consent of the other Party. In the case of a disclosure to a contractor or subcontractor engaged in the program, the Party making the disclosure shall:
    - (a) Limit the use of the intellectual property by the contractor or subcontractor to the purposes specified in the applicable Annex or Appendix or Attachment; and
    - (b) Prohibit the further disclosure of the intellectual property to third parties by the contractor or subcontractor except where the other Party consents in advance and in writing to the further disclosure.
- C. Except as may be specified in an Annex, Appendix, or Attachment to this Memorandum, any intellectual property jointly developed by the Parties pursuant to this Memorandum and its Annexes, Appendices or Attachments shall be jointly owned by the Parties.
1. Each Party shall be entitled to a non-exclusive, irrevocable right in all countries to reproduce, prepare derivative works, publicly distribute, and translate such intellectual property, provided that such reproduction, preparation, distribution, and translation does not affect the protection of the intellectual property rights of the other Party. Each Party shall have the right to review a translation of such intellectual property prior to public distribution.
  2. All publicly distributed copies of scientific and technical journal articles, non-proprietary scientific reports and books directly arising from cooperation under this Memorandum and its Annexes, Appendices, or Attachments shall indicate the names of the authors of the work unless an author explicitly declines to be named.

D. If a Party disagrees with the designation of a document or other intellectual property provided by the other Party pursuant to an Annex, Appendix or Attachment to this Memorandum as business confidential, proprietary, or a trade secret, then the Party disagreeing with the designation shall request consultations with the other Party to address the issue. The consultations may be held in conjunction with a meeting of the Representatives of the Parties or a meeting of the relevant Executive Committee or a meeting of such other committees as may be established under an Annex, Appendix or Attachment to this Memorandum.

#### *Article IX*

##### **Immunity and liability**

A. The Parties shall address immunity and liability issues associated with activities under this Memorandum in the relevant Annex, Appendix, or Attachment, as appropriate.

B. The Parties agree that all activities undertaken pursuant to this Memorandum and its Annexes, Appendices, and Attachments shall be performed with due professional care and that every reasonable effort shall be made to minimise potential risks to third parties and to fulfil all safety and oversight requirements.

#### *Article X*

##### **Amendments**

A. The Parties may amend this Memorandum, its Annexes, Appendices, and Attachments by means of a written agreement signed by both Parties. Annexes, Appendices, and Attachments may also be amended as set forth in Article III.

B. Amendments to this Memorandum or the Annexes, Appendices or Attachments to this Memorandum shall enter into force according to their terms.

#### *Article XI*

##### **Resolution of disagreements**

The Parties shall resolve any disagreement regarding the interpretation or application of this Memorandum or its Annexes, Appendices and Attachments in consultations between the Parties. The Parties shall not refer any such disagreement to an international tribunal or third party for settlement.

#### *Article XII*

##### **Entry into force and termination of Annexes, Appendices, and Attachments**

A. Any individual Annex, Appendix or Attachment adopted pursuant to Article III after the entry into force of this Memorandum shall enter into force according to its terms.

B. Either Party may terminate an Annex, Appendix, or Attachment at any time by providing sixty (60) days' notice in writing to the other Party. Each Party shall have one hundred and twenty (120) days to close out its activities following termination of an Annex, Appendix, or Attachment.

C. Termination of this Memorandum shall not affect the rights and obligations of the Parties under Articles V, VII, VIII, and IX. Each Party shall have one hundred and twenty (120) days to close out its activities following the termination of this Memorandum.

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## ANNEX 1

**TO MEMORANDUM OF COOPERATION NAT-I-9406A BETWEEN THE UNITED STATES OF AMERICA AND  
THE EUROPEAN UNION****AIR TRAFFIC MODERNISATION AND GLOBAL INTEROPERABILITY***Article I***Purpose**

The purpose of this Annex is to implement Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union (the 'Memorandum') by setting forth the terms and conditions under which the Parties shall establish cooperation between their respective air traffic management (ATM) modernisation activities, NextGen and the Single European Sky, with the goal of ensuring global interoperability of their ATM systems, taking into account the interests of civil and military airspace users.

*Article II***Principles**

Within the framework of the Parties' ATM modernisation activities and in accordance with the principles set out in Article I.C of the Memorandum, the Parties shall:

- A. As appropriate, allow participation by each other's governmental and industrial entities in their relevant consultative bodies and industrial initiatives, in accordance with applicable laws and regulations, and the governing rules of such bodies and initiatives;
- B. Endeavour to provide opportunities to each other's industry stakeholders to contribute to work programs and access information on, and results of, equivalent ATM modernisation activities;
- C. Through the Executive Committee established pursuant to Article IV of this Annex, mutually identify, in Appendices or Attachments, the domains that allow specific opportunities for participation in each Party's consultative bodies, initiatives, programs and projects, and
- D. Through the Executive Committee, monitor the implementation of this Annex and adopt, as appropriate, new Appendices and Attachments, or amendments to existing Appendices and Attachments, in accordance with Article III.B of the Memorandum.

*Article III***Scope of work**

A. The scope of the work is to contribute to each Party's ATM modernisation efforts with the goal of ensuring global interoperability through mutual cooperation, including, but not limited to, cooperation in the following areas:

- High-level system definition, operational concepts, architecture definition and technical baseline;
- Roadmap and standardisation activities;
- Research and development related to SESAR and NextGen ATM initiatives;
- Trajectory-Based Operations;
- Global interoperability and harmonisation, including support for International Civil Aviation Organization (ICAO) initiatives;
- Information management;
- Communication, Navigation and Surveillance initiatives;
- Deployment of ATM systems and capabilities;
- Harmonisation of standards implementation;
- Performance metrics related to ATM systems and modernisation initiatives;
- Aviation operational performance metrics;
- Economic modelling and analysis;
- Traffic flow information;

- ATM safety initiatives;
- Integration into ATM of new air vehicles, including Unmanned Aircraft Systems (UAS);
- Cybersecurity related to the ATM domain;
- Incentive mechanisms;
- Human factors;
- Airport improvement activities.

B. The Parties shall, as necessary, produce on a reciprocal basis, either individually or jointly for exchange between them, reports describing concepts of use, models, prototypes, evaluations, validation exercises, and comparative studies related to the technical and operational aspects of ATM. Evaluations and validations may use a range of tools such as simulations and live trials or demonstrations.

#### *Article IV*

#### **Management**

The Parties shall establish an Executive Committee (ExComm), in accordance with Article III.B of the Memorandum, which shall:

- A. Be co-chaired by the Federal Aviation Administration (FAA) Chief NextGen Officer, or his or her designee, and the Head of the Single European Sky (SES) Unit of DG MOVE from the European Commission, or his or her designee.
- B. Be composed of other committee members, designated by the Parties, based on their areas of ATM responsibility.
- C. Meet at least once a year to:
  1. Monitor and review the progress of on-going joint projects and activities defined in the Appendices and Attachments;
  2. Assess the achieved results;
  3. Monitor and ensure the effective implementation of this Annex and, as necessary, consult on industry participation mechanisms or refer questions to the Representatives of the Parties referred to in Article III.A of the Memorandum.
- D. Consider any matter related to the implementation of this Annex and the related Appendices and Attachments. In particular, consistent with Article III.B of the Memorandum, the ExComm shall be responsible for:
  1. Overseeing cooperation on the subjects addressed in this Annex and the related Appendices and Attachments, giving appropriate guidance to the staff working thereunder;
  2. Providing a forum for discussion, within the scope of this Annex and the related Appendices and Attachments, of:
    - Issues that may arise and changes that may affect the implementation of this Annex, its Appendices, and Attachments;
    - Common approaches to the introduction and transition of new technologies and procedures including research, evaluation and deployment activities, and other areas of mutual interest; and
    - Draft regulations and legislation by either Party that could affect the interests of the other Party, within the scope of this Annex;
  3. Approving and transmitting proposals to the Representatives of the Parties to amend this Annex;
  4. Adopting Appendices to this Annex, after consulting with the Representatives of the Parties, and any amendments thereto;
  5. Adopting Attachments to the Appendices to this Annex and any amendments thereto.
- E. Establish its working procedures. All decisions shall be taken by consensus between the co-chairs. These decisions shall be in writing and signed by the co-chairs.

- F. Promote synergies and consistency and avoid duplication of the work done under Appendices or Attachments to this Annex.
- G. Coordinate with other Executive Committees established under the Memorandum, as appropriate, to promote synergies and consistency and avoid duplication of work done under other Annexes to the Memorandum.
- H. Report to the Representatives of the Parties, as necessary.

#### *Article V*

### **Immunity and liability**

The Parties shall address immunity and liability issues associated with activities under this Annex in the relevant Appendices or Attachments, as appropriate.

#### *Article VI*

### **Implementation**

- A. All work provided under this Annex shall be described in Appendices or Attachments, which, upon their entry into force, shall become part of this Annex.
- B. Each Appendix and Attachment shall be numbered sequentially and contain a description of the work to be performed by the Parties or the entities they designate to carry out the work, including: the location and planned duration of the work; the personnel and other resources required to accomplish the work; the estimated costs; and any other pertinent information concerning the work.

#### *Article VII*

### **Financial provisions**

Unless otherwise specified in an Appendix or Attachment, each Party shall bear the costs of the activities it performs.

#### *Article VIII*

### **Points of contact**

The designated offices for the coordination and management of this Annex are:

1. For the United States of America:

Federal Aviation Administration  
Office of International Affairs  
Africa, Europe & Middle East Office, AEU  
Wilbur Wright Bldg., 6th Floor, East  
600 Independence Avenue, S.W.  
Washington, D.C. 20591 - USA  
Telephone: + 1 202-267-1000  
Facsimile: + 1 202-267-7198

2. For the European Union:

Single European Sky Unit  
Directorate-General for Mobility and Transport  
Directorate for Air Transport  
European Commission  
Rue de Mot 24  
1040 Brussels - Belgium  
Telephone: + 32-2-299-19-15

*Article IX***Termination**

Termination of this Annex shall terminate all Appendices and Attachments adopted pursuant to this Annex.

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**Appendix 1 to Annex 1*****to Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union******SESAR-NextGen cooperation for research, development, validation and global interoperability****Article I***Purpose**

The purpose of this Appendix is to implement Annex 1 to Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union (the 'Memorandum') by setting forth the terms and conditions under which the Parties shall establish cooperation in research and development and validation with the goal of ensuring global interoperability between their respective air traffic management (ATM) modernisation programs, NextGen and SESAR, taking into account the interests of civil and military airspace users.

*Article II***Definitions**

For the purpose of this Appendix, the term 'validation' means to confirm, throughout the development lifecycle, that the proposed solution, including concept, system, and procedures, complies with stakeholders' needs.

*Article III***Principles**

The cooperative activities under this Appendix shall be conducted on a reciprocal basis in accordance with the principles set out in Article I.C of the Memorandum.

A Coordination Committee (CCOM), established under Article V of this Appendix, shall monitor the implementation of this Appendix and identify the domains that allow specific opportunities for participation in each Party's consultative bodies, initiatives, and research, development and validation activities, in particular those domains that provide for a contribution to high-level system definition, such as interoperability, architecture definition and technical baseline. The CCOM may propose, pursuant to Article V of this Appendix, Attachments with respect to the domains identified.

*Article IV***Scope of work**

A. The scope of the work is to contribute to ATM research, development, and validation for global interoperability. The work may include, but is not limited to, the activities set out in paragraphs 1 to 5 of the present Article.

**1. Transversal Activities**

Transversal activities cover those tasks that are not specific to any one operational or technical development, but have interdependencies across the SESAR and NextGen programs. These activities are of particular importance to the cooperation, as any diverging approach potentially has wide-reaching material implications for harmonisation and interoperability. In this area, the Parties intend to address:

- (a) Operations concept and roadmap;
- (b) Separation provision;
- (c) Road-mapping including standardisation and regulation with a view to facilitating implementation synchronisation;
- (d) Business case and investment planning;
- (e) Environment;



- (f) The coordination of technical efforts in support of global and ICAO standardisation activities in the field of ATM modernisation;
- (g) The synchronisation and consistency of avionics roadmaps, in order to ensure best economic efficiency for airspace users; and
- (h) Coordinated delivery of technical and operational changes that achieve/maintain seamless operations from an airspace user's perspective.

## 2. Information Management

The key focus on Information Management is to ensure timely distribution of accurate and relevant ATM-related information across the stakeholder community in a manner that is seamless (interoperable), secure and supportive of collaborative decision making. In this area, the Parties intend to address:

- (a) System Wide Information Management (SWIM) interoperability;
- (b) Aeronautical Information Management (AIM) interoperability; and
- (c) Meteorological information exchange.

## 3. Trajectory Management

Trajectory Management encompasses air/air and air/ground exchange of four-dimensional (4D) trajectories requiring a consistent approach to terminology, definition and exchange of flight information at all times and in all flight phases. In this area, the Parties intend to address:

- (a) Common trajectory definition and exchange;
- (b) Flight planning and dynamic flight plan updates;
- (c) Traffic management (including trajectory integration and prediction);
- (d) Unmanned Aircraft Systems (UAS) integration into ATM; and
- (e) The convergence of the SESAR and NextGen concepts of operations, the service definitions and their applications including the 4D trajectory definition and exchange format operations.

## 4. Communications, Navigation, Surveillance (CNS) & Airborne Interoperability

CNS and airborne interoperability includes planning airborne equipment and the development of mutually interoperable air/air and air/ground applications and systems. In this area, the Parties intend to address:

- (a) Airborne interoperability, including:
  - (i) Airborne Collision Avoidance System (ACAS);
  - (ii) Avionics roadmap; and
  - (iii) Airborne Separation Assistance Systems (ASAS) for air/air and air/ground separation assistance.
- (b) Communications, including:
  - (i) Data-link services and technology; and
  - (ii) Flexible communication architecture.
- (c) Navigation, including:
  - (i) Performance-Based Navigation; and
  - (ii) Global Navigation Satellite System (GNSS) applications for en route and approach, including approach with vertical guidance.
- (d) Surveillance, including:
  - (i) Automatic Dependent Surveillance (ADS) services and technology; and
  - (ii) Ground surveillance.

## 5. Collaborative Projects

Collaborative Projects include ad-hoc projects for which the Parties agree that focused coordination and collaboration is needed.

B. The Parties shall, as necessary, produce on a reciprocal basis, either individually or jointly for exchange between them, reports describing concepts of use, models, prototypes, evaluations, validation exercises, and comparative studies related to the technical and operational aspects of ATM. Evaluations and validations may use a range of tools such as simulations and live trials.

#### *Article V*

### **Management**

Subject to the availability of funds, the Parties shall establish and manage projects and activities and ensure that the work in progress remains result-oriented, pragmatic and timely, creating synergies while avoiding duplications. To this end, a Coordination Committee (CCOM) shall be established, which shall:

- A. Be co-chaired by one representative each from the Federal Aviation Administration (FAA) and the European Commission or their respective designees;
- B. Be composed of an equal number of participants designated by the FAA and the European Commission;
- C. Meet at least twice per year to:
  - 1. Monitor and review the progress of ongoing joint projects and activities defined in the Attachments and executed by Working Groups established pursuant to paragraph F of this Article;
  - 2. Assess the achieved results;
  - 3. Propose the launch of new projects and activities, as appropriate;
  - 4. Develop proposals for Attachments or amendments to Attachments to this Appendix, which the CCOM shall submit to the Executive Committee for adoption; and
  - 5. Monitor and ensure the effective implementation of this Appendix and, as necessary, consult on industry participation mechanisms or refer questions to the Executive Committee.
- D. Establish its working procedures. All decisions shall be taken by consensus between the co-chairs. These decisions shall be in writing and signed by the co-chairs or their respective designees.
- E. Report to the Executive Committee established pursuant to Article IV of Annex 1 to the Memorandum.
- F. Establish Working Groups dedicated to specific projects or activities under this Appendix, as appropriate. Each Working Group shall be composed of an appropriate and limited number of participants of the Parties. The Working Groups shall meet as necessary, shall comply with instructions given by the CCOM, and shall report to it on a regular basis.

#### *Article VI*

### **Immunity and liability**

The Parties may address immunity and liability issues associated with activities under this Appendix in the relevant Attachment, as appropriate.

#### *Article VII*

### **Implementation**

- A. All work provided under this Appendix shall be described in Attachments, which, upon their entry into force, shall become part of this Appendix.
- B. Each Attachment shall contain a description of the work to be performed by the Parties or the Working Groups they designate to carry out the work, including the location and planned duration of the work; the personnel and other resources required to accomplish the work; the estimated costs; and any other pertinent information concerning the work.

#### *Article VIII*

### **Financial provisions**

Unless otherwise specified in an Attachment to this Appendix, each Party shall bear the costs of the activities it performs.

*Article IX***Points of contact**

A. The designated offices for the coordination and management of this Appendix are:

1. For the United States of America:

Federal Aviation Administration  
Office of International Affairs  
Africa, Europe & Middle East Office, AEU  
Wilbur Wright Bldg., 6th Floor, East  
600 Independence Avenue, S.W.  
Washington, D.C. 20591 - USA  
Telephone: + 1 202-267-1000  
Facsimile: + 1 202-267-7198

2. For the European Union:

Single European Sky Unit  
Directorate-General for Mobility and Transport  
Directorate for Air Transport  
European Commission  
Rue de Mot 24  
1040 Brussels - Belgium  
Telephone: + 32 2 296 84 30

B. Technical program liaisons for specific activities shall be established as indicated in the Attachments to this Appendix.

*Article X***Termination**

Termination of this Appendix shall terminate all Attachments adopted by the Parties pursuant to this Appendix.

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**Attachment 1 to Appendix 1 to Annex 1*****to Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union******SESAR-NextGen cooperation on Transversal Activities for global interoperability****Article I***Purpose**

A. This Attachment 1 to Appendix 1 to Annex 1 ('Appendix 1') to Memorandum of Cooperation NAT-I-9406A (the 'Memorandum') between the United States of America ('United States') and the European Union ('EU') sets forth the terms and conditions for cooperation on activities of a transversal nature ('Transversal Activities') for the global interoperability of the NextGen and SESAR programs.

B. This Attachment shall:

1. Describe the work to be performed; and
2. Specify any exception to the provisions on intellectual property rights set forth in Article VIII of the Memorandum.

*Article II***Scope of work**

A. The United States and the EU ('the Parties') agree to coordinate, as appropriate, on a number of Transversal Activities, in particular with regard to the activities described below. The Federal Aviation Administration ('FAA') shall implement this Attachment on behalf of the United States. The European Commission shall implement this Attachment on behalf of the EU and may, for that purpose, designate the SESAR Joint Undertaking to execute cooperative activities under this Attachment.

B. The Parties shall work toward the development of a common definition of the Concept of Operations in areas where this is needed to ensure optimum performance and interoperability for airspace users as well as aim to agree on a common implementation timeline. This work shall include specific coordination activities covering methods of separation and on the definition of related Air Traffic Management ('ATM') services. In undertaking these coordination activities, the Parties shall consider:

1. The important role the activities will play in providing support to other coordination activities covered under this Attachment and other attachments to Appendix 1; and
2. The need to: (i) establish a coordinated view and achieve a shared understanding of the fundamental elements of SESAR and NextGen, especially regarding achieving appropriate operational, environmental, safety and security targets; (ii) develop complementary regulations; and (iii) establish the means of achieving and maintaining interoperability during planned deployments.

C. The Parties shall coordinate their respective standardisation and regulatory roadmap developments associated with the Transversal Activities described in Appendix 1 in order to avoid any major interoperability issues due to a lack of synchronisation in adopting new standards and regulations at a global level. For the same reason, the Parties shall endeavour to define and promote a harmonised approach to international regulation and standards on future operational and technical capabilities at the International Civil Aviation Organization.

D. The Parties shall coordinate their approach to deployment actions, means, and planning in order to facilitate a seamless transition of technical and operational changes to United States and EU ATM systems, and to achieve an alignment of operational deployment timelines and dates where interoperability needs are paramount.

E. The Parties shall coordinate their approach on operational changes for best performance outcome in the areas of safety, security, environment, human factors and business cases. In this area, best modelling practices and improvement methods shall be sought and coordinated, in particular with regard to achieving complementary target setting and understanding of the underlying justifications in order to make valid comparisons of the performance elements and impacts of SESAR and NextGen.

*Article III***Management and implementation**

A. The work conducted under this Attachment shall be managed under the terms and conditions of Article V of Appendix 1. The more detailed administration of the Transversal Activities shall be defined by the Parties in a joint Administration Document approved by the Coordination Committee established under Appendix 1. This document shall describe the means, roles, responsibilities and participants for each particular undertaking as well as the working processes for the Transversal Activities.

B. The work to be performed under this Attachment shall be further broken down into individual or groups of related Transversal Activities. A working document approved by the Coordination Committee established under Appendix 1 shall: detail the scope of work of each individual or group of Transversal Activities; identify the Technical Program Liaisons for both Parties; and describe the relationship of each activity with other activities.

*Article IV***Funding**

Each Party shall assume the cost of the work performed by it under this Attachment.

*Article V***Intellectual property rights**

The terms and conditions set forth in Article VIII (Intellectual Property Rights) of the Memorandum shall apply. However, if a Party needs access to intellectual property owned by the other Party in order to use intellectual property jointly developed by the Parties under this Attachment, such access shall be granted by the owner under the conditions detailed in Article VIII.B of the Memorandum unless stricter conditions for such access rights, on an exceptional basis, have been agreed by the Parties.

*Article VI***Points of contact**

The Parties shall inform each other of their respective points of contact for the technical coordination and management of the Transversal Activities to be carried out under this Attachment.

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**Attachment 2 to Appendix 1 to Annex 1*****to Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union******SESAR-NextGen cooperation on Information Management for global interoperability****Article I***Purpose**

A. This Attachment 2 to Appendix 1 to Annex 1 ('Appendix 1') to Memorandum of Cooperation NAT-I-9406A (the 'Memorandum') between the United States of America ('United States') and the European Union ('EU') sets forth the terms and conditions for cooperation on Information Management for the global interoperability of the NextGen and SESAR programs.

B. This Attachment shall:

1. Describe the work to be performed; and
2. Specify any exception to the provisions on intellectual property rights set forth in Article VIII of the Memorandum.

*Article II***Scope of work**

A. The United States and the EU ('the Parties') agree to coordinate, as appropriate, on a number of activities within the domain of Information Management, in particular with regard to the exchange of information that supports a Net-Centric interoperable Air Traffic Management ('ATM') capability utilising the System-Wide Information Management ('SWIM') concept (collectively, the 'Information Management Activities'), further described in the paragraphs below. The Federal Aviation Administration ('FAA') shall implement this Attachment on behalf of the United States. The European Commission shall implement this Attachment on behalf of the EU and may, for that purpose, designate the SESAR Joint Undertaking to execute cooperative activities under this Attachment.

B. The Parties shall collaborate on defining and implementing an interoperable SWIM technical infrastructure. This work shall encompass defining interoperable SWIM technical infrastructure core capabilities such as, but not limited to: common message exchange patterns; Registry Services (including Catalogue and Discovery); Security Services; the consistent design of key information being exchanged, including its attributes; and enabling optimum ATM operational performance across the SESAR and NextGen regions. Common information management functions shall be defined as needed. The Parties shall consider the integration of aircraft and airports as part of the SWIM technical infrastructure.

C. The Parties shall develop consistent terminology for the timely, accurate and secure distribution of information supporting ATM collaborative decision making for both ground and air operations where such terminology would enhance and/or maintain interoperability in support of high performance operations. In the course of developing consistent terminology, the Parties shall consider how such terminology will support the other coordination activities covered under this Attachment and other attachments. The Parties also shall promote a shared understanding of the fundamental elements of one of the key capabilities of both the SESAR and NextGen operational concept: helping to achieve delivery of the right information to the right people at the right time to support making the right operational decisions.

D. The Parties shall coordinate their respective Information Management Activities to achieve the consistent management of information within and across Aeronautical Information Management ('AIM'), meteorological information exchange, and flight planning, as set out in Attachment 3 to Appendix 1, taking into account common operational scenarios requiring information: (i) to support in strategic planning, execution, and post flight phases; and (ii) to achieve interoperable and common information performance requirements.

E. The Parties shall extend the scope of information management to other areas of information exchange as necessary to improve the performance elements and impacts of SESAR and NextGen.

*Article III***Management and implementation**

A. The work conducted under this Attachment shall be managed under the terms and conditions of Article V of Appendix 1. The more detailed administration of the Information Management Activities shall be defined by the Parties in a joint Administration Document approved by the Coordination Committee established under Appendix 1. This document shall describe the means, roles, responsibilities and participants for each particular undertaking as well as the working processes for the Information Management Activities.

B. The work to be performed under this Attachment shall be further broken down into individual or groups of related Information Management Activities. A working document approved by the Coordination Committee established under Appendix 1 shall: detail the scope of work of each individual or group of Information Management Activities; identify the Technical Program Liaisons for both Parties; and describe the relationship of each activity with other activities.

*Article IV***Funding**

Each Party shall assume the cost of the work performed by it under this Attachment.

*Article V***Intellectual property rights**

The terms and conditions set forth in Article VIII (Intellectual Property Rights) of the Memorandum shall apply. However, if a Party needs access to intellectual property owned by the other Party in order to use intellectual property jointly developed by the Parties under this Attachment, such access shall be granted by the owner under the conditions detailed in Article VIII.B of the Memorandum unless stricter conditions for such access rights, on an exceptional basis, have been agreed by the Parties.

*Article VI***Points of contact**

The Parties shall inform each other of their respective points of contact for the technical coordination and management of the Information Management Activities to be carried out under this Attachment.

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**Attachment 3 to Appendix 1 to Annex 1**

***to Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union***

***SESAR-NextGen cooperation on Trajectory Management for global interoperability***

*Article I*

**Purpose**

A. This Attachment 3 to Appendix 1 to Annex 1 ('Appendix 1') to Memorandum of Cooperation NAT-I-9406A (the 'Memorandum') between the United States of America ('United States') and the European Union ('EU') sets forth the terms and conditions for cooperation on activities within the area of trajectory management ('Trajectory Management Activities') for the global interoperability of the NextGen and SESAR programs.

B. This Attachment shall:

1. Describe the work to be performed; and
2. Specify any exception to the provisions on intellectual property rights set forth in Article VIII of the Memorandum.

*Article II*

**Scope of work**

A. The United States and the EU ('the Parties') agree to coordinate, as appropriate, on a number of Trajectory Management Activities. This domain is one of the key capabilities of the SESAR and NextGen operational concept, and coordination is necessary to ensure there is a common understanding of the trajectory, the relationship to flight planning, strategic planning, execution and post flight phases and with regard to all airspace users including Unmanned Aircraft Systems ('UAS'). These activities are described more specifically in the paragraphs below. The Federal Aviation Administration ('FAA') shall implement this Attachment on behalf of the United States. The European Commission shall implement this Attachment on behalf of the EU and may, for that purpose, designate the SESAR Joint Undertaking to execute cooperative activities under this Attachment.

B. The Parties shall cooperate in the development of a common definition of the four dimensional (4D) trajectory for different operational scenarios describing the future Air Traffic Management environment, as well as the exchange format (supporting air-ground, air-air and ground-ground data exchange as well as the transition to System-Wide Information Management formats) leading to an interoperable and performance-oriented solution that can be formalised through the appropriate standardisation activities of EUROCAE, RTCA, and the International Civil Aviation Organization, as contemplated under Attachment 1 to Appendix 1.

C. The Parties shall, in the context of 4D trajectory operations, coordinate on the development of concepts for: flight planning and operational strategic planning; planning during flight execution; dynamic updating of the trajectory during flight execution; and post flight analysis and archiving. The objective of such coordination shall be globally interoperable and common performance requirements.

D. The Parties shall coordinate on the concepts for demand and capacity balancing, traffic synchronisation, and conflict management applications. Such coordination shall include the exchange of information on underlying air- and ground-based trajectory prediction and its integration in systems and operational procedures leading to globally interoperable and common performance solutions.

E. The Parties shall coordinate on the development of operational methods, procedures, and technology requirements for integrating UAS operations into civil instrument flight rules airspace leading to globally interoperable and common performance solutions. The goal of such coordination shall be ensuring the safe integration of UAS operations in airspace where manned civil operation occur.

*Article III*

**Management and implementation**

A. The work conducted under this Attachment shall be managed under the terms and conditions of Article V of Appendix 1. The more detailed administration of the Trajectory Management Activities shall be defined by the Parties in a joint Administration Document approved by the Coordination Committee established under Appendix 1. This document shall describe the means, roles, responsibilities and participants for each particular undertaking as well as the working processes for the Trajectory Management Activities.



B. The work to be performed under this Attachment shall be further broken down into individual or groups of related Trajectory Management Activities. A working document approved by the Coordination Committee established under Appendix 1 shall detail the scope of work of each individual or group of Trajectory Management Activities; identify the Technical Program Liaisons for both Parties; and describe the relationship of each activity with other activities.

#### *Article IV*

##### **Funding**

Each Party shall assume the cost of the work performed by it under this Attachment.

#### *Article V*

##### **Intellectual property rights**

The terms and conditions set forth in Article VIII (Intellectual Property Rights) of the Memorandum shall apply. However, if an Party needs access to intellectual property owned by the other Party in order to use intellectual property jointly developed by the Parties under this Attachment, such access shall be granted by the owner under the conditions detailed in Article VIII.B of the Memorandum unless stricter conditions for such access rights, on an exceptional basis, have been agreed by the Parties.

#### *Article VI*

##### **Points of contact**

The Parties shall inform each other of their respective points of contact for the technical coordination and management of the Trajectory Management Activities to be carried out under this Attachment.

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**Attachment 4 to Appendix 1 to Annex 1*****to Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union******SESAR-NextGen cooperation on CNS and Airborne Interoperability for global interoperability****Article I***Purpose**

A. This Attachment 4 to Appendix 1 to Annex 1 ('Appendix 1') to Memorandum of Cooperation NAT-I-9406A (the 'Memorandum') between the United States of America ('United States') and the European Union ('EU') sets forth the terms and conditions for cooperation on Communication, Navigation, and Surveillance ('CNS') and Airborne Interoperability Activities ('CNS & Airborne Interoperability Activities') for the global interoperability of the NextGen and SESAR programs.

B. This Attachment shall:

1. Describe the work to be performed; and
2. Specify any exception to the provisions on intellectual property rights set forth in Article VIII of the Memorandum.

*Article II***Scope of work**

The United States and the EU ('the Parties') agree to coordinate, as appropriate, on activities covering CNS & Airborne Interoperability Activities, in particular with regard to the activities set out in the paragraphs below. The Federal Aviation Administration ('FAA') shall implement this Attachment on behalf of the United States. The European Commission shall implement this Attachment on behalf of the EU and may, for that purpose, designate the SESAR Joint Undertaking to execute cooperative activities under this Attachment.

**A. Communications**

1. The Parties shall work to ensure the interoperability of future communication technologies, including:
  - (a) Air/Ground and Air/Air datalink services;
  - (b) Sub-networks, including a terrestrial system (e.g. L-band Digital Aeronautical Communication System), a short-range high-bandwidth airport-centred system (i.e., the Aeronautical Mobile Airport Communication System), future satellite communication solutions, and communication system management functions (e.g. multilink management, quality of service management, security); and
  - (c) Possible interconnection of military aircraft to the air traffic management system through military datalink.
2. The Parties shall coordinate to ensure efficient use of the radio frequency spectrum and that the new technologies are free of harmful interference.
3. The Parties shall also coordinate their approach to avionics development, in particular the development of a flexible communications architecture using for example software defined radios for use on board aircraft.

**B. Navigation**

The Parties shall work to ensure interoperable navigation infrastructures in support of Performance-Based Navigation Procedures in En-Route and the Terminal Maneuvring Area, giving consideration to the potential for rationalising ground-based navigation infrastructure (e.g. VOR). Coordination by the Parties on the interoperability of navigation infrastructures shall:

1. Base solutions on the Global Navigation Satellite System constellation;

2. Address common solutions for Precision Approaches and Non-Precision Approaches using ground-based or satellite-based augmentation systems; and
3. Include coordination of approaches for Multi-Mode Receiver avionics development.

#### C. Surveillance

1. The Parties shall work to ensure their respective Automatic Dependent Surveillance-Broadcast ('ADS-B') evolution plans are consistent, while supporting the needs of both ground surveillance applications and airborne separation assistance systems ('ASAS') through the development of the 'ADS-B Out/In' capability.
2. The Parties may consider options for (i) extending the usable lifetime of the enabling 1090 ADS-B system; and (ii) establishing a new system for ADS-B.

#### D. Airborne Interoperability

1. The Parties shall work to ensure the harmonisation of avionics road mapping activities in SESAR and NextGen with the objective of establishing consistent avionics standards that meet the needs of both SESAR and NextGen.
2. The Parties shall coordinate on establishing a functional architecture that supports both SESAR and NextGen concept elements (e.g. four-dimensional operations, Airborne Collision Avoidance System ('ACAS'), and ASAS functions) as well as their enablers (e.g. CNS) and can be instantiated in multiple physical aircraft platforms (e.g. mainline, regional, general aviation, military) when considering both future fit and retrofit aspects.

#### E. Spectrum

The Parties shall:

1. Coordinate on the development of spectrum efficient CNS systems; and
2. Collaborate on preserving the aeronautical radio frequency spectrum free of harmful interference as well as ensuring the availability of the necessary spectrum for the operation of the current and future CNS systems.

### *Article III*

#### **Management and implementation**

A. The work conducted under this Attachment shall be managed under the terms and conditions of Article V of Appendix 1. The more detailed administration of the CNS & Airborne Interoperability Activities shall be defined by the Parties in a joint Administration Document approved by the Coordination Committee established under Appendix 1. This document shall describe the means, roles, responsibilities and participants for each particular undertaking as well as the working processes for the CNS & Airborne Interoperability Activities.

B. The work to be performed under this Attachment shall be further broken down into individual or groups of related CNS & Airborne Interoperability Activities. A working document approved by the Coordination Committee established under Appendix 1 shall detail the scope of work of each individual or group of CNS & Airborne Interoperability Activities; identify the Technical Program Liaisons for both Parties; and describe the relationship of each activity with other activities.

### *Article IV*

#### **Funding**

Each Party shall assume the cost of the work performed by it under this Attachment.

*Article V***Intellectual property rights**

The terms and conditions set forth in Article VIII (Intellectual Property Rights) of the Memorandum shall apply. However, if a Party needs access to intellectual property owned by the other Party in order to use intellectual property jointly developed by the Parties under this Attachment, such access shall be granted by the owner under the conditions detailed in Article VIII.B of the Memorandum unless stricter conditions for such access rights, on an exceptional basis, have been agreed by the Parties.

*Article VI***Points of contact**

The Parties shall inform each other of their respective points of contact for the technical coordination and management of the CNS and Airborne Interoperability Activities to be carried out under this Attachment.

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**Attachment 5 to Appendix 1 to Annex 1*****to Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union******SESAR-NextGen cooperation on Collaboration Projects for global interoperability****Article I***Purpose**

A. This Attachment 5 to Appendix 1 to Annex 1 ('Appendix 1') to Memorandum of Cooperation NAT-I-9406A (the 'Memorandum') between the United States of America ('United States') and the European Union ('EU') sets forth the terms and conditions for cooperation on Collaboration Projects for the global interoperability of the NextGen and SESAR programs.

B. This Attachment shall:

1. Describe the work to be performed; and
2. Specify any exception to the provisions on intellectual property rights set forth in Article VIII of the Memorandum.

*Article II***Scope of work**

The United States and the EU ('the Parties') agree to coordinate, as appropriate, on a number of Collaboration Projects, in particular but not restricted to activities set out in the paragraphs below. The Federal Aviation Administration ('FAA') shall implement this Attachment on behalf of the United States. The European Commission shall implement this Attachment on behalf of the EU and may, for that purpose, designate the SESAR Joint Undertaking to execute cooperative activities under this Attachment.

A. The Parties agree that the objective of the Collaboration Projects under this Attachment shall be to improve the performance of transatlantic flights, with a focus on the deployment of technologies and procedures for aviation users. This cooperation will also permit data collection enabling the standardisation of analysis and metrics.

B. The Parties shall cooperate on the Atlantic Interoperability Initiative to Reduce Emissions (AIRE agreement) to accelerate the deployment of environmentally friendly air traffic management solutions. The scope of cooperation may include, but shall not be limited to, exchanges of information on best practices, joint program planning, and where possible the execution of joint or coordinated pre-operational validation projects.

*Article III***Management and implementation**

A. The work conducted under this Attachment shall be managed under the terms and conditions of Article V of Appendix 1. The more detailed administration of the Collaboration Projects shall be defined by the Parties in a joint Administration Document approved by the Coordination Committee established under Appendix 1. This document shall describe the means, roles, responsibilities and participants for each particular undertaking as well as the working processes for the Collaboration Projects.

B. The work to be performed under this Attachment shall be further broken down into individual or groups of related Collaboration Projects. A working document approved by the Coordination Committee established under Appendix 1 shall detail the scope of work of each individual or group of Collaboration Projects; identify the Technical Program Liaisons for both Parties; and describe the relationship of each activity with other activities.

*Article IV***Funding**

Each Party shall assume the cost of the work performed by it under this Attachment.

*Article V***Intellectual property rights**

The terms and conditions set forth in Article VIII (Intellectual Property Rights) of the Memorandum shall apply. However, if a Party needs access to intellectual property owned by the other Party in order to use intellectual property jointly developed by the Parties under this Attachment, such access shall be granted by the owner under the conditions detailed in Article VIII.B of the Memorandum, unless stricter conditions for such access rights, on an exceptional basis, have been agreed by the Parties.

*Article VI***Points of contact**

The Parties shall inform each other of their respective points of contact for the technical coordination and management of the Collaboration Projects to be carried out under this Attachment.

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**Appendix 2 to Annex 1*****to Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union******Collaboration on Air Traffic Management performance measurement****Article I***Purpose**

The purpose of this Appendix is to implement Annex 1 to Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union (the 'Memorandum') by setting forth the terms and conditions for cooperation to develop comparable operational performance measures, including measures concerning gate-to-gate operational performance and cost-efficiency, as well as the influence of the Air Traffic Management (ATM) system on fuel efficiency. Comparable measures and methodologies are a key element of industry consensus and collaboration. This work is a continuation of the U.S./Europe Comparison of ATM-related operational performance reports produced by the Federal Aviation Administration (FAA) and the European Organisation for the Safety of Air Navigation (EUROCONTROL) and first published in 2009.

*Article II***Principles**

The cooperative activities under this Appendix shall be conducted on a reciprocal basis in accordance with the principles set out in Article I.C of the Memorandum.

A Performance Analysis Review Committee (PARC), established under Article IV of this Appendix, shall monitor the implementation of this Appendix. The PARC may propose, pursuant to Article IV of this Appendix, Attachments with respect to the domains identified.

*Article III***Scope of work**

A. The scope of work is to contribute to a common performance measurement framework for ATM. The work may include, but is not limited to, the activities set out in paragraphs A1 and A2 of the present Article:

1. Developing common definitions and data to facilitate an educational exchange of information on the challenges and successes of each Party's ATM performance measurements;
2. Establishing a standard methodology for assessing operational performance that supports common focus areas. The current performance frameworks applied in the European Union and the United States shall be an input to this development.

B. The Parties shall, as necessary, produce, on a reciprocal basis, either individually or jointly for exchange between them, analyses and reports focused on common methodologies to produce comparable results per the following guidelines:

1. Results shall build on the 2009 joint FAA and EUROCONTROL report comparing ATM operational performance;
2. Analyses shall include detailed breakouts of delays and fuel efficiencies by phase of flight (gate, taxi, departure, cruise, and descent);
3. Results shall include facility level performance to the extent both Parties deem appropriate, consistent with current FAA and EUROCONTROL reports;
4. During the process of completing analyses, data and detailed methods shall be shared between the Parties to assure consistency in methods; and
5. Analyses shall identify causal factors driving differences in performance, as appropriate, including weather, scheduling practices, and ATM technologies and procedures.

C. The Parties agree that future areas of cooperation may include Air Navigation Services cost breakdowns and related cost-efficiency metrics.

D. The Parties expect the execution of joint analyses or the preparation of periodic reports of achieved performance to be a continuous process. The Parties agree to make the results of this work publicly available, unless otherwise jointly decided by the Parties, to the extent consistent with applicable law.

#### *Article IV*

### **Management**

Subject to the availability of funds, the Parties shall establish and manage projects and activities and ensure that the work in progress remains result-oriented, pragmatic and timely, creating synergies while avoiding duplications. To this end, a Performance Analysis Review Committee (PARC) shall be established which shall:

- A. Be co-chaired by one representative each from the FAA and the European Commission or their respective designees.
- B. Be composed of an equal number of participants designated by the FAA and the European Commission.
- C. Meet at least once a year to:
  - 1. Oversee the activities set out in Article III of this Appendix;
  - 2. Assess the achieved results;
  - 3. Develop proposals for new projects or joint activities to be established as Attachments to this Appendix, or as amendments to Attachments, which the PARC shall submit to the Executive Committee established pursuant to Article IV of Annex 1 to the Memorandum for adoption;
  - 4. As necessary, consult on industry participation mechanisms or refer questions concerning the activities under this Appendix to the Executive Committee established pursuant to Article IV of Annex 1 to the Memorandum; and
  - 5. Approve periodic analyses and reports described in Article III of this Appendix before publication or distribution.
- D. Establish its working procedures. All decisions shall be taken by consensus between the co-chairs. These decisions shall be in writing and signed by the co-chairs or their respective designees.
- E. Report to the Executive Committee.
- F. Establish Working Groups dedicated to specific projects or activities under this Appendix, as appropriate. Each Working Group shall be composed of an appropriate and limited number of participants of the Parties. The Working Groups shall meet as necessary, shall comply with instructions given by the PARC, and shall report to it on a regular basis.

#### *Article V*

### **Immunity and liability**

The Parties may address immunity and liability issues associated with activities under this Appendix in the relevant Attachment, as appropriate.

#### *Article VI*

### **Implementation**

- A. All work provided under this Appendix shall be described in Attachments, as necessary, which, upon their entry into force, shall become part of this Appendix.
- B. Each Attachment shall contain a description of the work to be performed, including the location and planned duration of the work; the personnel and other resources required to accomplish the work; the estimated costs; and any other pertinent information concerning the work.



*Article VII***Financial provisions**

Unless otherwise specified in an Attachment to this Appendix, each Party shall bear the costs of the activities it performs.

*Article VIII***Points of contact**

The designated offices for the coordination and management of this Appendix are:

A. For the United States of America:

Federal Aviation Administration  
Office of International Affairs  
Africa, Europe & Middle East Office, AEU-10  
Wilbur Wright Bldg., 6th Floor, East  
600 Independence Avenue, S.W.  
Washington, D.C. 20591 - USA  
Telephone: + 1 202-267-1000  
Facsimile: + 1 202-267-7198

B. For the European Union:

Directorate for Aviation and International Transport Affairs  
Directorate-General for Mobility and Transport  
European Commission  
Rue de Mot 24  
1040 Brussels - Belgium  
Telephone: + 32 2 296 84 30

*Article IX***Termination**

Termination of this Appendix shall terminate all Attachments adopted by the Parties pursuant to this Appendix.

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**Appendix 3 to Annex 1*****to Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union******SESAR-NextGen cooperation for deployment activities and global interoperability****Article I***Purpose**

The purpose of this Appendix is to implement Annex 1 to Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union (the 'Memorandum') by setting forth the terms and conditions under which the Parties shall establish cooperation with the goal of ensuring global interoperability in deployment programs and projects between their respective air traffic management (ATM) modernisation programs, NextGen and SESAR, taking into account the interests of civil and military airspace users.

*Article II***Principles**

The cooperative activities under this Appendix shall be conducted on a reciprocal basis in accordance with the principles set out in Article I.C of the Memorandum. A Deployment Coordination Committee (DCOM) established under Article IV of this Appendix, shall monitor implementation of this Appendix and identify the domains that allow specific opportunities for participation in each Party's consultative bodies, initiatives, and deployment programs and projects. The DCOM may propose, pursuant to Article IV of this Appendix, Attachments with respect to the domains identified.

*Article III***Scope of work**

A. The scope of the work is to contribute to the promotion of global interoperability with respect to the ATM deployment activities of the Parties. The work may include, but is not limited to, the activities set out in paragraphs A.1 to A.3 of the present Article.

**1. Broad Areas of Collaboration:**

- (a) Sharing of information and views in the field of global harmonisation of standards and procedures required for ATM deployment (implementation);
- (b) Sharing of information regarding NextGen and SESAR implementation plans, with the aim of identifying implementation priorities and synergies;
- (c) Harmonising operational procedures, operational training and technical requirements;
- (d) Harmonisation of standards implementation;
- (e) Synchronising implementation activities relevant to interoperability when feasible;
- (f) Identifying potential gaps and needs in terms of industry standards;
- (g) Identifying potential gaps, risks, issues and opportunities on interoperability and global harmonisation, and exchanging information on potential recommended actions for mitigation;
- (h) Identifying risks, issues, priorities and opportunities to timely program implementation and sharing potential mitigation strategies;
- (i) Monitoring risks, issues and opportunities and then sharing the findings of the respective actions between the Parties;
- (j) Defining what constitutes success in ATM modernisation and harmonisation and then monitoring the status of activities to ensure that success;

- (k) Sharing best practices and lessons learned, both in operations and project management, during the course of implementation activities;
- (l) Business cases and investment decisions;
- (m) Sharing information on transversal issues on relevant deployment matters; including but not limited to International Civil Aviation Organization (ICAO) implementation issues. Coordination of technical efforts in support of global and ICAO provision and implementation activities in the field of ATM; and
- (n) Assessment of full life cycle view and development of full life cycle strategies from deployment perspective.

## 2. Programmatic Focus Areas of Collaboration:

- (a) Communications, Navigation and Surveillance (CNS), including Data Communication (U.S.) / Datalink Services (EU);
- (b) Information Management including System Wide Information Management interoperability (SWIM) (U.S.) / (EU), which shall include:
  - SWIM governance
  - SWIM standards usage
  - SWIM services usage
- (c) Arrival Management including Time-Based Flow Management (TBFM – U.S.) / Arrival Management (AMAN – EU);
- (d) Program Performance Assessment; and incentive mechanisms supporting implementation.

For each of the Programmatic Focus Areas, harmonisation risks, issues and opportunities shall be identified and reported and, where feasible, proposals for addressing these areas shall be developed. The DCOM may identify new areas of future collaboration under Article IV of this Appendix.

## 3. Collaborative Projects:

Collaborative Projects include areas deemed necessary for mitigating interoperability and harmonisation risks for implementation. Collaborative projects can include ad-hoc projects for which the Parties decide that focused coordination or synchronisation is needed.

B. The Parties shall, as necessary, share or produce on a reciprocal basis, either individually or jointly for exchange between them, analysis and reports describing their deployment programs, projects, and activities related to the technical and operational aspects of ATM.

## Article IV

### Management

Subject to the availability of funds, the Parties shall establish and manage projects and activities and ensure that the work in progress remains result-oriented, pragmatic and timely, creating synergies while avoiding duplications. To this end, a Deployment Coordination Committee (DCOM) shall be established, which shall:

- A. Be co-chaired by one representative each from the Federal Aviation Administration (FAA) and from the European Commission or their respective designees.
- B. Be composed of an appropriate number of participants designated by the FAA and the European Commission.
- C. Meet at least twice per year to:
  - 1. Oversee the activities set out in Article III of this Appendix;
  - 2. Assess the achieved results;
  - 3. Propose the launch of new projects and activities, as appropriate;
  - 4. Develop proposals for Attachments or amendments to Attachments to this Appendix which the DCOM shall submit to the Executive Committee established pursuant to Article IV of Annex 1 to the Memorandum for adoption; and
  - 5. Monitor and ensure the effective implementation of this Appendix and, as necessary, consult on industry participation mechanisms or refer questions to the Executive Committee.

- D. Establish its working procedures. All decisions shall be taken by consensus between the co-chairs. These decisions shall be in writing and signed by the co-chairs or their respective designees.
- E. Report to the Executive Committee.
- F. Establish Working Groups dedicated to specific projects or activities under this Appendix, as appropriate. Each Working Group shall be composed of an appropriate and limited number of participants of the Parties. The Working Groups shall meet as necessary, shall comply with instructions given by the DCOM, and shall report to it on a regular basis.

#### *Article V*

### **Immunity and liability**

The Parties may address immunity and liability issues associated with activities under this Appendix in the relevant Attachment, as appropriate.

#### *Article VI*

### **Implementation**

- A. All work provided under this Appendix shall be described in Attachments, which, upon their entry into force, shall become part of this Appendix.
- B. Each Attachment shall contain a description of the work to be performed by the Parties or the Working Groups they designate to carry out the work, including: the location and planned duration of the work; the personnel and other resources required to accomplish the work; the estimated costs; and any other pertinent information concerning the work.

#### *Article VII*

### **Financial provisions**

Unless otherwise specified in an Attachment to this Appendix, each Party shall bear the costs of the activities it performs.

#### *Article VIII*

### **Points of contact**

- A. The designated offices for the coordination and management of this Appendix are:

- 1. For the United States of America:

Federal Aviation Administration  
Office of International Affairs  
Africa, Europe & Middle East Office, AEU  
Wilbur Wright Bldg., 6th Floor, East  
600 Independence Avenue, S.W.  
Washington, D.C. 20591 - USA  
Telephone: + 1 202-267-1000  
Facsimile: + 1 202-267-7198

- 2. For the European Union:

European Commission  
Directorate-General for Mobility and Transport  
Directorate for Aviation  
Single European Sky Unit  
Rue de Mot 24  
1040 Brussels - Belgium  
Telephone: + 32 2 296 84 30

- B. Technical program liaisons for specific activities shall be established as indicated in the Attachments to this Appendix.

*Article IX***Termination**

Termination of this Appendix shall terminate all Attachments adopted by the Parties pursuant to this Appendix.

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**COUNCIL DECISION (EU) 2018/539****of 20 March 2018****on the conclusion of the Bilateral Agreement between the European Union and the United States of America on prudential measures regarding insurance and reinsurance**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114, in conjunction with Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament <sup>(1)</sup>,

Whereas:

- (1) In accordance with Council Decision (EU) 2017/1792 <sup>(2)</sup>, the Bilateral Agreement between the European Union and the United States of America on prudential measures regarding insurance and reinsurance ('the Agreement') was signed on 22 September 2017, subject to its conclusion at a later date.
- (2) The conclusion of the Agreement will lead to enhanced regulatory certainty in the application of insurance and reinsurance regulatory frameworks for insurers and reinsurers operating in the Union and the United States of America as well as to improved protection for policyholders and other consumers through cooperation between supervisors on the exchange of information.
- (3) The Agreement should be approved,

HAS ADOPTED THIS DECISION:

*Article 1*

The Bilateral Agreement between the European Union and the United States of America on prudential measures regarding insurance and reinsurance is hereby approved on behalf of the Union <sup>(3)</sup>.

*Article 2*

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 8 of the Agreement <sup>(4)</sup>.

*Article 3*

The Commission shall represent the Union within the Joint Committee provided for in Article 7 of the Agreement, after having heard the views of the Council working party on financial services, and shall inform that working party, whenever appropriate and at least on a yearly basis, of the progress made in the implementation of the Agreement.

<sup>(1)</sup> Consent of 1 March 2018 (not yet published in the Official Journal).

<sup>(2)</sup> Council Decision (EU) 2017/1792 of 29 May 2017 on the signing, on behalf of the Union, and provisional application of the Bilateral Agreement between the European Union and the United States of America on prudential measures regarding insurance and reinsurance (OJ L 258, 6.10.2017, p. 1).

<sup>(3)</sup> The Agreement has been published in OJ L 258, 6.10.2017, p. 4, together with the decision on signature and provisional application.

<sup>(4)</sup> The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

*Article 4*

Any positions to be expressed on behalf of the Union shall be adopted in accordance with the Treaties and thus by the Council as provided in Article 16(1) of the Treaty on European Union or Article 218(9) of the Treaty on the Functioning of the European Union.

*Article 5*

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 20 March 2018.

*For the Council*  
*The President*  
E. ZAHARIEVA

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# REGULATIONS

## COMMISSION DELEGATED REGULATION (EU) 2018/540

of 23 November 2017

**amending Regulation (EU) No 347/2013 of the European Parliament and of the Council as regards the Union list of projects of common interest**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 <sup>(1)</sup>, and in particular Article 3(4) thereof,

Whereas:

- (1) Regulation (EU) No 347/2013 establishes a framework for the identification, planning and implementation of projects of common interest ('PCIs') which are required to implement the nine strategic geographical energy infrastructure priority corridors identified in the fields of electricity, gas and oil, and the three Union-wide energy infrastructure priority areas for smart grids, electricity highways and carbon dioxide transportation networks.
- (2) Pursuant to Regulation (EU) No 347/2013, the Commission is empowered to establish the Union list of PCIs ('Union list').
- (3) Projects proposed for the inclusion in the Union list have been assessed by the regional groups and meet the criteria laid down in Article 4 of Regulation (EU) No 347/2013.
- (4) The draft regional lists of PCIs were agreed by the regional groups at technical-level meetings. Following positive opinions of the Agency for the Cooperation of Energy Regulators ('ACER') on 10 October 2017 on the consistent application of the assessment criteria and the cost/benefit analysis across regions, the regional groups' decision-making bodies adopted the regional lists on 17 October 2017. Pursuant to Article 3(3)(a) of Regulation (EU) No 347/2013, prior to the adoption of the regional lists, all proposed projects were approved by the Member States to whose territory the projects relate.
- (5) Organisations representing relevant stakeholders, including producers, distribution system operators, suppliers, and consumer and environmental protection organisations were consulted on the projects proposed for inclusion in the Union list.
- (6) PCIs should be listed per strategic trans-European energy infrastructure priorities in the order laid down in Annex I to Regulation (EU) No 347/2013. The Union list should not contain any ranking of projects.
- (7) PCIs should be listed either as stand-alone PCIs or as a part of a cluster of several PCIs because they are inter-dependent or (potentially) competing.
- (8) The Union list is established every two years, therefore the Union list established by Commission Delegated Regulation (EU) 2016/89 <sup>(2)</sup> is no longer valid and should be replaced.
- (9) Regulation (EU) No 347/2013 should therefore be amended accordingly,

<sup>(1)</sup> OJ L 115, 25.4.2013, p. 39.

<sup>(2)</sup> Commission Delegated Regulation (EU) 2016/89 of 18 November 2015 amending Regulation (EU) No 347/2013 of the European Parliament and of the Council as regards the Union list of projects of common interest (OJ L 19, 27.1.2016, p. 1).



HAS ADOPTED THIS REGULATION:

*Article 1*

Annex VII to Regulation (EU) No 347/2013 is amended in accordance with the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on the twentieth day following that 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, 23 November 2017.

*For the Commission*  
*The President*  
Jean-Claude JUNKER

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## ANNEX

Annex VII to Regulation (EU) No 347/2013 is replaced by the following:

## 'ANNEX VII

**THE UNION LIST OF PROJECTS OF COMMON INTEREST ('UNION LIST'), REFERRED TO IN ARTICLE 3(4)****A. PRINCIPLES APPLIED IN ESTABLISHING THE UNION LIST****(1) Clusters of PCIs**

Some PCIs form part of a cluster because of their interdependent, potentially competing or competing nature. The following types of cluster of PCIs are established:

- (a) a **cluster of interdependent PCIs** is defined as a 'Cluster X, including the following PCIs:'. Such cluster has been formed to identify PCIs that are all needed to address the same bottleneck across country borders and provide synergies if implemented together. In this case, all the PCIs have to be implemented to realise the EU-wide benefits;
- (b) a cluster of potentially competing PCIs is defined as a 'Cluster X, including one or more of the following PCIs:'. Such cluster reflects an uncertainty around the extent of the bottleneck across country borders. In this case, not all the PCIs included in the cluster have to be implemented. It is left to the market to determine whether one, several or all PCIs are to be implemented, subject to the necessary planning, permit and regulatory approvals. The need for PCIs shall be reassessed in a subsequent PCI identification process, including with regard to the capacity needs; and
- (c) a cluster of competing PCIs is defined as a 'Cluster X, including one of the following PCIs:'. Such cluster addresses the same bottleneck. However, the extent of the bottleneck is more certain than in the case of a cluster of potentially competing PCIs, and therefore only one PCI has to be implemented. It is left to the market to determine which PCI is to be implemented, subject to the necessary planning, permit and regulatory approvals. Where necessary, the need for PCIs shall be reassessed in a subsequent PCI identification process.

All PCIs are subject to the same rights and obligations established under Regulation (EU) No 347/2013.

**(2) Treatment of substations and compressor stations**

Substations and back-to-back electricity stations and gas compressor stations are considered as parts of PCIs if they are geographically located on transmission lines. Substations, back-to-back stations and compressor stations are considered as stand-alone PCIs and are explicitly listed on the Union list if their geographical location is different from transmission lines. They are subject to the rights and obligations laid down in Regulation (EU) No 347/2013.

**(3) Projects that are no longer considered PCIs and projects that became part of other PCIs**

- (a) Several projects included in the Union lists established by Regulation (EU) No 1391/2013 and Regulation (EU) 2016/89 are no longer considered PCIs for one or more of the following reasons:
  - the project has already been commissioned or is to be commissioned in the near future and so it would not benefit from the provisions of Regulation (EU) No 347/2013;
  - according to new data the project does not satisfy the general criteria;
  - a promoter has not re-submitted the project in the selection process for this Union list; or
  - the project was ranked lower than other candidate PCIs in the selection process.

These projects (with the exception of the projects commissioned) may be considered for inclusion in the next Union list if the reasons for non-inclusion in the current Union list no longer apply.

Such projects are not PCIs, but are listed for reasons of transparency and clarity with their original PCI numbers in Part C of this Annex as **'Projects no longer considered PCIs'**.

- (b) Furthermore, some projects included in the Union lists established by Regulation (EU) No 1391/2013 and Regulation (EU) 2016/89 became during their implementation process integral parts of other (clusters of) PCIs.

Such projects are no longer considered independent PCIs, but are listed for reasons of transparency and clarity with their original PCI numbers in Annex VII(C) as **'Projects that are now integral parts of other PCIs'**.

#### (4) Definition of 'PCIs with double labelling as electricity highways'

'PCIs with double labelling as electricity highways' means PCIs which belong to one of the priority electricity corridors and to the priority thematic area electricity highways.

### B. THE UNION LIST OF PROJECTS OF COMMON INTEREST

#### (1) Priority Corridor Northern Seas Offshore Grid ('NSOG')

No	Definition
1.1	Cluster Belgium — United Kingdom [currently known as 'NEMO'], including the following PCIs: 1.1.1 Interconnection between Gezelle (BE) and the vicinity of Richborough (UK) 1.1.2 Internal line between the vicinity of Richborough and Canterbury (UK)
1.3	Cluster Denmark — Germany, including the following PCIs: 1.3.1 Interconnection between Endrup (DK) and Niebüll (DE) 1.3.2 Internal line between Niebüll and Brunsbüttel (DE)
1.4	Cluster Denmark — Germany, including the following PCIs: 1.4.1 Interconnection between Kassø (DK) and Audorf (DE) 1.4.2 Internal line between Audorf and Hamburg/Nord (DE) 1.4.3 Internal line between Hamburg/Nord and Dollern (DE)
1.6	France — Ireland interconnection between La Martyre (FR) and Great Island or Knockraha (IE) [currently known as 'Celtic Interconnector']
1.7	Cluster France — United Kingdom interconnections, including one or more of the following PCIs: 1.7.1 Interconnection between Cotentin (FR) and the vicinity of Exeter (UK) [currently known as 'FAB'] 1.7.2 Interconnection between Tourbe (FR) and Chilling (UK) [currently known as 'IFA2'] 1.7.3 Interconnection between Coquelles (FR) and Folkestone (UK) [currently known as 'ElecLink'] 1.7.4 Interconnection between Le Havre (FR) and Lovedean (UK) [currently known as 'AQUIND'] 1.7.5 Interconnection between the vicinity of Dunkerque (FR) and the vicinity of Kingsnorth (UK) [currently known as 'Gridlink']
1.8	Cluster Germany — Norway [currently known as 'NordLink'] 1.8.1 Interconnection between Wilster (DE) and Tonstad (NO) 1.8.2 Reinforcement of internal lines in southern Norway

No	Definition
1.9	1.9.1 Ireland — United Kingdom interconnection between Wexford (IE) and Pembroke, Wales (UK) [currently known as 'Greenlink']
1.10	Cluster United Kingdom – Norway interconnections, including one or more of the following PCIs: 1.10.1 Interconnection between Blythe (UK) and Kvittdal (NO) [currently known as 'North Sea Link'] 1.10.2 Interconnection between Peterhead (UK) and Simadalen (NO) [currently known as 'North-Connect']
1.12	Cluster of electricity storage facilities in United Kingdom, including one or more of the following PCIs: 1.12.1 Compressed air energy storage in Larne 1.12.2 Compressed air energy storage in Cheshire 1.12.3 Compressed air energy storage in Middlewich [currently known as 'CARES'] 1.12.4 Hydro-pumped electricity storage at Cruachan II 1.12.5 Hydro-pumped electricity storage at Coire Glas
1.13	Interconnection between Iceland and United Kingdom [currently known as 'Ice Link']
1.14	Interconnection between Revsing (DK) and Bicker Fen (UK) [currently known as 'Viking Link']
1.15	Interconnection between the Antwerp area (BE) and the vicinity of Kemsley (UK)
1.16	Interconnection between Netherlands and United Kingdom
1.17	Compressed air energy storage in Zuidwending (NL)
1.18	Offshore hydro-pumped electricity storage facility in Belgium [currently known as 'iLand']

(2) **Priority Corridor North-South Electricity Interconnections in Western Europe ('NSI West Electricity')**

No	Definition
2.2	2.2.1 First interconnection between Lixhe (BE) and Oberzier (DE) [currently known as 'ALEGrO'] 2.2.4 Second interconnection between Belgium and Germany
2.4	Interconnection between Codrongianos (IT), Lucciana (Corsica, FR) and Suvereto (IT) [currently known as 'SACOI 3']
2.5	2.5.1 Interconnection between Grande Ile (FR) and Piosasco (IT) [currently known as 'Savoie-Piemont']
2.7	Interconnection between Aquitaine (FR) and the Basque country (ES) [currently known as 'Biscay Gulf']
2.9	Internal line between Osterath and Philippsburg (DE) to increase capacity at western borders [currently known as 'Ultranet']
2.10	Internal line between Brunsbüttel-Großgartach and Wilster-Grafenrheinfeld (DE) to increase capacity at northern and southern borders [currently known as 'Suedlink']
2.13	Cluster Ireland — United Kingdom interconnections, including the following PCIs: 2.13.1 Interconnection between Woodland (IE) and Turleenan (UK) 2.13.2 Interconnection between Srananagh (IE) and Turleenan (UK)

No	Definition
2.14	Interconnection between Thusis/Sils (CH) and Verderio Inferiore (IT) [currently known as 'Green-connector']
2.15	2.15.1 Interconnection between Airolo (CH) and Baggio (IT)
2.16	Cluster of internal lines, including the following PCIs: 2.16.1 Internal line between Pedralva and Sobrado (PT), formerly designated Pedralva and Alfena (PT) 2.16.3 Internal line between Vieira do Minho, Ribeira de Pena and Feira (PT), formerly designated Frades B, Ribeira de Pena and Feira (PT)
2.17	Portugal — Spain interconnection between Beariz — Fontefría (ES), Fontefria (ES) — Ponte de Lima (PT) (formerly Vila Fria/Viana do Castelo) and Ponte de Lima — Vila Nova de Famalicão (PT) (formerly Vila do Conde) (PT), including substations in Beariz (ES), Fontefría (ES) and Ponte de Lima (PT)
2.18	Capacity increase of hydro-pumped electricity storage in Kaunertal, Tyrol (AT)
2.23	Internal lines at the Belgian north border between Zandvliet and Lillo-Liefkenshoek (BE), and between Liefkenshoek and Mercator, including a substation in Lillo (BE) [currently known as 'BRABO II + III']
2.24	Internal Belgian Backbone West between Horta-Mercator (BE)
2.27	2.27.1 Interconnection between Aragón (ES) and Atlantic Pyrenees (FR) 2.27.2 Interconnection between Navarra (ES) and Landes (FR)
2.28	2.28.1 Hydro-pumped electricity storage Mont-Negre (ES) 2.28.2 Hydro-pumped electricity storage Navaleo (ES) 2.28.3 Hydro-pumped electricity storage Girones & Raïmats (ES)

(3) **Priority Corridor North-South Electricity Interconnections in Central Eastern and South Europe ('NSI East Electricity')**

No	Definition
3.1	Cluster Austria — Germany, including the following PCIs: 3.1.1 Interconnection between St. Peter (AT) and Isar (DE) 3.1.2 Internal line between St. Peter and Tauern (AT) 3.1.4 Internal line between Westtirol and Zell-Ziller (AT)
3.2	3.2.2 Internal line between Lienz and Obersielach (AT)
3.4	Interconnection between Wurlach (AT) and Somplago (IT)
3.7	Cluster Bulgaria — Greece between Maritsa East 1 and N. Santa and the necessary internal reinforcements in Bulgaria, including the following PCIs: 3.7.1 Interconnection between Maritsa East 1 (BG) and N. Santa (EL) 3.7.2 Internal line between Maritsa East 1 and Plovdiv (BG) 3.7.3 Internal line between Maritsa East 1 and Maritsa East 3 (BG) 3.7.4 Internal line between Maritsa East 1 and Burgas (BG)

No	Definition
3.8	Cluster Bulgaria — Romania capacity increase [currently known as ‘Black Sea Corridor’], including the following PCIs: 3.8.1 Internal line between Dobrudja and Burgas (BG) 3.8.4 Internal line between Cernavoda and Stalpu (RO) 3.8.5 Internal line between Gutinas and Smardan (RO)
3.9	3.9.1 Interconnection between Žerjavenec (HR)/Hévíz (HU) and Cirkovce (SI)
3.10	Cluster Israel — Cyprus — Greece [currently known as ‘EUROASIA Interconnector’], including the following PCIs: 3.10.1 Interconnection between Hadera (IL) and Kofinou (CY) 3.10.2 Interconnection between Kofinou (CY) and Korakia, Crete (EL) 3.10.3 Internal line between Korakia, Crete and Attica region (EL)
3.11	Cluster of internal lines in Czech Republic, including the following PCIs: 3.11.1 Internal line between Vernerov and Vitkov (CZ) 3.11.2 Internal line between Vitkov and Prestice (CZ) 3.11.3 Internal line between Prestice and Kocin (CZ) 3.11.4 Internal line between Kocin and Mirovka (CZ) 3.11.5 Internal line between Mirovka and line V413 (CZ)
3.12	Internal line in Germany between Wolmirstedt and Bavaria to increase internal North-South transmission capacity
3.14	Internal reinforcements in Poland [part of the cluster currently known as ‘GerPol Power Bridge’], including the following PCIs: 3.14.2 Internal line between Krajnik and Baczyna (PL) 3.14.3 Internal line between Mikułowa and Świebodzice (PL) 3.14.4 Internal line between Baczyna and Plewiska (PL)
3.16	3.16.1 Interconnection Hungary – Slovakia between Gabčíkovo (SK) and Gönyű (HU) and Veľký Ďur (SK)
3.17	Interconnection Hungary – Slovakia between Sajóvátka (HU) and Rimavská Sobota (SK)
3.21	Interconnection between Salgareda (IT) and Divača — Bericevo region (SI)
3.22	Cluster Romania — Serbia [currently known as ‘Mid Continental East Corridor’] and Italy – Montenegro, including the following PCIs: 3.22.1 Interconnection between Resita (RO) and Pancevo (RS) 3.22.2 Internal line between Portile de Fier and Resita (RO) 3.22.3 Internal line between Resita and Timisoara/Sacalaz (RO) 3.22.4 Internal line between Arad and Timisoara/Sacalaz (RO) 3.22.5 Interconnection between Villanova (IT) and Lastva (ME)
3.23	Hydro-pumped electricity storage in Yadenitsa (BG)
3.24	Hydro-pumped electricity storage in Amfilochia (EL)
3.27	Interconnection between Sicily (IT) and Tunisia node (TU) [currently known as ‘ELMED’]

(4) **Priority Corridor Baltic Energy Market Interconnection Plan ('BEMIP Electricity')**

No	Definition
4.1	Denmark — Germany interconnection between Ishøj/Bjæverskov (DK) and Bentwisch (DE) via offshore windparks Kriegers Flak (DK) and Baltic 1 and 2 (DE) [currently known as 'Kriegers Flak Combined Grid Solution']
4.2	Cluster Estonia — Latvia between Kilingi-Nõmme and Riga [currently known as 'Third interconnection'], including the following PCIs: 4.2.1 Interconnection between Kilingi-Nõmme (EE) and Riga CHP2 substation (LV) 4.2.2 Internal line between Harku and Sindi (EE) 4.2.3 Internal line between Riga CHP 2 and Riga HPP (LV)
4.4	4.4.1 Internal line between Ventspils, Tume and Imanta (LV) 4.4.2 Internal line between Ekhyddan and Nybro/Hemsjö (SE)
4.5	4.5.2 Internal line between Stanisławów and Ostrołęka (PL)
4.6	Hydro-pumped electricity storage in Estonia
4.7	Capacity increase of hydro-pumped electricity storage at Kruonis (LT)
4.8	Integration and synchronisation of the Baltic States' electricity system with the European networks, including the following PCIs: 4.8.1 Interconnection between Tartu (EE) and Valmiera (LV) 4.8.2 Internal line between Balti and Tartu (EE) 4.8.3 Interconnection between Tsirguliina (EE) and Valmiera (LV) 4.8.4 Internal line between Eesti and Tsirguliina (EE) 4.8.5 Internal line between substation in Lithuania and state border (LT) 4.8.7 Internal line between Paide and Sindi (EE) 4.8.8 Internal line between Vilnius and Neris (LT) 4.8.9 Further infrastructure aspects of the synchronisation of the Baltic States' electricity system with the European networks
4.10	Cluster Finland – Sweden [currently known as 'Third interconnection Finland – Sweden'], including the following PCIs: 4.10.1 Interconnection between northern Finland and northern Sweden 4.10.2 Internal line between Keminmaa and Pyhänselkä (FI)

(5) **Priority Corridor North-South Gas Interconnections in Western Europe ('NSI West Gas')**

No	Definition
5.1	5.1.1 Physical reverse flow at Moffat interconnection point (IE/UK) 5.1.2 Upgrade of the SNIP (Scotland to Northern Ireland) pipeline to accommodate physical reverse flow between Ballylumford and Twynholm 5.1.3 Development of the Islandmagee Underground Gas Storage (UGS) facility at Larne (Northern Ireland)
5.3	Shannon LNG Terminal and connecting pipeline (IE)

No	Definition
5.4	5.4.1 Interconnection ES-PT (3rd interconnection) – 1st phase 5.4.2 Interconnection ES-PT (3rd interconnection) – 2nd phase
5.5	5.5.1 South Transit East Pyrenees [currently known as ‘STEP’] 5.5.2 Eastern Gas Axis Spain — France — interconnection point between Iberian Peninsula and France, including the compressor stations at St-Avit, Palteau and St. Martin de Crau [currently known as ‘Midcat’]
5.10	Reverse flow interconnection on TENP pipeline in Germany
5.11	Reverse flow interconnection between Italy and Switzerland at Passo Gries interconnection point
5.19	Connection of Malta to the European gas network — pipeline interconnection with Italy at Gela
5.21	Adaptation low to high calorific gas in France and Belgium

(6) **Priority Corridor North-South Gas Interconnections in Central Eastern and South Eastern Europe (‘NSI East Gas’)**

No	Definition
6.2	Interconnection between Poland, Slovakia, Czech Republic and Hungary with the related internal reinforcements, including one or more of the following PCIs groups: 6.2.1 Poland — Slovakia interconnection 6.2.2 North – South Gas Corridor in Eastern Poland and 6.2.10 Poland – Czech Republic interconnection [currently known as ‘Stork II’] 6.2.11 North – South Gas Corridor in Western Poland 6.2.12 Tvrdonice-Libhošť pipeline, including upgrade of CS Břeclav (CZ), and the following PCIs: 6.2.13 Increase of the transmission capacity at the Slovakia – Hungary interconnection 6.2.14 Enhancement of the Hungarian transmission system between Vecsés and Városlőd required for the increased capacity at the Slovakia-Hungary interconnection
6.4	PCI Bidirectional Austrian — Czech interconnection (BACI) between Baumgarten (AT) – Reinthal (CZ/AT) — Břeclav (CZ), with capacity up to 6,57 bcm/a <sup>(1)</sup>
6.5	Cluster Krk LNG terminal with connecting and evacuation pipelines towards Hungary and beyond, including the following PCIs: 6.5.1 Development of a LNG terminal in Krk (HR) up to 2,6 bcm/a – Phase I and connecting pipeline Omišalj – Zlobin (HR) 6.5.5 ‘Compressor station 1’ at the Croatian gas transmission system 6.5.6 Expansion of LNG terminal in Krk (HR) above 2,6 bcm/a – Phase II and evacuation pipelines Zlobin – Bosiljevo – Sisak – Kozarac – Slobodnica (HR)
6.8	Cluster Interconnection Greece – Bulgaria, and necessary reinforcements in Bulgaria, including the following PCIs: 6.8.1 Interconnection Greece — Bulgaria [currently known as ‘IGB’] between Komotini (EL) and Stara Zagora (BG) and compressor station at Kipi (EL) 6.8.2 Rehabilitation, modernization and expansion of the Bulgarian transmission system



No	Definition
6.9	6.9.1 LNG terminal in northern Greece
6.10	PCI Gas interconnection Bulgaria — Serbia [currently known as 'IBS']
6.20	<p>Cluster increase storage capacity in South-Eastern Europe, including one or more of the following PCIs:</p> <p>6.20.2 Chiren UGS expansion (BG)</p> <p>6.20.3 South Kavala UGS facility and metering and regulating station (EL)</p> <p>and one of the following PCIs:</p> <p>6.20.4 Depomures storage in Romania</p> <p>6.20.6 Sarmasel underground gas storage in Romania</p>
6.23	Hungary – Slovenia interconnection (Nagykanizsa — Toronyiszentmiklós (HU) — Lendava (SI) — Kidričevo)
6.24	<p>Cluster phased capacity increase on the Bulgaria — Romania — Hungary — Austria bidirectional transmission corridor (currently known as 'ROHUAT/BRUA') to enable 1,75 bcm/a in the 1st phase, 4,4 bcm/a in the 2nd phase, and including new resources from the Black Sea in the 2nd and/or 3rd phase:</p> <p>6.24.1 ROHUAT/BRUA – 1st phase, including:</p> <ul style="list-style-type: none"> <li>— Romanian-Hungarian reverse flow: Hungarian section 1st stage compressor station at Csanádpalota</li> <li>— Development of the transmission capacity in Romania from Podișor to Recas, including, a new pipeline, metering station and three new compressor stations in Podisor, Bibesti and Jupa</li> <li>— GCA Mosonmagyaróvár compressor station (development on the Austrian side)</li> </ul> <p>6.24.4 ROHUAT/BRUA – 2nd phase, including:</p> <ul style="list-style-type: none"> <li>— Városföld-Ercsi– Győr pipeline (HU)</li> <li>— Ercsi-Százhalombatta pipeline (HU)</li> <li>— Városföld compressor station (HU)</li> <li>— Expansion of the transmission capacity in Romania from Recas to Horia towards Hungary up to 4,4 bcm/a and expansion of the compressor stations in Podisor, Bibesti and Jupa</li> <li>— Black Sea shore — Podișor (RO) pipeline for taking over the Black sea gas</li> <li>— Romanian-Hungarian reverse flow: Hungarian section 2nd stage compressor station at Csanádpalota or Algyő (HU)</li> </ul> <p>6.24.10 ROHUAT/BRUA – 3rd phase, including:</p> <ul style="list-style-type: none"> <li>— Enhancement of the Romanian transmission system between Onesti-Isaccea and reverse flow at Isaccea</li> <li>— Enhancement of the Romanian transmission system between Onesti – Nadlac</li> <li>— Extension of the Romanian transmission system for taking over gas from the Black Sea shore</li> </ul>
6.25	<p>Cluster infrastructure to bring new gas to the Central and South-Eastern European region with the aim of diversification, including the following PCIs, developed in a coordinated and efficient manner:</p> <p>6.25.1 Pipeline system from Bulgaria via Romania and Hungary to Slovakia [currently known as 'Eastring']</p> <p>6.25.4 Infrastructure to allow the development of the Bulgarian gas hub</p>
6.26	<p>6.26.1 Cluster Croatia — Slovenia — Austria at Rogatec, including:</p> <ul style="list-style-type: none"> <li>— Interconnection Croatia — Slovenia (Lučko — Zabok — Rogatec)</li> <li>— Compressor station Kidričevo, 2nd phase of upgrade (SI)</li> </ul>

No	Definition
	<ul style="list-style-type: none"> <li>— Compressor stations 2 and 3 at the Croatian gas transmission system</li> <li>— GCA 2015/08: Entry/Exit Murfeld (AT)</li> <li>— Upgrade of Murfeld/Ceršak interconnection (AT-SI)</li> <li>— Upgrade of Rogatec interconnection</li> </ul>

(<sup>1</sup>) Implementation of BACI as a PCI will depend on the outcome of the pilot project 'Trading Regional Upgrade'.

(7) **Priority Corridor Southern Gas Corridor ('SGC')**

No	Definition
7.1	<p>PCI Cluster of integrated, dedicated and scalable transport infrastructure and associated equipment for the transportation of a minimum of 10 bcm/a of new sources of gas from the Caspian Region, crossing Azerbaijan, Georgia and Turkey and reaching EU markets in Greece and Italy, and including the following PCIs:</p> <p>7.1.1 Gas pipeline to the EU from Turkmenistan and Azerbaijan, via Georgia and Turkey, [currently known as the combination of 'Trans-Caspian Gas Pipeline' (TCP), 'South-Caucasus Pipeline FutureExpansion' (SCPEX) and 'Trans Anatolia Natural Gas Pipeline' (TANAP)]</p> <p>7.1.3 Gas pipeline from Greece to Italy via Albania and the Adriatic Sea [currently known as 'Trans-Adriatic Pipeline' (TAP)], including metering and regulating station and compressor station at Nea Messimvria</p>
7.3	<p>PCI Cluster infrastructure to bring new gas from the East Mediterranean gas reserves, including:</p> <p>7.3.1 Pipeline from the East Mediterranean gas reserves to Greece mainland via Crete [currently known as 'EastMed Pipeline'], with metering and regulating station at Megalopoli and dependent on it the following PCIs:</p> <p>7.3.3 Offshore gas pipeline connecting Greece and Italy [currently known as 'Poseidon Pipeline']</p> <p>7.3.4 Reinforcement of the South-North internal transmission capacities in Italy [currently known as 'Adriatica Line']</p>
7.5	Development of gas infrastructure in Cyprus [currently known as 'Cyprus Gas2EU']

(8) **Priority Corridor Baltic Energy Market Interconnection Plan in Gas ('BEMIP Gas')**

No	Definition
8.1	8.1.1 Interconnection Estonia — Finland [currently known as 'Balticconnector']
8.2	<p>Cluster infrastructure upgrade in the Eastern Baltic Sea region, including the following PCIs:</p> <p>8.2.1 Enhancement of Latvia — Lithuania interconnection</p> <p>8.2.2 Enhancement of Estonia — Latvia interconnection</p> <p>8.2.4 Enhancement of Inčukalns Underground Gas Storage (LV)</p>
8.3	<p>Cluster infrastructure, including the following PCIs:</p> <p>8.3.1 Reinforcement of Nybro — Poland/Denmark Interconnection</p> <p>8.3.2 Poland–Denmark interconnection [currently known as 'Baltic Pipe']</p>
8.5	Poland-Lithuania interconnection [currently known as 'GIPL']
8.6	Gothenburg LNG terminal in Sweden
8.7	Capacity extension of Świnoujście LNG terminal in Poland

(9) **Priority Corridor Oil Supply Connections in Central Eastern Europe ('OSC')**

No	Definition
9.1	Adamowo — Brody pipeline: pipeline connecting the JSC Ukrtransnafta's handling site in Brody (Ukraine) and Adamowo Tank Farm (Poland)
9.2	Bratislava — Schwechat — Pipeline: pipeline linking Schwechat (Austria) and Bratislava (Slovak Republic)
9.4	Litvinov (Czech Republic) — Spargau (Germany) pipeline: the extension project of the Druzhba crude oil pipeline to the refinery TRM Spargau
9.5	Cluster Pomeranian pipeline (Poland), including the following PCIs: 9.5.1. Construction of oil terminal in Gdańsk (phase II) 9.5.2. Expansion of the Pomeranian pipeline: the second line of the pipeline
9.6	TAL Plus: capacity expansion of the TAL pipeline between Trieste (Italy) and Ingolstadt (Germany)

(10) **Priority Thematic Area Smart Grids Deployment**

No	Definition
10.3	SINCRO.GRID (Slovenia, Croatia) - An innovative integration of synergetic, mature technology-based solutions in order to increase the security of operations of the Slovenian and Croatian electricity systems simultaneously
10.4	ACON (Czech Republic, Slovakia) - The main goal of ACON (Again Connected Networks) is to foster the integration of the Czech and the Slovak electricity markets
10.5	ALPGRID (Austria, Italy) - An innovative integration of synergetic, mature, technology-based solutions in order to simultaneously increase the operational efficiency of the Italian and Austrian regional electricity systems
10.6	Smart Border Initiative (France, Germany) - The Smart Border Initiative will connect policies designed by France and Germany in order to support their cities and territories in their energy transition strategies and European market integration

(11) **Priority Thematic Area Electricity Highways**

List of PCIs with double labelling as electricity highways

No	Definition
Priority Corridor Northern Seas Offshore Grid ('NSOG')	
1.1	1.1.1 Interconnection between Gezelle (BE) and the vicinity of Richborough (UK)
1.3	Cluster Denmark — Germany, including the following PCIs: 1.3.1 Interconnection between Endrup (DK) and Niebüll (DE) 1.3.2 Internal line between Niebüll and Brunsbüttel (DE)

No	Definition
1.4	Cluster Denmark — Germany, including the following PCIs: 1.4.1 Interconnection between Kassø (DK) and Audorf (DE) 1.4.2 Internal line between Audorf and Hamburg/Nord (DE) 1.4.3 Internal line between Hamburg/Nord and Dollern (DE)
1.6	France — Ireland interconnection between La Martyre (FR) and Great Island or Knockraha (IE) [currently known as ‘Celtic Interconnector’]
1.7	Cluster France — United Kingdom interconnections, including one or more of the following PCIs: 1.7.1 Interconnection between Cotentin (FR) and the vicinity of Exeter (UK) [currently known as ‘FAB’] 1.7.2 Interconnection between Tourbe (FR) and Chilling (UK) [currently known as ‘IFA2’] 1.7.3 Interconnection between Coquelles (FR) and Folkestone (UK) [currently known as ‘ElecLink’] 1.7.4 Interconnection between Le Havre (FR) and Lovedean (UK) [currently known as ‘AQUIND’] 1.7.5 Interconnection between the vicinity of Dunkerque (FR) and the vicinity of Kingsnorth (UK) [currently known as ‘Gridlink’]
1.8	Cluster Germany — Norway [currently known as ‘NordLink’] 1.8.1 Interconnection between Wilster (DE) and Tonstad (NO) 1.8.2 Reinforcement of internal lines in southern Norway
1.10	Cluster United Kingdom – Norway interconnections, including one or more of the following PCIs: 1.10.1 Interconnection between Blythe (UK) and Kvilldal (NO) [currently known as ‘North Sea Link’] 1.10.2 Interconnection between Peterhead (UK) and Simadalen (NO) [currently known as ‘North-Connect’]
1.13	Interconnection between Iceland and United Kingdom [currently known as ‘Ice Link’]
1.14	Interconnection between Revsing (DK) and Bicker Fen (UK) [currently known as ‘Viking Link’]
1.15	Interconnection between the Antwerp area (BE) and the vicinity of Kemsley (UK)
1.16	Interconnection between Netherlands and United Kingdom

Priority Corridor North-South Electricity Interconnections in Western Europe (‘NSI West Electricity’)

2.2	2.2.1 First interconnection between Lixhe (BE) and Oberzier (DE) [currently known as ‘ALEGrO’] 2.2.4 Second interconnection between Belgium and Germany
2.4	Interconnection between Codrongianos (IT), Lucciana (Corsica, FR) and Suvereto (IT) [currently known as ‘SACOI 3’]
2.5	2.5.1 Interconnection between Grande Ile (FR) and Piosasco (IT) [currently known as ‘Savoie- Piemont’]
2.7	Interconnection between Aquitaine (FR) and the Basque country (ES) [currently known as ‘Biscay Gulf’]
2.9	Internal line between Osterath and Philippsburg (DE) to increase capacity at western borders [currently known as ‘Ultranet’]

No	Definition
2.10	Internal line between Brunsbüttel-Großgartach and Wilster-Grafenrheinfeld (DE) to increase capacity at northern and southern borders [currently known as 'Suedlink']
2.13	Cluster Ireland — United Kingdom interconnections, including the following PCIs: 2.13.1 Interconnection between Woodland (IE) and Turleenan (UK) 2.13.2 Interconnection between Srananagh (IE) and Turleenan (UK)
Priority Corridor North-South Electricity Interconnections in Central Eastern and South Europe ('NSI East Electricity')	
3.10	Cluster Israel — Cyprus — Greece [currently known as 'EUROASIA Interconnector'], including the following PCIs: 3.10.1 Interconnection between Hadera (IL) and Kofinou (CY) 3.10.2 Interconnection between Kofinou (CY) and Korakia, Crete (EL) 3.10.3 Internal line between Korakia, Crete and Attica region (EL)
3.12	Internal line in Germany between Wolmirstedt and Bavaria to increase internal North-South transmission capacity
3.27	Interconnection between Sicily (IT) and Tunisia node (TU) [currently known as 'ELMED']
Priority Corridor Baltic Energy Market Interconnection Plan ('BEMIP Electricity')	
4.1	Denmark — Germany interconnection between Tolstrup Gaarde (DK) and Bentwisch (DE) via offshore windparks Kriegers Flak (DK) and Baltic 1 and 2 (DE) [currently known as 'Kriegers Flak Combined Grid Solution']

(12) **Cross-border carbon dioxide network**

No	Definition
12.1	Teesside CO <sub>2</sub> hub (United Kingdom, in further phases Netherlands, Belgium, Germany)
12.2	CO <sub>2</sub> -Sapling Transport and Infrastructure Project (United Kingdom, in further phases Netherlands, Norway)
12.3	The Rotterdam Nucleus (Netherlands and United Kingdom)
12.4	CO <sub>2</sub> cross-border transport connections between emission sources in United Kingdom and Netherlands and a storage site in Norway

**C. LISTS OF THE 'PROJECTS NO LONGER CONSIDERED PCIS' AND OF THE 'PROJECTS THAT ARE NOW INTEGRAL PARTS OF OTHER PCIS'**(1) **Priority Corridor Northern Seas Offshore Grid ('NSOG')**

PCI numbers of the projects no longer considered PCIs
1.1.3
1.2
1.5

1.9.2
1.9.3
1.9.4
1.9.5
1.9.6
1.11.1
1.11.2
1.11.3
1.11.4

(2) **Priority Corridor North-South Electricity Interconnections in Western Europe ('NSI West Electricity')**

PCI numbers of the projects no longer considered PCIs
2.2.2
2.2.3
2.3.1
2.3.2
2.5.2
2.6
2.8
2.11.1
2.11.2
2.11.3
2.12
2.15.2
2.15.3
2.15.4
2.16.2
2.19
2.20
2.21
2.22
2.25.1
2.25.2
2.26

Projects that are now integral parts of other PCIs	
Original PCI number of the project	Number of a PCI in which the project is now integrated
2.1	3.1.4

(3) **Priority Corridor North-South Electricity Interconnections in Central Eastern and South Europe ('NSI East Electricity')**

PCI numbers of the projects no longer considered PCIs
3.1.3
3.2.1
3.2.3
3.3
3.5.1
3.5.2
3.6.1
3.6.2
3.8.2
3.8.3
3.8.6
3.9.2
3.9.3
3.9.4
3.13
3.14.1
3.15.1
3.15.2
3.16.2
3.16.3
3.18.1
3.18.2
3.19.2
3.19.3
3.20.1
3.20.2
3.25
3.26

Projects that are now integral parts of other PCIs	
Original PCI number of the project	Number of a PCI in which the project is now integrated
3.19.1	3.22.5

(4) **Priority Corridor Baltic Energy Market Interconnection Plan ('BEMIP Electricity')**

PCI numbers of the projects no longer considered PCIs	
4.5.1	
4.5.3	
4.5.4	
4.5.5	
4.8.6	
Projects that are now integral parts of other PCIs	
Original PCI number of the project	Number of a PCI in which the project is now integrated
4.3	4.8.9
4.9	4.8.9

(5) **Priority Corridor North-South Gas Interconnections in Western Europe ('NSI West Gas')**

PCI numbers of the projects no longer considered PCIs	
5.2	
5.6	
5.7.1	
5.7.2	
5.9	
5.12	
5.13	
5.14	
5.15.1	
5.15.2	
5.15.3	
5.15.4	
5.15.5	
5.16	
5.17.1	
5.17.2	
5.18	
5.20	



Projects that are now integral parts of other PCIs	
Original PCI number of the project	Number of a PCI in which the project is now integrated
5.8.1	5.5.2
5.8.2	5.5.2

(6) **Priority Corridor North-South Gas Interconnections in Central Eastern and South Eastern Europe ('NSI East Gas')**

PCI numbers of the projects no longer considered PCIs	
6.3	
6.5.3	
6.5.4	
6.7	
6.8.3	
6.9.2	
6.9.3	
6.11	
6.12	
6.16	
6.17	
6.19	
6.20.1	
6.20.5	
6.21	
6.22.1	
6.22.2	
6.25.2	

Projects that are now integral parts of other PCIs	
Original PCI number of the project	Number of a PCI in which the project is now integrated
6.1.1	6.2.10
6.1.2	6.2.11
6.1.3	6.2.11
6.1.4	6.2.11
6.1.5	6.2.11
6.1.6	6.2.11

Projects that are now integral parts of other PCIs	
Original PCI number of the project	Number of a PCI in which the project is now integrated
6.1.7	6.2.11
6.1.8	6.2.2
6.1.9	6.2.11
6.1.10	6.2.2
6.1.11	6.2.2
6.1.12	6.2.12
6.2.3	6.2.2
6.2.4	6.2.2
6.2.5	6.2.2
6.2.6	6.2.2
6.2.7	6.2.2
6.2.8	6.2.2
6.2.9	6.2.2
6.5.2	6.5.6
6.6	6.26.1
6.8.4	6.25.4
6.13.1	6.24.4
6.13.2	6.24.4
6.13.3	6.24.4
6.14	6.24.1
6.15.1	6.24.10
6.15.2	6.24.10
6.18	7.3.4
6.24.2	6.24.1
6.24.3	6.24.1
6.24.5	6.24.4
6.24.6	6.24.4
6.24.7	6.24.4
6.24.8	6.24.4
6.24.9	6.24.4
6.25.3	6.24.10
6.26.2	6.26.1

Projects that are now integral parts of other PCIs	
Original PCI number of the project	Number of a PCI in which the project is now integrated
6.26.3	6.26.1
6.26.4	6.26.1
6.26.5	6.26.1
6.26.6	6.26.1

(7) **Priority Corridor Southern Gas Corridor ('SGC')**

PCI numbers of the projects no longer considered PCIs	
7.1.2	
7.1.5	
7.1.7	
7.2.1	
7.2.2	
7.2.3	
7.4.1	
7.4.2	
Projects that are now integral parts of other PCIs	
Original PCI number of the project	Number of a PCI in which the project is now integrated
7.1.6	7.1.3
7.1.4	7.3.3
7.3.2	7.5

(8) **Priority Corridor Baltic Energy Market Interconnection Plan in Gas ('BEMIP Gas')**

PCI numbers of the projects no longer considered PCIs	
8.1.2.1	
8.1.2.2	
8.1.2.3	
8.1.2.4	
8.2.3	
8.4	
8.8	

**(9) Priority Corridor Oil Supply Connections in Central Eastern Europe ('OSC')**

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PCI numbers of the projects no longer considered PCIs

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9.3

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**(10) Priority Thematic Area Smart Grids Deployment**

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PCI numbers of the projects no longer considered PCIs

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10.1

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10.2

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**(11) Priority Thematic Area Electricity Highways**

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PCI numbers of the projects no longer considered PCIs

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1.5'

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**COMMISSION DELEGATED REGULATION (EU) 2018/541**  
**of 20 December 2017**  
**amending Delegated Regulation (EU) 2017/2358 and Delegated Regulation (EU) 2017/2359 as**  
**regards their dates of application**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution <sup>(1)</sup>, and in particular Article 25(2), Article 28(4), Article 29(4) and (5) and Article 30(6) thereof,

Whereas:

- (1) Directive (EU) 2016/97 harmonises national provisions on insurance and reinsurance distribution and empowers the Commission to adopt delegated acts to further specify criteria and practical details as regards conduct of business rules applicable to the distribution of the insurance-based investment products and as regards product oversight and governance requirements for insurance undertakings and insurance distributors. On 21 September 2017, the Commission adopted Delegated Regulation (EU) 2017/2358 <sup>(2)</sup> and Delegated Regulation (EU) 2017/2359 <sup>(3)</sup> on the basis of those empowerments.
- (2) In order to enable competent authorities and insurance professionals to better adapt to the requirements laid down in the two Delegated Regulations referred to in the first recital, the date of application of those Delegated Regulations should be aligned with the date from which Member States are to apply the measures necessary to comply with Directive (EU) 2016/97, as laid down in Article 42(1) of that Directive,

HAS ADOPTED THIS REGULATION:

*Article 1*

**Amendment to Delegated Regulation (EU) 2017/2358**

In Article 13 of Delegated Regulation (EU) 2017/2358, the second paragraph is replaced by the following:

‘It shall apply from the date from which Member States are to apply the measures referred to in the first subparagraph of Article 42(1) of Directive (EU) 2016/97.’.

*Article 2*

**Amendment to Delegated Regulation (EU) 2017/2359**

In Article 20 of Delegated Regulation (EU) 2017/2359, the second paragraph is replaced by the following:

‘It shall apply from the date from which Member States are to apply the measures referred to in the first subparagraph of Article 42(1) of Directive (EU) 2016/97.’.

<sup>(1)</sup> OJ L 26, 2.2.2016, p. 19.

<sup>(2)</sup> Commission Delegated Regulation (EU) 2017/2358 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors (OJ L 341, 20.12.2017, p. 1).

<sup>(3)</sup> Commission Delegated Regulation (EU) 2017/2359 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to information requirements and conduct of business rules applicable to the distribution of the insurance-based investment products (OJ L 341, 20.12.2017, p. 8).

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*Article 3***Entry into force**

This Regulation shall enter into force on the twentieth day following that 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, 20 December 2017.

*For the Commission*

*The President*

Jean-Claude JUNKER

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**COMMISSION DELEGATED REGULATION (EU) 2018/542****of 22 January 2018****correcting the Greek language version of Delegated Regulation (EU) 2017/86 establishing a discard plan for certain demersal fisheries in the Mediterranean Sea**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC <sup>(1)</sup>, and in particular Article 15(6) thereof,

Whereas:

- (1) The Greek language version of Commission Delegated Regulation (EU) 2017/86 <sup>(2)</sup> contains an error in Article 4(b)(i), (ii) and (iii), Article 4(c)(i) and (ii), Article 5(2) and in the tables of points 2 and 3 of the Annex as regards the translation of a fish species, thus affecting the scope of various provisions of that Regulation.
- (2) The Greek language version of Delegated Regulation (EU) 2017/86 should therefore be corrected accordingly. The other language versions are not affected,

HAS ADOPTED THIS REGULATION:

*Article 1*

*(does not concern the English language)*

*Article 2*

This Regulation shall enter into force on the day following that 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, 22 January 2018.

*For the Commission*

*The President*

Jean-Claude JUNCKER

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<sup>(1)</sup> OJ L 354, 28.12.2013, p. 22.

<sup>(2)</sup> Commission Delegated Regulation (EU) 2017/86 of 20 October 2016 establishing a discard plan for certain demersal fisheries in the Mediterranean Sea (OJ L 14, 18.1.2017, p. 4).





**COMMISSION DELEGATED REGULATION (EU) 2018/543****of 23 January 2018****correcting the Spanish language version of Commission Delegated Regulation (EU) No 812/2013 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to the energy labelling of water heaters, hot water storage tanks and packages of water heater and solar device****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU <sup>(1)</sup>, and in particular Article 16 thereof,

Whereas:

- (1) The Spanish language version of Commission Delegated Regulation (EU) No 812/2013 <sup>(2)</sup> contains two errors in table 1, in cell row B and C of column M of Annex II as regards a difference in the formula of the thresholds for the M-size water heaters.
- (2) The Spanish language version of Delegated Regulation (EU) No 812/2013 should therefore be corrected accordingly. The other language versions are not affected,

HAS ADOPTED THIS REGULATION:

*Article 1**(does not concern the English language)**Article 2*This Regulation shall enter into force on the twentieth day following that 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, 23 January 2018.

*For the Commission**The President*

Jean-Claude JUNCKER

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<sup>(1)</sup> OJ L 198, 28.7.2017, p. 1.

<sup>(2)</sup> Commission Delegated Regulation (EU) No 812/2013 of 18 February 2013 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to the energy labelling of water heaters, hot water storage tanks and packages of water heater and solar device (OJ L 239, 6.9.2013, p. 83).

**COMMISSION REGULATION (EU) 2018/544****of 27 March 2018****establishing a prohibition of fishing for blue marlin in the Atlantic Ocean by vessels flying the flag of Spain**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy <sup>(1)</sup>, and in particular Article 36(2) thereof,

Whereas:

- (1) Council Regulation (EU) 2018/120 <sup>(2)</sup> lays down quotas for 2018.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2018.
- (3) It is therefore necessary to prohibit fishing activities for that stock,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2018 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

*Article 3***Entry into force**

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

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 1.

<sup>(2)</sup> Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018, p. 1).

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

Done at Brussels, 27 March 2018.

*For the Commission,  
On behalf of the President,  
João AGUIAR MACHADO  
Director-General  
Directorate-General for Maritime Affairs and Fisheries*

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ANNEX

No	01/TQ120
Member State	Spain
Stock	BUM/ATLANT
Species	Blue marlin ( <i>Makaira nigricans</i> )
Zone	Atlantic Ocean
Closing date	1.1.2018

**COMMISSION IMPLEMENTING REGULATION (EU) 2018/545****of 4 April 2018****establishing practical arrangements for the railway vehicle authorisation and railway vehicle type authorisation process pursuant to Directive (EU) 2016/797 of the European Parliament and of the Council****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union <sup>(1)</sup>, and in particular Article 21(9) thereof,

Whereas:

- (1) The practical arrangements for the vehicle authorisation process referred to in Directive (EU) 2016/797 should reduce the complexity, length and cost of the vehicle authorisation process, provide uniform conditions for harmonising the vehicle type authorisation and/or vehicle authorisation for placing on the market in the Union and foster collaboration among all the parties involved in the vehicle authorisation process. In order to reduce length and cost of the vehicle authorisation process, the time frames should practically be kept as short as possible.
- (2) Taking into account the experience gained by national safety authorities ('NSAs') in the authorisation process and in the preparation of the cooperation agreements referred to in Article 21(14) of Directive (EU) 2016/797, early contact with the applicant in the form of coordination ('pre-engagement') is recognised as good practice to facilitate the development of the relationship between the parties involved in the vehicle authorisation process. Such pre-engagement should be offered before an application for a vehicle type authorisation and/or vehicle authorisation for placing on the market is submitted, with the aim of enabling the authorising entity and the concerned NSAs for the area of use to become familiar with the project. In order for the applicant to be aware of what to expect, that pre-engagement should clarify to the applicant the applicable rules, provide the applicant with the details of the vehicle authorisation process, including the process of decision-making, and verify that the applicant has received sufficient information. The applicant is responsible for ensuring that all the requirements are met when submitting its application for vehicle type authorisation and/or vehicle authorisation for placing on the market. In performing its duties, it is assisted by other entities such as conformity assessment bodies, suppliers and service providers.
- (3) With a view to providing economies of scale and reducing administrative burden, vehicle type authorisation should enable the applicant to produce a number of vehicles of the same design and facilitate their authorisation. The vehicle type identifies the design that will be applied to all vehicles corresponding to that type. Every new vehicle type should follow the process of authorisation and a new type should only be created if it is authorised.
- (4) The concepts of variant and version of a vehicle type should be introduced in order to provide the possibility of identifying options for configuration or changes during the life cycle of the vehicle within an existing type, the difference between variants and versions being that variants require an authorisation while versions do not.
- (5) In order to ensure that the vehicle type continues to meet the requirements over time and that any changes to the design that affects the basic design characteristics are reflected as new variants and/or versions of the vehicle type, the process of configuration management of the vehicle type, should be used. The entity responsible for the configuration management of the vehicle type is the applicant that received the vehicle type authorisation.
- (6) As far as vehicles are concerned, it is necessary to have a configuration management process limited to changes that are not managed through the configuration management process of an authorised vehicle type.
- (7) The European Union Agency for Railways (the 'Agency') should set up guidelines describing, and where necessary, explaining the requirements set out in this Regulation. The guidelines should be updated, published and made

<sup>(1)</sup> Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (recast) (OJ L 138, 26.5.2016, p. 44).

available to the public free of charge. With the aim of harmonising the approach to the exchange and recording of information through the one-stop shop referred to in Article 12 of Regulation (EU) 2016/796 of the European Parliament and of the Council <sup>(1)</sup>, the guidelines should also include model templates set up by the Agency in cooperation with the NSAs.

- (8) The Agency and the NSAs should implement internal arrangements or procedures to ensure that the requirements of the vehicle authorisation process are fulfilled.
- (9) Considering that return of experience is recognised as a good practise, the NSAs and the Agency should be encouraged to share any related relevant information. With a view to provide such service, the Agency should establish a protocol and procedures for the recording and exchange of information among the Agency and NSAs.
- (10) To avoid any duplication of assessment and to reduce the administrative burden and cost for the applicant, the Agency and the NSAs should take into account the cooperation agreements and multilateral agreements concluded pursuant to Article 21(14) and (15) of Directive (EU) 2016/797, where relevant.
- (11) The Agency and the NSAs should register all relevant information and the documented reasons for the decision in the one-stop shop, in order to justify the decisions at each stage of the vehicle authorisation process. If the Agency and the NSAs have their own information management systems for the purposes of the assessment, they should ensure that all relevant information is transferred to the one-stop shop for the same reasons. In order to facilitate the communication between the interested parties, the guidelines of the Agency and the NSAs should provide practical arrangements for those communications which are not relevant for the decision-making process and which therefore do not need to be submitted through the one-stop shop.
- (12) Where the intended area of use for the vehicle type is limited to a network or networks within one Member State, the authorisation is valid without extension of the area of use for vehicles travelling to stations in neighbouring Member States with similar network characteristics, when those stations are close to the border. In such a case, the applicant may submit their application for a vehicle type authorisation and/or vehicle authorisation for placing on the market to the Agency or the NSA. Where the Agency acts as the authorising entity it is to consult the relevant NSAs in accordance with Article 21(8) of Directive (EU) 2016/797 and take into account the relevant cross-border agreements.
- (13) Where the Agency acts as the authorising entity, the applicant should, without prejudice to the provisions of point 2.6 of Annex IV to Directive (EU) 2016/797, have the right to submit its application to the Agency in one of the official languages of the Union. During the course of the assessment, the NSAs should have the right to address documents pertaining to the assessment to the Agency in a language of its Member State, without any obligation to translate them.
- (14) The Agency and the NSAs should develop internal arrangements or procedures for managing the issuing of vehicle type authorisations and/or vehicle authorisations for placing on the market with a view to reducing the administrative burden and costs for the applicant. In that respect, the applicant should have the possibility to submit copies of documents in the application file. The original documents should be available for verification by the Agency and the NSAs following the issuing of the vehicle type authorisation and/or vehicle authorisation for placing on the market.
- (15) It is necessary to harmonise the categorisation of issues in the assessment process to ensure that the applicant understands the severity of any issues raised by the Agency or by a NSA. That categorisation is particularly important when several NSAs are involved in the process. In order to facilitate the vehicle authorisation process and to reduce administrative burden in cases where there are no applicable national rules, the Agency's consultation with the concerned NSAs for the area of use should be limited to the check of the correct specification of the area use for the Member State concerned. In cases where the technical specifications for interoperability ('TSIs') contain specific provisions, the area of use should be able to cover the whole Union network and the checks performed by the Agency should be sufficient.
- (16) Vehicles and vehicle types are to remain authorised in accordance with Article 54(2) of Directive (EU) 2016/797 without prejudice to Article 21(12) and 24(3) of that Directive. In the case of renewal or upgrading of those vehicles, the provisions of this Regulation are to apply in accordance with Article 21(12) of Directive (EU) 2016/797.

<sup>(1)</sup> Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (OJ L 138, 26.5.2016, p. 1).

- (17) According to Article 54(4) of Directive (EU) 2016/797, the new vehicle authorisation regime is to start from 16 June 2019. However, Member States have the possibility to notify the Agency and the Commission pursuant to Article 57(2) of that Directive that they have extended the transposition period and may in consequence continue to issue vehicle type authorisation and/or vehicle authorisation for placing on the market in accordance with Directive 2008/57/EC of the European Parliament and of the Council <sup>(1)</sup> until 16 June 2020. Between 16 June 2019 and 15 June 2020, two different legal regimes where the authorising entities are different could coexist. It is therefore necessary to clarify how the new regime should apply in addition to the old one where the intended area of use includes one or more of those Member States.
- (18) Where a NSA recognises that it will not be able to issue a vehicle type authorisation/vehicle authorisation for placing in service in accordance with Directive 2008/57/EC before either 16 June 2019, or 16 June 2020 in respect of those Member States that have notified the Agency and the Commission in accordance with Article 57(2) of Directive (EU) 2016/797, the Agency, when acting as authorising entity, should accept the results of the assessment of the NSA in order to avoid any duplication of assessment and additional burden and any delay for the applicant.
- (19) In order to facilitate the placing on the market of the vehicles and to reduce administrative burdens, a vehicle type authorisation and/or vehicle authorisation for placing on the market issued by the Agency should be recognised as equivalent to vehicle type authorisation referred to Article 26 of Directive 2008/57/EC and vehicle authorisation for placing in service referred to in Articles 22 and 24 of Directive 2008/57/EC.
- (20) TSIs in accordance with Article 4(3)(f) of Directive (EU) 2016/797, as well as national rules, should foresee a gradual transition, in particular taking into account projects at an advanced stage of development as defined in Article 2(23) of Directive (EU) 2016/797.
- (21) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 21 of Council Directive 96/48/EC <sup>(2)</sup>,

HAS ADOPTED THIS REGULATION:

## CHAPTER 1

### GENERAL PROVISIONS

#### *Article 1*

#### **Subject matter and scope**

1. This Regulation lays down requirements to be complied with by:
  - (a) the applicant, when submitting, through the one-stop shop referred to in Article 12 of Regulation (EU) 2016/796 of the European Parliament and of the Council, an application for vehicle type authorisation and/or vehicle authorisation for placing on the market;
  - (b) the Agency and the NSAs, when processing an application for vehicle type authorisation and/or vehicle authorisation for placing on the market and in relation to pre-engagement;
  - (c) the authorising entity, when deciding on the issuing of vehicle type authorisations or vehicle authorisations for placing on the market.
  - (d) the infrastructure managers, when providing conditions for the carrying out of tests in their network(s) and providing information for the vehicle authorisation regarding the area of use.
2. This Regulation shall apply without prejudice to Article 21(16) and (17) of Directive (EU) 2016/797.

<sup>(1)</sup> Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (OJ L 191, 18.7.2008, p. 1).

<sup>(2)</sup> Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system (OJ L 235, 17.9.1996, p. 6).

*Article 2***Definitions**

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'authorising entity' means the entity that issues the vehicle type authorisation and/or vehicle authorisation for placing on the market;
- (2) 'basic design characteristics' means the parameters that are used to identify the vehicle type as specified in the issued vehicle type authorisation and recorded in the European Register of Authorised Vehicle Types ('ERATV').
- (3) 'configuration management' means a systematic organisational, technical and administrative process put in place throughout the lifecycle of a vehicle and/or vehicle type to ensure that the consistency of the documentation and the traceability of the changes are established and maintained so that:
  - (a) requirements from relevant Union law and national rules are met;
  - (b) changes are controlled and documented either in the technical files or in the file accompanying the issued authorisation;
  - (c) information and data is kept current and accurate;
  - (d) relevant parties are informed of changes, as required;
- (4) 'date of receipt of the application' means:
  - (a) where the Agency acts as the authorising entity, the first working day common to the Agency and to the NSAs concerned with the intended area of use following the acknowledgement of receipt of the application;
  - (b) where a NSA acts as the authorising entity, the first working day in the Member State concerned following the acknowledgement of receipt of the application;
- (5) 'entity managing the change' means the holder of the vehicle type authorisation, the keeper or the entity entrusted by them.
- (6) 'holder of the vehicle type authorisation' means the natural or legal person that has applied for and received the vehicle type authorisation, or its legal successor;
- (7) 'justified doubt' means an issue classified as 'type 4' according to Article 41(1)(d), with a justification and supporting evidence, raised by the authorising entity and/or the NSAs for the area of use concerning the information provided by the applicant in its application;
- (8) 'national safety authority for the area of use' or 'NSA for the area of use' means the national safety authority when it performs one or more of the following tasks:
  - (a) the assessments specified in Article 21(5)(b) of Directive (EU) 2016/797;
  - (b) the consultations requested in Article 21(8) of Directive (EU) 2016/797;
  - (c) issues the temporary authorisations, when required, for using the vehicle for tests on the network and takes measures to ensure that the tests on the network can take place as specified in Article 21(3) of Directive (EU) 2016/797;
- (9) 'pre-engagement' means a procedural stage preceding the submission of an application for authorisation performed upon request of the applicant;
- (10) 'pre-engagement baseline' means the opinion of the authorising entity and of the concerned NSAs for the area of use on the pre-engagement file;
- (11) 'requirements capture' means the process of identification, assignment, implementation and validation of requirements performed by the applicant in order to ensure that relevant Union and national requirements are complied with. Requirements capture may be integrated in the product development processes;

- (12) 'safe integration' means the fulfilment of the essential requirement on safety as specified in Annex III of Directive (EU) 2016/797 when combining parts into its integral whole, such as a vehicle or a subsystem as well as between the vehicle and the network, with regards to the technical compatibility;
- (13) 'vehicle type variant' means an option for the configuration of a vehicle type that is established during a first authorisation of the vehicle type in accordance with Article 24(1) or changes within an existing vehicle type during its life cycle that require a new authorisation of the vehicle type in accordance with Articles 24(1) and 21(12) of Directive (EU) 2016/797;
- (14) 'vehicle type version' means an option for the configuration of a vehicle type or type variant or changes within an existing type or type variant during its life cycle, created to reflect changes to the basic design characteristics that do not require a new authorisation of the vehicle type in accordance with Articles 24(1) and 21(12) of Directive (EU) 2016/797;
- (15) 'vehicle authorisation for placing on the market' means the decision issued by the authorising entity based on a reasonable assurance that the applicant and the entities involved in the design, manufacture, verification and validation of the vehicle have fulfilled their respective obligations and responsibilities in order to ensure conformity with essential requirements of the applicable legislation or to ensure conformity with the authorised type enabling that the vehicle may be placed on the market and may be used safely in the area of use according to the conditions for use and other restrictions, when applicable, specified in the vehicle authorisation and in the vehicle type authorisation;
- (16) 'vehicle type authorisation' means the decision issued by the authorising entity based on reasonable assurance that the applicant and the entities involved in the design, manufacture, verification and validation of the vehicle type have fulfilled their obligations and responsibilities in order to ensure conformity with the essential requirements of the applicable legislation enabling that a vehicle manufactured according to this design may be placed on the market and may be used safely in the area of use of the vehicle type according to the conditions for use of the vehicle and other restrictions, when applicable, specified in the vehicle type authorisation and to be applied to all vehicle authorised in conformity to this type;
- (17) 'relevant date' means 16 June 2019, except as regards those Member States that have notified the Agency and the Commission in accordance with Article 57(2) of Directive (EU) 2016/797 that they have extended the transposition period of that Directive, in which case the relevant date is 16 June 2020.

### *Article 3*

#### **Responsibilities of the applicant**

The applicant shall submit its application for vehicle type authorisation and/or vehicle authorisation for placing on the market in accordance with the provisions of this Regulation.

It is the responsibility of the applicant to ensure that the relevant requirements from applicable legislation are identified and met when submitting its application for vehicle type authorisation and/or vehicle authorisation for placing on the market.

### *Article 4*

#### **Responsibilities of the authorising entity**

1. The authorising entity shall issue vehicle type authorisations and/or vehicle authorisations for placing on the market ('the authorisations') in accordance with Articles 21, 24 and 25 of Directive (EU) 2016/797 and with the provisions of this Regulation.
2. For the purposes of issuing or refusing an authorisation, the authorising entity shall:
  - (a) Coordinate the assignment of the tasks to the relevant parties and the setting up of coordination arrangements between them;
  - (b) Undertake an assessment of the application file to reach the reasonable assurance that the vehicle type and/or vehicle conforms to the applicable laws;
  - (c) Compile any supporting documentation, the results of all relevant assessments and the documented reasons for its decision to issue or refuse the authorisation, in accordance with this Regulation.



3. In case the Agency is the authorising entity, it shall coordinate the activities of the NSAs for the area of use related to vehicle type authorisation and/or vehicle authorisation for placing on the market.
4. The authorising entity shall provide pre-engagement at the request of the applicant.
5. The authorising entity shall carry out its tasks in an open, non-discriminatory, transparent way and shall exercise professional judgment, be impartial and proportionate, and provide documented reasons for any decision.
6. The authorising entity shall establish internal arrangements or procedures for managing the issuing of a vehicle type authorisation and/or a vehicle authorisation for placing on the market. Those arrangements or procedures shall take into account the agreements referred to in Article 21(14) of Directive (EU) 2016/797 and where relevant, multilateral agreements as referred to in Article 21(15) of Directive (EU) 2016/797.
7. Where the applicant indicates under Article 5(2) that the validity of the type authorisation has been affected the authorising entity shall update the ERATV accordingly.
8. Where the applicant indicates in its application that the intended area of use of the vehicle(s) or the vehicle type includes stations in neighbouring Member States with similar network characteristics, when those stations are close to the border, the authorising entity shall:
  - (a) receive confirmation from the NSAs of the neighbouring Member States that the relevant notified national rules and the obligations pertaining to the relevant cross-border agreements are met, before issuing the vehicle type authorisation and/or vehicle authorisation; and
  - (b) specify in the issued authorisation that the vehicle type authorisation and/or vehicle authorisation is also valid to such stations without an extension of the area of use.

#### *Article 5*

### **Responsibilities of the holder of the vehicle type authorisation**

1. The holder of the vehicle type authorisation shall be responsible for the configuration management of the vehicle type and the accompanying file for the decision issued in accordance with Article 46.
2. Without prejudice of Articles 53 and 54, the holder of the vehicle type authorisation, as part of the configuration management of the vehicle type, shall inform the authorising entity that issued the vehicle type authorisation about any changes in Union law that affect the validity of the type authorisation.

#### *Article 6*

### **Responsibilities of the infrastructure manager**

1. In the area of use, the infrastructure manager's responsibilities in the framework of vehicle type authorisation and/or vehicle authorisation for placing on the market, based on the information provided by the applicant according to Article 18, shall be limited to the identification and provision of the following:
  - (a) operational conditions to be applied for the use of the vehicle for tests on the network;
  - (b) necessary measures to be taken on the infrastructure side to ensure safe and reliable operation during the tests on the network;
  - (c) necessary measures in the infrastructure installations to perform the tests on the network.
2. The concerned infrastructure managers for the area of use shall:
  - (a) support the applicant for the conditions to use the vehicle for tests on the network;
  - (b) provide information on the infrastructure in a non-discriminatory way for using the vehicle for tests on the network;
  - (c) identify and provide conditions and measures to use the vehicle for tests on the network within the given time frame specified in Article 21(3) and 21(5) of Directive (EU) 2016/797 based on the information provided by the applicant;
  - (d) by agreement with the applicant, participate in the pre-engagement.

*Article 7***Responsibilities of the NSAs for the area of use**

1. For the purposes of issuing a vehicle type authorisation and/or a vehicle authorisation for placing on the market, the NSAs for the area of use shall be responsible
  - (a) for their part of the assessment in accordance with Article 40;
  - (b) for issuing an assessment file to the authorising entity pursuant to Article 40(6).
2. In undertaking its responsibilities, the NSAs for the area of use shall carry out its tasks in an open, non-discriminatory, transparent way and shall exercise professional judgment, be impartial, proportionate, and provide documented reasons for conclusions reached.
3. The concerned NSAs for the area of use shall provide pre-engagement at the request of the applicant.
4. The NSAs for the area of use shall share with the Agency and all other NSAs all information resulting from return of experience related to technical and operational matters that may be relevant for the issuing of a vehicle type authorisation and/or vehicle authorisation for placing on the market such as:
  - (a) information received pursuant to Article 4(5)(b) of Directive (EU) 2016/798;
  - (b) non-compliance with essential requirements that may lead to amendment or revocation of an authorisation in accordance with Article 26 of Directive (EU) 2016/797;
  - (c) deficiencies in a TSI in accordance with Article 6 of Directive (EU) 2016/797.
5. The NSAs for the area of use shall establish internal arrangements or procedures for managing the issuing of a vehicle type authorisation and/or a vehicle authorisation for placing on the market. Those arrangements or procedures shall take into account the agreements referred to in Article 21(14) of Directive (EU) 2016/797 and where relevant, multilateral agreements as referred to in Article 21(15) of Directive (EU) 2016/797.
6. The NSAs for the area of use shall set up, publish and keep up to date guidelines describing their language policy, communication provisions and the process for temporary authorisation when required according to the national legal framework and make them available to the public free of charge.

*Article 8***Responsibilities of the Agency**

1. The Agency shall set up, publish and keep up to date guidelines describing and explaining the requirements set out in this Regulation, and make them available to the public free of charge, in all the official languages of the Union. The guidelines shall also include model templates that may be used by the authorising entity and the NSAs for the area of use for the exchange and recording of information and model templates for the application that may be used by the applicant.
2. The Agency shall establish a protocol and procedures for the recording and exchange of information referred to in Article 7(4). Other affected or concerned parties may have access to relevant information, provided that the confidentiality of information is safeguarded.

*Article 9***Use of an authorised vehicle**

After performing the checks referred to in Article 23 of Directive (EU) 2016/797, a railway undertaking or an infrastructure manager may use a vehicle in the area of use, according to the conditions for use of the vehicle and other restrictions specified in the vehicle type authorisation and/or the authorisation for placing on the market.

*Article 10***Language**

1. Where the vehicle type authorisation and/or vehicle authorisation for placing on the market is to be issued in accordance with the provisions of Article 21(5) to (7) of Directive (EU) 2016/797, the applicant shall:

- (a) submit the application and the file accompanying the application in one of the official languages of the Union;
- (b) translate parts of the file accompanying the application upon request, in accordance with point 2.6 of Annex IV to Directive (EU) 2016/797. In this case, the language to be used is determined by the NSA and indicated in the guidelines referred to in Article 7(6).

2. Any decision concerning the issuing of the vehicle type authorisation and/or vehicle authorisation for placing on the market taken by the Agency, including the documented reasons for the decision and where applicable, the issued vehicle type authorisation and/or vehicle authorisation for placing on the market shall be provided in the language referred to in point (a) of paragraph 1.

*Article 11***Vehicle authorisation process for tram-trains in the Single European Railway Area**

1. For the purpose of a tram-train vehicle type authorisation and/or a tram-train vehicle authorisation for placing on the market intended to be operated in the Union rail system, without prejudice to Article 1 of Directive (EU) 2016/797, and when no technical specification for interoperability ('TSI') applies to the concerned tram-train vehicle or tram-train vehicle type as described by the Article 1(5)(b) of Directive (EU) 2016/797, Member States may use a procedure provided for in its national legal framework regarding the tram-train vehicle type authorisation and/or tram-train vehicle authorisation for placing on the market. In such a case, the applicant shall refer to the national framework of the Member State concerned regarding the procedure to follow for the tram-train vehicle type authorisation and/or tram-train vehicle authorisation for placing on the market.

2. In case of a tram-train vehicle type authorisation and/or a tram-train vehicle authorisation for placing on the market intended to be operated in the Union rail system for cross-border operation, and when no TSI applies to the concerned tram-train vehicle type, the applicant shall apply to the authorising entities designated by the Member States involved, which shall cooperate with a view to issuing a tram-train vehicle type authorisation and/or a tram-train vehicle authorisation for placing on the market.

3. In other cases, a tram-train vehicle and tram-train vehicle type in the scope of Directive (EU) 2016/797 shall be authorised according to the procedure set out in this Regulation.

*Article 12***Cross-border agreements**

1. The NSAs shall make publicly available on their website the procedure to be followed regarding cross-border agreements for the authorisation to cover stations in the neighbouring Member States, pursuant to Article 21(8) of Directive (EU) 2016/797, in particular:

- (a) any existing cross-border agreements between NSAs that may have to be used;
- (b) the procedure to be followed where such cross-border arrangements do not exist.

2. For a cross-border agreement on the process to issue an authorisation to cover stations in the neighbouring Member States, pursuant to Article 21(8) of Directive (EU) 2016/797, the NSAs shall specify the procedure to be applied, and shall at least provide the following details:

- (a) the procedural stages;
- (b) the time frames;
- (c) the technical and geographical scope;

- (d) the roles and tasks of the parties involved; and
- (e) the practical arrangements for the consultation with the relevant parties.

## CHAPTER 2

### PREPARATION OF THE APPLICATION

#### *Article 13*

##### **Requirements capture**

1. In accordance with the overall objective of managing and mitigating identified risks to an acceptable level, the applicant shall, before submitting an application, undertake a requirements capture process which shall ensure that all the necessary requirements covering the design of the vehicle for its life cycle have been:

- (a) identified properly;
- (b) assigned to functions or subsystems or are addressed through conditions for use or other restrictions; and
- (c) implemented and validated.

2. The requirements capture performed by the applicant shall in particular cover the following requirements:

- (a) essential requirements for subsystems referred to in Article 3 and specified in Annex III to Directive (EU) 2016/797;
- (b) technical compatibility of the subsystems within the vehicle;
- (c) safe integration of the subsystems within the vehicle; and
- (d) technical compatibility of the vehicle with the network in the area of use.

3. The risk management process set out in Annex I to Commission Implementing Regulation (EU) No 402/2013 <sup>(1)</sup> shall be used by the applicant as the methodology for requirements capture as regards the essential requirements 'safety' related to the vehicle and subsystems as well as safe integration between subsystems for aspects not covered by the TSIs and the national rules.

#### *Article 14*

##### **Identification of the relevant authorisation**

1. The applicant shall identify and choose the relevant authorisation from the following cases:

- (a) first authorisation: the vehicle type authorisation and/or the vehicle authorisation for placing on the market issued by the authorising entity for a new vehicle type, including its variants and/or versions if any, and, where applicable, the first vehicle of a type, pursuant to Article 21(1) of Directive (EU) 2016/797;
- (b) renewed vehicle type authorisation: the renewal of a vehicle type authorisation pursuant to Article 24(3) of Directive (EU) 2016/797 which does not require a change in design of the vehicle type;
- (c) extended area of use: the vehicle type authorisation and/or the vehicle authorisation for placing on the market issued by the relevant authorising entity for an already authorised vehicle type and/or vehicle in order to extend the area of use without a change of the design, pursuant to Article 21(13) of Directive (EU) 2016/797;
- (d) new authorisation: the vehicle type authorisation and/or vehicle authorisation for placing on the market issued by the authorising entity after a change of an already authorised vehicle and/or vehicle type, pursuant to Articles 21(12) or 24(3) of Directive (EU) 2016/797;
- (e) authorisation in conformity to type: the vehicle authorisation for placing on the market for a vehicle or a series of vehicles that conform to an already authorised and valid vehicle type on the basis of a declaration of conformity to that type, pursuant to Article 25(1) of Directive (EU) 2016/797. Where applicable, there shall be a clear identification of the vehicle type version and/or the vehicle type variant to which the vehicle or series of vehicles is conform.

2. In cases of vehicle type authorisations pursuant to cases (c) and (d), the applicant, if he is the holder of the existing vehicle type authorisation, shall decide whether the authorisation will result in the creation of:

- (a) a new vehicle type; or

<sup>(1)</sup> Commission Implementing Regulation (EU) No 402/2013 of 30 April 2013 on the common safety method for risk evaluation and assessment and repealing Regulation (EC) No 352/2009 (OJ L 121, 3.5.2013, p. 8).

(b) a new vehicle type variant within the existing type on which it is based.

If the applicant is not the holder of the existing type the authorisation shall result in the creation of a new type in accordance with Article 15(4).

3. An applicant may combine:

- (a) a request for new authorisation with a request for an authorisation for an extended area of use; or
- (b) a request for a first authorisation with a request for authorisation in conformity to type.

The time frames set out in Article 34(1) and (2) shall apply to the combined application. Where appropriate, it may result in the issuing of several authorisation decisions by the authorising entity.

#### Article 15

##### Changes to an already authorised vehicle type

1. Any changes to an authorised vehicle type shall be analysed and categorised as only one of the following changes and shall be subject to an authorisation as provided below:

- (a) a change that does not introduce a deviation from the technical files accompanying the EC declarations for verification for the subsystems. In this case there is no need for verification by a conformity assessment body, and the initial EC declarations of verification for the subsystems and the vehicle type authorisation remain valid and unchanged;
- (b) a change that introduces a deviation from the technical files accompanying the EC declarations for verification for the subsystems which may require new checks and therefore require verification according to the applicable conformity assessment modules but which do not have any impact on the basic design characteristics of the vehicle type and do not require a new authorisation according to the criteria set out in Article 21(12) of Directive (EU) 2016/797;
- (c) a change in the basic design characteristics of the vehicle type that does not require a new authorisation according to the criteria set out in Article 21(12) of Directive (EU) 2016/797;
- (d) a change that requires a new authorisation according to the criteria set out in Article 21(12) of Directive (EU) 2016/797.

2. When a change falls under point (b) or (c) of paragraph 1, the technical files accompanying the EC declarations for verification for the subsystems shall be updated and the holder of the vehicle type authorisation shall keep available the relevant information upon request of the authorising entity and/or the NSAs for the area of use.

3. When a change falls under point (c) of paragraph 1 the holder of the vehicle type authorisation shall create a new vehicle type version or a new version of a vehicle type variant and provide the relevant information to the authorising entity. The authorising entity shall register in ERATV the new version of the vehicle type or the new version of the vehicle type variant in accordance with Article 50.

4. If the entity managing the change is not the holder of the vehicle type authorisation and the changes made to the existing vehicle type are categorised as (b), (c) or (d) of paragraph 1, the following shall apply:

- (a) a new vehicle type shall be created;
- (b) the entity managing the change shall become the applicant; and
- (c) the application for authorisation of the new vehicle type may be based on the existing vehicle type and the applicant may choose the authorisation case specified in Article 14(1)(d).

#### Article 16

##### Changes to an already authorised vehicle

1. Changes to an already authorised vehicle which are linked to substitution in the framework of maintenance and limited to replacement of components by other components fulfilling identical functions and performances in the framework of preventive or corrective maintenance of the vehicle do not require an authorisation for placing on the market.

2. Any other changes to a vehicle shall be analysed and categorised in accordance with Article 15(1).

3. The entity managing the change shall request a new authorisation for placing on the market in accordance with Article 14(1)(d) when a change falls under Article 15(1)(d).

4. If the entity managing changes categorised in accordance with Article 15(1)(b) and (c) to an already authorised vehicle is not the vehicle type authorisation holder it shall:

- (a) assess the deviations from the technical files accompanying the EC declarations for verification for the subsystems;
- (b) establish that none of the criteria set out in Article 21(12) of Directive (EU) 2016/797 are met;
- (c) update the technical files accompanying the EC declarations for verification for the subsystems;
- (d) notify the changes to the authorising entity.

This may apply to a vehicle or a number of identical vehicles.

The authorising entity may issue, within 4 months, a reasoned decision requesting an application for authorisation in case of a wrong categorisation or insufficiently substantiated information.

5. Every change to a vehicle shall be subject to configuration management under the responsibility of the keeper or of the entity entrusted by it.

#### *Article 17*

#### **Identification of the rules including non-application of TSIs**

1. Based on the choice of the authorisation case in accordance with Article 14 and the requirements capture set out in Article 13 the applicant shall identify all applicable rules, in particular the TSIs and national rules.

The applicant shall also consult and take into account the list of TSI deficiencies that is published on the Agency website.

In that case, the applicant shall identify the acceptable means of compliance issued by the Agency that is to be used in conjunction with the TSIs for the vehicle type authorisation and/or vehicle authorisation for the placing on the market process when establishing compliance with the TSIs.

2. The applicant shall identify any case which requires the non-application of TSIs and submit its application to the concerned Member States in accordance with the provisions of Article 7 of Directive (EU) 2016/797. When non-application of TSIs concerns vehicles with an area of use covering more than one Member State, the authorising entity and the concerned NSAs for the area of use of the vehicle have to coordinate with the applicant on the alternative measures to take in order to promote the final interoperability of the project.

3. When a new version of a TSI provides for transitional measures, the applicant may already select requirements from this new version of that TSI during the transitional period, if this new version explicitly allows it.

4. Where, pursuant to paragraph 3, requirements from a newer version of a TSI are selected the following shall apply:

- (a) the applicant may select the requirements to be applied from different versions of a TSI and shall:
  - (i) justify and document the consistency between the sets of requirements selected from different versions of a TSI to be applied;
  - (ii) specify the partial selection of requirements from different versions of a TSI in the application for authorisation as required by Annex I;
  - (iii) where there is a pre-engagement baseline and where relevant, the applicant shall request to the authorising entity an amendment or update of that pre-engagement baseline for the concerned TSI in accordance with the provisions in Article 24(4);

- (b) the authorising entity when assessing the application shall check the completeness of the TSI requirements proposed by the applicant;
  - (c) the applicant shall not be required to submit a request for non-application of the TSI pursuant to Article 7 of Directive (EU) 2016/797 for those requirements.
5. Where this is provided for by the Member State legislation, the applicant may select requirements from different national rules in the same way as laid down in paragraph 3 for TSIs.
6. The applicant and the notified body or bodies may use the acceptable means of compliance referred to in Article 6(3) of Directive (EU) 2016/797 in the context of an EC verification of conformity, pending the adoption of the concerned TSIs.
7. The applicant and the designated body or bodies may use the acceptable national means of compliance referred to in Article 13(2) of Directive (EU) 2016/797 in the context of demonstrating compliance with national rules.

#### *Article 18*

### **Identification and definition of the necessary measures to use the vehicle for tests on the network**

The applicant shall identify and define, on the basis of national rules for testing, the necessary measures to use the vehicle for tests on the network.

#### *Article 19*

### **Temporary authorisation to use the vehicle for tests on the network**

1. Temporary authorisation to use the vehicle for tests on the network may only be issued by the NSA when it is required and specified in the national legal framework of the Member State.
2. NSAs assessing applications for temporary authorisation to use the vehicle for tests on the network shall do so in accordance with the relevant national legal framework.

#### *Article 20*

### **Identification of the intended conditions for use of the vehicle and other restrictions**

The applicant shall identify the intended conditions for use of the vehicle and other restrictions linked to the vehicle type.

#### *Article 21*

### **Identification of the conformity assessments**

The applicant shall identify the necessary conformity assessments pursuant to the provisions of Annex IV of Directive (EU) 2016/797.

## **CHAPTER 3**

### **PRE-ENGAGEMENT**

#### *Article 22*

### **Pre-engagement**

1. Upon the applicant's request, the authorising entity and the concerned NSAs for the area of use shall handle pre-engagement applications to set the pre-engagement baseline before an application for a vehicle type authorisation and/or vehicle authorisation for placing on the market is submitted. The pre-engagement application shall be formally submitted by the applicant through the one-stop shop and be accompanied by a file containing at least the required information specified in Article 23.
2. The time frame from the issuing of the opinion referred to in Article 24(2) to the applicant's submission of the application for vehicle type authorisation and/or vehicle authorisation for placing on the market shall not exceed 84 months.

3. The selection of authorising entity made by the applicant for the pre-engagement shall be binding until, either:
  - (a) the concerned application for vehicle type authorisation and/or vehicle authorisation for placing in the market has been submitted by the applicant;
  - (b) the time frame from the issuing of the opinion referred to in Article 24(2) to the applicant's submission of the application for vehicle type authorisation and/or vehicle authorisation for placing on the market as specified in paragraph 2 has expired; or
  - (c) the applicant has requested to end the pre-engagement.
4. When during the pre-engagement, the applicant wishes to change the authorising entity it shall request the termination of the existing pre-engagement. The applicant may then send a new pre-engagement application to a new authorising entity.
5. The applicant may introduce an application for authorisation through the one-stop shop at any time during the pre-engagement process. In this case, the pre-engagement phase is terminated.
6. In case of pre-engagement, the points set out in Article 41 related to the identification and the categorisation of issues shall be used, in view of tracking issues raised with the applicant by the authorising entity and, when applicable, the concerned NSAs for the area of use.

#### Article 23

##### **Pre-engagement file**

The pre-engagement file accompanying the pre-engagement application shall contain the following:

- (a) a description of the vehicle type and/or vehicle to be authorised, including where applicable the intended variants and/or versions, and a description of the tasks and activities to develop it;
- (b) the applicant's choice of the authorising entity and of the authorisation case or cases pursuant to Article 14;
- (c) a specification of the intended area of use;
- (d) a specification of the anticipated conditions for use of the vehicle and other restrictions identified pursuant to Article 20;
- (e) the applicant's planning for its part of the vehicle authorisation process, including the planning that covers tests on the network, when applicable;
- (f) an identification of the methodology for the process for the requirements capture in accordance with Article 13;
- (g) the list of the rules and requirements identified by the applicant as those that are to be applied in accordance with Article 17 to Article 18;
- (h) a list of the identified conformity assessments pursuant to Article 21, including the modules to be applied and the use of Intermediate Statements of Verification ("ISV"), where applicable;
- (i) a description of the practical arrangements to use the vehicle for tests on the network, where applicable;
- (j) a list of the content of the documentation that the applicant anticipates to submit to the authorising entity and the concerned NSAs for the area of use for the vehicle type authorisation and/or vehicle authorisation for placing on the market;
- (k) a proposal concerning the language to be used for the vehicle authorisation process pursuant to Article 10;
- (l) a description of the applicant's organisation for its part of the vehicle authorisation process including but not limited to the applicant's contact information, contact persons information, requests for setting up coordination and meetings with the authorising entity and the concerned NSAs for the area of use.

#### Article 24

##### **Pre-engagement baseline**

1. Within one month from the date of receipt of the pre-engagement application the authorising entity and the concerned NSAs for the area of use shall inform the applicant that the pre-engagement file is complete or ask for the relevant supplementary information, setting a reasonable deadline for the provision thereof.



2. Where the applicant is informed that their file is complete, the authorising entity and the concerned NSAs for the area of use shall issue through the one-stop shop an opinion on the approach proposed by the applicant in the pre-engagement application no later than two months after the acknowledgement that the file is complete. That issued opinion establishes the pre-engagement baseline, including a determination of the version of the TSIs and national rules that are to be applied for the subsequent application for authorisation without prejudice to paragraph 4.

3. The pre-engagement baseline shall specify which language shall be used pursuant to Article 10.

4. In case of changes affecting the pre-engagement file which are relevant for the pre-engagement baseline, the applicant shall send an amended and updated pre-engagement application only considering the changes and the interfaces with the unchanged parts. This may occur in the following situations:

(a) changes to the design or to the assessment methodology resulting from major safety issues;

(b) changes in legal requirements invalidating the pre-engagement baseline; or

(c) any changes voluntarily introduced by the applicant.

5. The authorising entity and where applicable the concerned NSAs for the area of use shall within 1 month review and issue an opinion on the amended and updated pre-engagement application and record that opinion in an amended and updated pre-engagement baseline.

#### CHAPTER 4

#### CONFORMITY ASSESSMENT

##### *Article 25*

##### **Conformity assessment**

Each conformity assessment body shall be responsible for compiling the documents and producing all necessary reports related to its conformity assessments performed pursuant to Article 26.

##### *Article 26*

##### **Perform verifications and establish evidence**

1. The applicant shall, as applicable per authorisation case, perform the necessary checks in order to establish the evidence referred to in Annex I.

2. The authorising entity and the concerned NSAs for the area of use shall not prescribe the requirements for the evidence to be included in the technical files accompanying the EC declarations of verification of the subsystems, but where there is a justified doubt, they may request the applicant to carry out additional verifications.

##### *Article 27*

##### **Correction of non-conformities**

1. The correction of non-conformities with TSIs and/or national rules requirements shall be carried out by the applicant, unless a non-application of TSI in accordance with Article 7 of Directive (EU) 2016/797 has been granted. That may apply mutatis mutandis for national rules when allowed by the Member State's national legal framework.

2. In order to mitigate a situation of non-conformity the applicant may, alternatively, do one or more of the following:

(a) change the design; in which case the process shall begin anew from the requirements capture set out in Article 13, for the modified elements only and those elements affected by the change;

(b) establish conditions for use of the vehicle and other restrictions in accordance with Article 20; in which case the conditions for use of the vehicle and other restrictions shall be defined by the applicant and checked by the relevant conformity assessment body.

3. The applicant's proposal for conditions for use of the vehicle and other restrictions as pursuant to Article 20 to correct a non-conformity shall be based on the necessary conformity assessments pursuant to Article 25.

## CHAPTER 5

**SUBMITTING THE APPLICATION***Article 28***Establishment of evidence for the application**

The applicant for a vehicle type authorisation and/or a vehicle authorisation for placing on the market shall establish the evidence for the application by:

- (a) putting together the EC declarations of verification for the subsystems composing the vehicle and providing the evidence, in the technical file accompanying the EC declarations, of the conclusions of the conformity assessments done following the identification carried out pursuant to Article 21;
- (b) ensuring that interfaces between subsystems that are not defined in TSIs and/or national rules, are covered by the requirements capture referred to in Article 13 and meet the essential requirements set out in Article 3(1) of Directive (EU) 2016/797.

*Article 29***The compilation of the file accompanying the application**

1. The applicant shall prepare and compile in a structured way the content that is required for the file accompanying the application in accordance with Annex I.
2. For the authorisation referred to in Article 14(1)(b), (c), (d), and (e), the applicant shall check the validity of the existing vehicle type authorisation.
3. The applicant shall, for the authorisation referred to in Article 14(1)(c) and (d), submit the documentation necessary for the authorising entity to issue its decision, including where available any documentation accompanying the file for the previous authorisation.

*Article 30***Application content and completeness**

1. For the application to be considered complete by the authorising entity and when relevant by the concerned NSAs for the area of use it shall contain the information set out in Annex I.
2. For the authorisation extended area of use referred to in Article 14(1)(c), the following points shall apply:
  - (a) the documentation to be added to the original full accompanying file for the decision issued in accordance with Article 46 by the applicant shall be limited to aspects concerning the relevant national rules and the technical compatibility between the vehicle and the network for the extended area of use;
  - (b) when the original vehicle type authorisation included non-applications of TSIs, the applicant shall add the relevant decisions for non-application of TSIs in accordance with Article 7 of Directive (EU) 2016/797 covering the extended area of use to the original full accompanying file for the decision issued in accordance with Article 46;
  - (c) in case of vehicles and/or vehicle types authorised under Directive 2008/57/EC or before, the information to be added by the applicant to the original file for the aspects covered by point (a) shall also include the applicable national rules.

*Article 31***The submission of the application for authorisation through the one-stop shop**

1. The application for a vehicle type authorisation and/or a vehicle authorisation for placing on the market shall be formally submitted by the applicant through the single entry point of the one-stop shop referred to in Article 12 of Regulation (EU) 2016/796 and shall contain the information set out in Annex I.
2. When submitting its application for a vehicle type authorisation and/or a vehicle authorisation for placing on the market the applicant shall select the authorising entity in accordance with Article 21(5) and 21(8) of Directive (EU) 2016/797.

3. The selection of authorising entity made by the applicant shall be binding until the decision on the issuing of the vehicle type authorisation and/or the vehicle authorisation for placing on the market or the refusal of the application has been taken by the authorising entity or the application has been terminated by the applicant.
4. The applicant's file shall be referred through the one-stop shop to the concerned NSAs for the area of use.

#### CHAPTER 6

### PROCESSING THE APPLICATION

#### *Article 32*

#### **Application completeness check**

1. The authorising entity shall check the completeness of the information and documentation provided by the applicant in the application in accordance with Article 30.
2. The concerned NSAs for the area of use shall:
  - (a) check that the area of use is correctly specified for its part;
  - (b) raise any issues concerning the completeness of the information and documentation provided for the assessment of the applicable national rules as specified in Annex III.
3. The completeness check referred to in paragraph 1 and 2 shall constitute a verification by the authorising entity, and the concerned NSAs for the area of use that:
  - (a) all the required information and documents referred to in Article 30 have been provided by the applicant in the application for vehicle type authorisation and/or vehicle authorisation for placing on the market;
  - (b) the provided information and documentation provided is considered relevant to allow the authorising entity and the concerned NSAs for the area of use to perform their assessments in accordance with Article 38 to Article 40.

#### *Article 33*

#### **Acknowledgement of application**

1. The one-stop shop shall generate an automatic acknowledgment of the receipt of the application to the applicant.
2. The assessment of the application shall start on the date of receipt of the application.

#### *Article 34*

#### **Time frame for the assessment of the application**

1. The authorising entity and the concerned NSAs for the area of use shall evaluate, each for their own part, the completeness of the application as specified in Article 32 within one month following the date of receipt of the application. The authorising entity shall inform the applicant accordingly.
2. Where the applicant is informed that their file is complete, the final decision over the issuing of the vehicle type authorisation and/or vehicle authorisation for placing on the market shall be taken no later than four months after the acknowledgement that the file is complete.
3. The decision of the authorising entity shall be issued within one month following the date of receipt of the application in case of authorisation in conformity to type in accordance with Article 14(1)(e).
4. If the applicant is informed that its file is not complete, the final decision over the issuing of the vehicle type authorisation and/or vehicle authorisation for placing on the market shall be taken no later than four months following the submission of the missing information by the applicant, unless the application is fundamentally deficient, in which case it shall be rejected.
5. In the course of the assessment, even if the application is complete as referred to in paragraph 2, the authorising entity or the concerned NSAs for the area of use may, at any time, request supplementary information, setting a reasonable deadline for the provision thereof, without suspending the assessment unless the provisions of paragraph 6 apply.

6. When a justified doubt has been raised by the authorising entity or the concerned NSAs for the area of use and the applicant is required to provide supplementary information, the authorising entity may suspend the assessment and in duly recorded agreement with the applicant extend the time frame beyond what is set out in Article 21(4) of Directive (EU) 2016/797. The time frame for providing the supplementary information shall be proportionate to the difficulty for the applicant to provide the information requested. The assessment and the time frame shall resume after the applicant provides the requested information. In the absence of agreement with the applicant, the authorising entity or the concerned NSAs for the area of use shall take its decision based on the available information.

#### *Article 35*

##### **Communication during the assessment of the application**

1. The authorising entity, the concerned NSAs for the area of use and the applicant shall communicate through the one-stop shop as regards any issue referred to in Article 41.
2. The status of all stages of the vehicle authorisation process, the decision on the application and the documented reasons for that decision shall be communicated to the applicant through the one-stop shop.
3. The guidelines of the Agency and of the NSAs shall indicate arrangements for communicating between themselves and with the applicant.

#### *Article 36*

##### **Information management concerning the assessment of the application**

1. The authorising entity and the concerned NSAs for the area of use shall register in the one-stop shop the outcomes of the stages of the vehicle authorisation process in which they are involved, each for their respective part of the assessment as applicable, including all the documents relating to the application concerning the following:
  - (a) receipt;
  - (b) handling;
  - (c) assessment;
  - (d) conclusions of the assessment of the application as specified in Article 45;
  - (e) final decision to issue or not the vehicle type authorisation or the vehicle authorisation for placing on the market;
  - (f) final documentation for the vehicle type authorisation and/or the vehicle authorisation for placing on the market in accordance to Article 47.
2. The final decision to issue or not the vehicle type authorisation and/or vehicle authorisation for placing on the market shall be communicated to the applicant through the one-stop shop.
3. For the documents listed in paragraph 1, the authorising entity and the concerned NSAs for area of use shall use the document control process provided by the one-stop shop.
4. Where the NSAs use an information management system for processing the applications addressed to them, they shall transfer all relevant information to the one-stop shop.

#### *Article 37*

##### **Coordination between the authorising entity and the concerned NSAs for the area of use for the assessment of the application**

1. For the purpose of the assessment of the application, the concerned NSAs for the area of use shall plan, organise and agree on the necessary arrangements in order to take into account the classification of national rules and cross-acceptance referred to in Article 14(10) of Directive (EU) 2016/797. The agreed arrangements for the assessment of the application shall be communicated to the authorising entity and the applicant.

2. The authorising entity and the concerned NSAs for the area of use shall coordinate with each other in order to address any issues including any instances that may require an amendment of the application and/or request for supplementary information, where providing supplementary information has an impact on the time frame of the assessment or has the potential to have an impact on their work, and agree on the way forward.
3. When concluding the coordination activities referred to in paragraph 2, the authorising entity and the concerned NSAs for the area of use shall take each for their own part the decision to inform the applicant through the OSS of any instances that may require an amendment of the application and/or request for supplementary information.
4. Before the authorising entity takes its final decision and before the concerned NSAs for the area of use submit their assessment files, the authorising entity and relevant NSAs for the area of use shall:
  - (a) discuss the outcome of their respective assessment; and
  - (b) agree on conditions for use and other restrictions and/or exclusions of area of use to be included in the vehicle type authorisation and/or in the vehicle authorisation for placing on the market.
5. On the basis of outcome of the coordination activities referred to in paragraph 4 of this Article, the authorising entity shall provide to the applicant its documented reasons for the decision. In so doing it shall take into account the assessment files of the concerned NSAs for the area of use, referred to in Article 40(6), regarding the issuing or refusal of the vehicle type authorisation and/or vehicle authorisation for placing on the market, including any conditions for use of the vehicle and other restrictions and/or exclusions of area of use to be included in the vehicle type authorisation and/or vehicle authorisation for placing on the market.
6. Records of the coordination activities shall be taken by the authorising entity and maintained in the one-stop shop in accordance with Article 36.

#### *Article 38*

### **Assessment of the application**

The assessment of the application shall be carried out by the authorising entity and the concerned NSAs for the area of use to establish a reasonable assurance that the applicant and the actors supporting the applicant have fulfilled their obligations and responsibilities in the design, manufacture, verification and validation stages of the vehicle and/or vehicle type in order to ensure conformity with the essential requirements of the applicable legislation so that it may be placed on the market and may be used safely in the area of use of the vehicle type according to the conditions of use and other restrictions specified within the application.

#### *Article 39*

### **The assessment of the application by the authorising entity**

1. The authorising entity shall assess the aspects specified in Annex II.
2. Where a vehicle type authorisation and/or vehicle authorisation for placing on the market is to be issued for an area of use that is limited to the networks within one Member State and where the applicant has requested for the NSA to be the authorising entity in accordance with Article 21(8) of Directive (EU) 2016/797, the authorising entity shall, in addition to the assessments specified in paragraph 1, assess the aspects referred to in Annex III. In that case the authorising entity shall, in addition to those aspects listed in Annex III, also check whether there is any relevant information recorded pursuant to Article 8(2) and shall take it into account for the assessment of the application. Any issues raised shall be recorded in the issues log as specified in Article 41.
3. When a non-standardised methodology for the requirements capture has been used by the applicant, the authorising entity shall assess the methodology applying the criteria laid down in Annex II.
4. The authorising entity shall check the completeness, relevance and consistency of the evidence from the applied methodology for requirements capture irrespective of the method used. For a new authorisation as specified in Article 14(1)(d) the assessment performed by the authorising entity shall be limited to the parts of the vehicle that are changed and their impacts on the unchanged parts of the vehicle. The checks to be performed by the authorising entity for an 'extended area of use' authorisation as specified in Article 14(1)(c) shall be limited to the applicable national rules and to the technical compatibility between the vehicle and the network for the extended area of use. Checks already carried out at the previous authorisation shall not be repeated by the authorising entity.

5. An assessment file shall be issued by the authorising entity and shall contain the following:
  - (a) clear statement on whether the result of the assessment is negative or positive as per the applicant's request for the concerned area of use and, where appropriate, conditions for use or restrictions;
  - (b) summary of the assessments performed;
  - (c) report from the issues log for the concerned area of use;
  - (d) filled-in checklist giving evidence that all aspects specified in Annex II, and when applicable Annex III, have been assessed.

#### Article 40

##### **The assessment of the application by the concerned NSAs for the area of use**

1. The concerned NSAs for the area of use shall assess the aspects listed in Annex III. The assessments to be performed by the NSAs for the area of use shall only concern the relevant national rules for the area of use taking into account the agreed arrangements referred to in Article 37(1).
2. In the assessment of the requirements capture, the NSAs for the area of use shall check the completeness, relevance and consistency of the evidence produced by the applicant from the applied methodology for requirements capture.
3. For a new authorisation referred to in Article 14(1)(d), the assessment performed by the NSAs for the area of use shall be limited to the parts of the vehicle that are changed and their impacts on the unchanged parts of the vehicle.
4. The checks to be performed by the NSAs for the area of use for an extended area of use authorisation referred to in Article 14(1)(c) shall be limited to the applicable national rules and to the technical compatibility between the vehicle and the network for the extended area of use. Checks already carried out during the previous authorisation shall not be repeated by the NSAs for the area of use.
5. In accordance with Articles 6 and 14 of Directive (EU) 2016/797, the NSAs for the area of use shall, in addition to those aspects specified in Annex III, check if there is any relevant information recorded pursuant to Article 8(2) and shall take it into account for the assessment of the application. Any issues raised shall be recorded in the issues log as specified in Article 41.
6. An assessment file shall be issued by the NSAs for the area of use and shall contain the following:
  - (a) a clear statement on whether the result of the assessment is negative or positive as per the applicant's request for the concerned area of use and where appropriate conditions of use and restrictions;
  - (b) a summary of the assessments performed;
  - (c) a report based on the issues log for the concerned area of use;
  - (d) a filled-in checklist giving evidence that all aspects listed in Annex III have been assessed.

#### Article 41

##### **Categorisation of issues**

1. The authorising entity and, when applicable the concerned NSAs for the area of use, shall record issues identified during the course of their assessment of the application file in an issues log and categorise them as follows:
  - (a) 'type 1': issue that requires a response from the applicant for the understanding of the application file;
  - (b) 'type 2': issue that may lead to an amendment of the application file or minor action from the applicant; the action to be taken shall be left to the judgement of the applicant and shall not prevent the issuing of the vehicle type authorisation and/or the vehicle authorisation for placing on the market;

- (c) 'type 3': issue that requires an amendment to the application file by the applicant but does not prevent the issuing of the vehicle type authorisation and/or vehicle authorisation for placing on the market with additional and/or more restrictive conditions for use of the vehicle and other restrictions as compared to those specified by the applicant in its application, but the issue must be addressed in order to issue the vehicle type authorisation and/or vehicle authorisation for placing on the market; any action to be performed by the applicant to resolve the issue shall be proposed by the applicant and shall be agreed with the party that identified the issue;
- (d) 'type 4': issue that requires an amendment of the application file by the applicant; the vehicle type authorisation and/or vehicle authorisation for placing on the market shall not be delivered unless the issue is resolved; any action to be performed by the applicant to resolve the issue shall be proposed by the applicant and shall be agreed with the party that identified the issue. Type 4 issue shall include in particular non-compliance pursuant to Article 26(2) of Directive (EU) 2016/797.

2. Following the response or the action taken by applicant according to the issue, the authorising entity or the concerned NSAs for the area of use shall re-evaluate the issues it identified, re-classify where relevant and assign one of the following status for each of the issues identified:

- (a) 'issue pending' when the evidence provided by the applicant is not satisfactory and additional information is still required;
- (b) 'issue closed out' when a suitable response has been provided by the applicant and no residual matter of concern remains.

#### Article 42

#### **Justified doubt**

1. Where there is a justified doubt, the authorising entity and/or the concerned NSAs for the area of use may, alternatively, do one or more of the following:

- (a) perform a more thorough and detailed check of the information provided in the application;
- (b) request supplementary information from the applicant;
- (c) request that the applicant conducts tests on the network.

2. The request from the authorising entity and/or the concerned NSAs for the area of use shall specify the matter that requires action from the applicant but shall not specify the nature or content of the corrective actions to be performed by the applicant. The applicant shall decide on what is the most suitable way for it to answer to the request from the authorising entity and/or the concerned NSAs for the area of use in.

3. The authorising entity shall coordinate with the concerned NSAs for the area of use regarding the actions proposed by the applicant.

4. The authorising entity and the concerned NSAs for the area of use shall, without prejudice to the provisions of Article 35, use the issues log referred to in Article 41 to manage any justified doubts. A justified doubt shall always:

- (a) be classified as a type 4 issue pursuant to Article 41(1)(d);
- (b) be accompanied by a justification; and
- (c) include a clear description of the matter that needs to be answered by the applicant.

5. Where the applicant agrees to provide supplementary information, pursuant to points (b) and (c) of paragraph 1 at the request of the authorising entity and/or the concerned NSAs for the area of use, the time frame to provide that supplementary information shall be established in accordance with Article 34(5) and Article 34(6).

6. Where it is possible to remove a justified doubt by introducing additional and/or more restrictive conditions for use of the vehicle and other restrictions as compared to those specified by the applicant in its application and the applicant so agrees, a vehicle type authorisation and/or vehicle authorisation for placing on the market may be issued under such conditions for use of the vehicle and other restrictions.

7. Where the applicant does not agree to provide further information to remove the justified doubt raised by the authorising entity and/or the concerned NSAs for the area of use, the authorising entity shall take a decision on the basis of the available information.

*Article 43***The checks to be performed by the authorising entity concerning the assessments performed by the concerned NSAs for the area of use**

1. The authorising entity shall check whether the assessments from the NSAs for the area of use are consistent with each other as regards the results of the assessments referred to in Article 40(6)(a).
2. Where the result from the check referred to in paragraph 1 demonstrates that the assessments of the NSAs for the area of use are consistent, the authorising entity shall verify that:
  - (a) the checklists referred to in Article 40(6)(d) have been filled-in completely;
  - (b) all relevant issues have been closed.
3. Where the result from the check in paragraph 1 demonstrates that the assessments are not consistent, the authorising entity shall request the concerned NSAs for the area of use to further investigate the reasons. As a result of this investigation, alternatively, one or both of the following shall apply:
  - (a) the authorising entity may review its assessment as referred to in Article 39;
  - (b) the concerned NSAs for the area of use may review its assessment.
4. The outcomes of investigations of the NSAs for the area of use referred to in paragraph 3 shall be shared with all the NSAs for the area of use involved in the application for the vehicle type authorisation and/or the vehicle authorisation.
5. Where a checklist referred to in paragraph 2(a) is incomplete or where there are issues that have not been closed pursuant to paragraph 2(b), the authorising entity shall request the concerned NSAs for the area of use to further investigate the reasons.
6. The NSAs for the area of use shall provide replies to requests from the authorising entity with regard to inconsistencies in the assessments referred to in paragraph 3, incompleteness in the checklists referred to in paragraph 2(a) and/or issues that are not closed in accordance with paragraph 2(b). The authorising entity shall take full account of the assessments performed by the NSAs for the area of use concerning the applicable national rules. The extent of checks performed by the authorising entity shall be limited to the consistency of the assessments and the completeness of the assessments referred to in paragraphs 1 and 2.
7. In case of disagreement between the authorising entity and the concerned NSAs for the area of use, the arbitration procedure referred to in Article 21(7) of Directive (EU) 2016/797 shall be applied.

*Article 44***Arbitration under Article 21(7) of Directive (EU) 2016/797 and Article 12(4)(b) of Regulation (EU) 2016/796**

Where the Agency acts as the authorising entity, it may suspend the authorisation process, in consultation with the concerned NSAs for the area of use, during the cooperation needed to reach a mutually acceptable assessment and where applicable, until the Board of Appeal takes a decision, within the time frames set out in Article 21(7) of Directive (EU) 2016/797. The Agency shall give the applicant reasons for the suspension.

*Article 45***Conclusion of the assessment of the application**

1. The authorising entity shall ensure that the process for the assessment of the application has been carried out correctly by checking in an independent manner that:
  - (a) the different stages of the process for the assessment of the application have been correctly applied;
  - (b) there is sufficient evidence to show that all relevant aspects of the application have been assessed;
  - (c) written responses to type 3 and 4 issues and requests for supplementary information have been received from the applicant;



- (d) type 3 and 4 issues were all resolved or where not resolved, together with clearly documented reasons;
  - (e) the assessments and decisions taken are documented, fair and consistent;
  - (f) the conclusions reached are based on the assessment files and reflect the assessment as a whole.
2. Where it is concluded that the process for the assessment of the application has been correctly applied, a confirmation of the correct application of paragraph 1, accompanied by any comments, shall suffice.
  3. Where it is concluded that the process for the assessment of the application has not been correctly applied, then reasons for reaching that conclusion shall be clear and specific.
  4. In conclusion of the assessment activities, the authorising entity shall complete an assessment file covering paragraphs 2 or 3 on the basis of the assessment files issued in accordance with Article 39(5) and Article 40(6).
  5. The authorising entity shall provide documented reasons for its conclusion in the assessment file referred to in paragraph 4.

#### Article 46

##### **Decision for the authorisation or the refusal of the application**

1. The authorising entity shall take a decision to issue the vehicle type authorisation and/or vehicle authorisation for placing on the market or to refuse the application within one week following the completion of the assessment without prejudice to the provisions of Article 34. That decision shall be taken on the grounds of the documented reasons referred to in Article 45(5).
2. The vehicle type authorisation and/or vehicle authorisation for placing on the market shall be issued by the authorising entity where the assessment of the aspects listed in Annex II and where applicable Annex III support a reasonable assurance that the applicant and the actors supporting the applicant have fulfilled their responsibilities to the extent required, in accordance with Article 38.
3. Where, following the assessment of the aspects listed in Annex II and where applicable Annex III do not support a reasonable assurance that the applicant and the actors supporting the applicant have fulfilled their obligations and responsibilities to the extent required, in accordance with Article 38, the authorising entity shall refuse the application.
4. The authorising entity shall state the following in its decision:
  - (a) any conditions for use of the vehicle and other restrictions;
  - (b) the reasons for the decision;
  - (c) the possibility and means of appealing the decision and the relevant time limits.
5. The conditions for use of the vehicle and other restrictions shall be defined according to the basic design characteristics of the vehicle type.
6. The authorisation decision shall not contain any time limited conditions for use of the vehicle and other restrictions, unless the following conditions are fulfilled:
  - (a) it is required because the conformity to the TSIs and/or national rules cannot be completely proven before the issuing of the authorisation; and/or
  - (b) the TSIs and/or national rules require that the applicant produces a plausible estimate of compliance.

The authorisation may then include a condition that real use demonstrates performance in line with the estimate within a specified period of time.

7. The final decision to issue the vehicle type authorisation and/or vehicle authorisation for placing on the market or to refuse the application shall be recorded in the one-stop shop and communicated together with the assessment files through the one-stop shop to the applicant and the concerned NSAs for the area of use.

8. Where the decision either refuses the application or issues the vehicle type authorisation and/or vehicle authorisation for placing on the market subject to different conditions for use of the vehicle and other restrictions when compared to those specified by the applicant in its application, the applicant may request that the authorising entity reviews its decision in accordance with Article 51 of this Regulation. Where the applicant is not satisfied with the reply of the authorising entity, it may bring an appeal before the competent authority in accordance with Article 21(11) of Directive (EU) 2016/797.

## CHAPTER 7

### FINAL DOCUMENTATION

#### Article 47

#### **Final documentation for the vehicle type authorisation and/or vehicle authorisation for placing on the market**

1. A vehicle type authorisation and/or vehicle authorisation for placing on the market shall take the form of a document containing the information referred to in Article 48 and/or Article 49.
2. The issued vehicle type authorisation and/or vehicle authorisation for placing on the market shall be assigned a unique European identification number ('EIN') of which the structure and content are defined and administrated by the Agency.
3. Different conditions for use of the vehicle and other restrictions when compared to those specified by the applicant in its application may be included in the vehicle type authorisation and/or vehicle authorisation for placing on the market.
4. The authorising entity shall date and duly sign the vehicle type authorisation and/or vehicle authorisation for placing on the market.
5. The authorising entity shall ensure that the decision issued in accordance with Article 46 and the full accompanying file for that decision are archived pursuant to Article 52.

#### Article 48

#### **The information in the issued vehicle type authorisation**

The vehicle type authorisation issued by the authorising entity shall contain the following information:

- (a) the legal basis empowering the authorising entity to issue the vehicle type authorisation;
- (b) identification of:
  - (i) the authorising entity;
  - (ii) the application;
  - (iii) authorisation case as specified in Article 14;
  - (iv) the applicant for the vehicle type authorisation;
  - (v) the EIN associated to the vehicle type authorisation;
- (c) an identification of the basic design characteristics of the vehicle type:
  - (i) stated in the type and/or design examination certificates;
  - (ii) the area of use of the vehicle;
  - (iii) the conditions for use of the vehicle and other restrictions;
  - (iv) the reference, pursuant to the provisions of Article 16 of Regulation (EU) No 402/2013, including the document identification and the version, to the written declaration by the proposer referred to in Article 3(11) of Regulation (EU) No 402/2013, covering the vehicle type;
- (d) an identification of:
  - (i) the vehicle type ID, in accordance with Annex II to Commission Implementing Decision 2011/665/EU <sup>(1)</sup>;
  - (ii) the vehicle type variants, where applicable;

<sup>(1)</sup> Commission Implementing Decision 2011/665/EU of 4 October 2011 on the European register of authorised types of railway vehicles (OJ L 264, 8.10.2011, p. 32).

- (iii) the vehicle type versions, where applicable;
- (iv) values of the parameters set out in the TSIs and, where applicable, in the national rules, for checking the technical compatibility between the vehicle and the area of use;
- (v) the vehicle type's compliance with the relevant TSIs and sets of national rules, relating to the parameters referred to in paragraph 1(d)(iv);
- (e) reference to the EC declarations of verification for the subsystems;
- (f) reference to other Union or national law with which the vehicle type is compliant;
- (g) reference to the documented reasons for the decision referred to in Article 45(5);
- (h) date and place of the decision to issue the vehicle type authorisation;
- (i) signatory of the decision to issue the vehicle type authorisation; and
- (j) the possibility and means of appealing the decision and the relevant time limits, including information about the national appeal process.

#### Article 49

##### **The information in the issued vehicle authorisation for placing on the market**

The vehicle authorisation for placing on the market issued by the authorising entity shall contain the following information:

- (a) the legal basis empowering the authorising entity to issue the vehicle authorisation for placing on the market;
- (b) identification of the:
  - (i) authorising entity;
  - (ii) application;
  - (iii) authorisation case as specified in Article 14;
  - (iv) applicant for the vehicle authorisation for placing on the market;
  - (v) EIN associated to the vehicle authorisation for placing on the market;
- (c) the reference to the vehicle type registration in ERATV, including the information on the vehicle type variant and/or vehicle type version, when applicable;
- (d) identification of the:
  - (i) vehicles;
  - (ii) areas of use;
  - (iii) conditions for use of the vehicle and other restrictions;
- (e) reference to the EC declarations of verification for the subsystems;
- (f) reference to other Union or national law with which the vehicle is compliant;
- (g) reference to the documented reasons for the decision referred to in Article 45(5);
- (h) in case of an authorisation in conformity to type pursuant to Article 14(1)(e), the reference to the declaration of conformity with an authorised vehicle type, including information on the vehicle type version and/or vehicle type variant when applicable;
- (i) the date and place of the decision to issue the vehicle authorisation for placing on the market;
- (j) the signatory of the decision to issue the vehicle authorisation for placing on the market; and
- (k) the possibility and means of appealing the decision and the relevant time limits, including information on the national appeal process.

*Article 50***Registration in ERATV and ERADIS**

1. The ERATV shall be completed by the authorising entity using the information provided by the applicant as part of the vehicle type authorisation application. The applicant shall be responsible for the integrity of the data provided to the authorising entity. The authorising entity shall be responsible for checking the consistency of the data provided by the applicant and making the ERATV entry available to the public.
2. The authorising entity shall ensure that the European Railway Agency Database of Interoperability and Safety ('ERADIS') has been updated as appropriate before delivering a vehicle type authorisation and/or vehicle authorisation for placing on the market
3. For modifications pursuant to Article 15(1)(c) and 15(3), the authorising entity shall register in ERATV the new version of a vehicle type or the new version of a vehicle type variant, using the information provided by the holder of the vehicle type authorisation. The holder of the vehicle type authorisation is responsible for the integrity of the data provided to the authorising entity. The authorising entity shall be responsible for checking the consistency of the data provided by the holder of the vehicle type authorisation and making the ERATV entry available to the public.

Pending the registration of the new version of a vehicle type or the new version of a vehicle type variant, the vehicles modified to be conforming to the new version may already be operated without delay.

*Article 51***Review under Article 21(11) of Directive (EU) 2016/797**

1. Where the decision of the authorising entity contains a refusal or different conditions for use of the vehicle and other restrictions when compared to those specified by the applicant in its application, the applicant may request the review of the decision within one month from the date of its receipt. That request shall be submitted by the applicant through the one-stop shop.
2. The request for review shall include a list of issues that, in the view of the applicant, have not been properly taken into consideration during the vehicle authorisation process
3. Any supplementary information which has been developed and filed through the one-stop shop after the date of issuing of the authorisation decision shall not be admissible as evidence.
4. The authorising entity, where applicable in coordination with relevant NSAs for the area of use, shall ensure impartiality of the review process.
5. The review process shall address the issues justifying the negative decision of the authorising entity in accordance with the applicant's request.
6. Where the Agency acts as the authorising entity, a decision to reverse or not its decision shall be subject to review in coordination with the relevant NSAs for the area of use, where applicable.
7. The authorising entity shall confirm or reverse its first decision within two months from the date of receipt of the request for review. That decision shall be communicated to the relevant parties through the one-stop shop.

*Article 52***Archiving of a decision and the full accompanying file for the decision issued in accordance with Article 46**

1. The decision and the full accompanying file for the decision issued in accordance with Article 46 shall be retained in the one-stop shop for at least 15 years.
2. The full accompanying file for the decision of the authorisation entity issued in accordance with Article 46 shall include all documents used by the authorising entity and the assessment files of the concerned NSAs for the area of use.

3. After the expiry of the retention time set out in paragraph 1, the decision given in accordance with Article 46 for the issue of a vehicle type authorisation and/or a vehicle authorisation for placing on the market, and its full accompanying file shall be moved to a historical archive and kept for a period of five years after the termination of the service life of the vehicle, as recorded in the register referred to in Article 47 of Directive (EU) 2016/797.

#### CHAPTER 8

### SUSPENSION OR REVOCATION OR AMENDMENT OF AN ISSUED AUTHORISATION

#### Article 53

##### **Suspension, revocation or amendment of an issued authorisation**

1. Temporary safety measures in the form of suspension of a vehicle type authorisation may be applied by the authorising entity in accordance with Article 26(3) of Directive (EU) 2016/797.
2. In the cases referred to in Article 26(3) of Directive (EU) 2016/797 and following a review of the measures taken to address the serious safety risk, the authorising entity that issued the authorisation may decide to revoke or amend the authorisation in accordance with Article 26(4) of Directive (EU) 2016/797.
3. The applicant may launch an appeal against the decision to revoke or amend an authorisation in accordance with Article 26(5) of Directive (EU) 2016/797.
4. The authorising entity shall inform the Agency where there is a decision to revoke or amend an authorisation and give the reasons for its decision. The Agency shall inform all NSAs of the decision to revoke or amend an authorisation and the reasons for the decision.

#### Article 54

##### **The effect of suspension or revocation or amendment of an issued authorisation on the registration in ERATV, ERADIS and vehicle registers**

1. When the authorising entity takes a decision to revoke, suspend or amend a vehicle type authorisation it shall update the ERATV accordingly, subject to the provisions of Article 26(4) of Directive (EU) 2016/797, and ensure that ERADIS is updated accordingly.
2. The Member State where the vehicle is registered shall ensure that any decision to revoke or amend a vehicle type authorisation and/or a vehicle authorisation for placing on the market is reflected in the register referred to in Article 47 of Directive (EU) 2016/797.

#### CHAPTER 9

### FINAL PROVISIONS

#### Article 55

##### **Transitional provisions**

1. Where a NSA recognises that it will not be able to issue a vehicle authorisation in accordance with Directive 2008/57/EC before the relevant date in the Member State concerned, it shall inform the applicant and the Agency immediately.
2. In the case referred to in Article 21(8) of Directive (EU) 2016/797, the applicant shall decide whether to continue to be assessed by the NSA or to submit an application to the Agency. The applicant shall inform both of them and the following shall apply:
  - (a) in cases where the applicant has decided to submit an application to the Agency, the NSA shall transfer the application file and the results of its assessment to the Agency. The Agency shall accept the assessment carried out by the NSA;
  - (b) in cases where the applicant has decided to continue with the NSA, the NSA shall finalise the assessment of the application and decide on the issue of the vehicle type authorisation and/or vehicle authorisation for placing on the market in accordance with Article 21 of Directive (EU) 2016/797 and this Regulation.
3. Where the area of use is not limited to one Member State, the authorising entity shall be the Agency and the procedure set out in point (a) of paragraph 2 applies.

4. In cases referred to in paragraphs 2 and 3, the applicant shall submit a revised application for a vehicle type authorisation and/or a vehicle authorisation for placing on the market by means of the one-stop shop, in accordance with this Regulation. The applicant may request assistance for supplementing the file from the authorising entities involved.
5. A vehicle authorisation and/or vehicle type authorisation issued by the Agency between 16 June 2019 and 16 June 2020 shall exclude the network or networks in any of the Member States that have notified the Agency and the Commission in accordance with Article 57(2) of Directive (EU) 2016/797 and that have not yet transposed that Directive and not brought into force its national transposition measures. The NSAs of the Member States that have made such a notification shall:
- (a) treat a vehicle type authorisation issued by the Agency as equivalent to the authorisation for types of vehicles issued in accordance with Article 26 of Directive 2008/57/EC and apply paragraph 3 of Article 26 of Directive 2008/57/EC as regards this vehicle type;
  - (b) accept a vehicle authorisation issued by the Agency as equivalent to the first authorisation issued in accordance with Article 22 or 24 of Directive 2008/57/EC and issue an additional authorisation in accordance with Article 23 or 25 of Directive 2008/57/EC.
6. In cases referred to in point (a) of paragraph 2 and in paragraph 5, the NSA shall cooperate and coordinate with the Agency to undertake the assessment of the elements set out in point (a) of Article 21(5) of Directive (EU) 2016/797.
7. Freight wagons compliant with paragraph 7.1.2 of the Annex of WAG TSI Regulation (EU) No 321/2013 and with a vehicle authorisation for placing on the market shall be treated between 16 June 2019 and 16 June 2020 as vehicle with an authorisation for placing into service for the purpose of Directive 2008/57/EC by Member States that have notified the Agency and the Commission in accordance with Article 57(2) of Directive (EU) 2016/797 and that have not yet transposed that Directive and not brought into force its national transposition measures.

#### Article 56

#### Entry into force and application

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

It shall apply from 16 June 2019 in the Member States that have not notified the Agency or the Commission in accordance with Article 57(2) of Directive (EU) 2016/797. It shall apply in all Member States from 16 June 2020.

However, Article 55(1) shall apply from 16 February 2019 in all Member States. The facilitation measures provided in Article 55(2), (3), (4) and (6) shall be made available from 16 February 2019. Article 55(5) shall apply from 16 June 2019 in all Member States.

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

Done at Brussels, 4 April 2018.

For the Commission  
The President  
Jean-Claude JUNCKER

## ANNEX I

**Content of the application**

(M) means required information to be submitted by the applicant.

(O) means optional information that may still be submitted by the applicant.

**1. Type of application (M):****1.1. Type authorisation**

- (a) Vehicle type variants (when applicable)
- (b) Vehicle type versions (when applicable)

**1.2. Authorisation for placing on the market**

- (a) Single vehicle; or
- (b) Series of vehicles

**2. Authorisation case (M):**

- 2.1. First authorisation
- 2.2. New authorisation
- 2.3. Extended area of use
- 2.4. Renewed type authorisation
- 2.5. Authorisation in conformity to type

**3. Area of use (M):**

- 3.1. Member States
- 3.2. Networks (per Member State)
- 3.3. Stations with similar network characteristics in neighbouring Member States when those stations are close to the border as specified in Article 21.8 of Directive (EU) 2016/797 (when applicable)
- 3.4. Definition of the extended area of use (only applicable for the authorisation case 'Extended area of use')
- 3.5. Whole EU network

**4. Issuing authority (M):**

- 4.1. The Agency; or
- 4.2. The national safety authority of the Member State (only applicable in case of an area of use limited to one Member State and requested by the applicant as specified in Article 21(8) of Directive (EU) 2016/797)

**5. Applicant's information:**

- 5.1. Legal denomination (M)
- 5.2. Applicant's name (M)
- 5.3. Acronym (O)
- 5.4. Complete postal address (M)
- 5.5. Phone (M)
- 5.6. Fax (O)
- 5.7. Email (M)
- 5.8. Website (O)
- 5.9. VAT number (O)
- 5.10. Other relevant information (O)

**6. Contact person information:**

- 6.1. First name (M)
- 6.2. Surname (M)
- 6.3. Title or function (M)
- 6.4. Complete postal address (M)
- 6.5. Phone (M)
- 6.6. Fax (O)
- 6.7. Email (M)
- 6.8. Languages to be used (M)

**7. Current vehicle type authorisation holder (not applicable in case of first authorisation) (M):**

- 7.1. Legal denomination (M)
- 7.2. Type authorisation holder's name (M)
- 7.3. Acronym (O)
- 7.4. Complete postal address (M)
- 7.5. Phone (M)
- 7.6. Fax (O)
- 7.7. Email (M)
- 7.8. Website (O)
- 7.9. VAT number (M)
- 7.10. Other relevant information (O)

**8. Assessment bodies information (M):**

- 8.1. Notified body(ies):
  - (a) Legal denomination (M)
  - (b) Notified body name (M)
  - (c) Notified body ID number (M)
  - (d) Acronym (O)
  - (e) Complete postal address (M)
  - (f) Phone (M)
  - (g) Fax (O)
  - (h) Email (M)
  - (i) Website (O)
  - (j) VAT number (M)
  - (k) Other relevant information (O)
- 8.2. Designated body(ies):
  - (a) Legal denomination (M)
  - (b) Designated body name (M)
  - (c) Acronym (O)
  - (d) Complete postal address (M)
  - (e) Phone (M)
  - (f) Fax (O)



- (g) Email (M)
  - (h) Website (O)
  - (i) VAT number (M)
  - (j) Other relevant information (O)
- 8.3. Assessment body (CSM RA), not applicable for authorisation in conformity to type:
- (a) Legal denomination (M)
  - (b) Assessment body (CSM RA) name (M)
  - (c) Acronym (O)
  - (d) Complete postal address (M)
  - (e) Phone (M)
  - (f) Fax (O)
  - (g) Email (M)
  - (h) Website (O)
  - (i) VAT number (M)
  - (j) Other relevant information (O)
9. **Pre-engagement:**
- 9.1. Reference to pre-engagement baseline (O)
  - 9.2. Other relevant project information (O)
10. **Description of the vehicle type (\*) to be specified according to Decision 2011/665/EU Annex II) (M):**
- 10.1. Type ID (\*)
  - 10.2. Vehicle type versions (when applicable)
  - 10.3. Vehicle type variants (when applicable):
  - 10.4. Date of record in ERATV (\*) (not applicable for first authorisation)
  - 10.5. Type name (\*)
  - 10.6. Alternative type name (\*) (when applicable)
  - 10.7. Category (\*)
  - 10.8. Subcategory (\*)
11. **Information on the vehicles (to be specified according to Decision 2007/756/EC <sup>(1)</sup> when available) (M)**
- 11.1. EVN numbers or pre-reserved vehicle numbers
  - 11.2. Other specification of the vehicles when EVN numbers or pre-reserved vehicle numbers are not available
12. **Reference to existing vehicle type authorisation (not applicable in case of first authorisation) (M)**
13. **Description of the changes as compared to the authorised vehicle type (only applicable in case of a new authorisation) (M)**
14. **Conditions for use of the vehicle and other restrictions (to be specified according to Decision 2011/665/EU Annex II) (M):**
- 14.1. Coded restrictions
  - 14.2. Non-coded restrictions

<sup>(1)</sup> Commission Decision 2007/756/EC of 9 November 2007 adopting a common specification of the national vehicle register provided for under Articles 14(4) and (5) of Directives 96/48/EC and 2001/16/EC (notified under document number C(2007) 5357) (OJ L 305, 23.11.2007, p. 30).

15. **CCS additional functions (M)**16. **Applicable rules (M):**16.1. TSIs, including the legal reference in the *Official Journal of the European Union*

16.2. Specific TSIs clauses for an area of use covering the whole EU network (when applicable)

16.3. Specification of the selection of requirements from a newer version of a TSI as compared to the TSI applicable for the assessment (including withdrawn requirements) (when applicable)

16.4. National rules (when applicable)

16.5. Non-applications of TSIs according to the provisions of Article 7 of Directive (EU) 2016/797 (when applicable)

16.6. Applicable rules for the extended area of use.

16.7. Updated TSIs and/or national rules (only applicable for renewed type authorisation)

17. **Applicant's confirmation and signature (M)**18. **Annexes (M):**

The information that shall be included in the application is specified per authorisation case. An (x) in the column for the applicable authorisation case indicates that the information is mandatory (M) for this authorisation case.

		First authorisation	Renewed type authorisation	Extended area of use	New authorisation	Authorisation in conformity to type
18.1	<p>The supporting evidence for the requirements capture in accordance with Article 13(1).</p> <p>If the applicant uses the methodology set out in Annex I of Regulation (EU) No 402/2013, the supporting evidence consists of the declaration by the proposer referred to in Article 16 of Regulation (EU) No 402/2013 and the safety assessment report referred to in Article 15 of Regulation (EU) No 402/2013.</p> <p>If another methodology is used, the evidence required is that necessary to demonstrate that it provides the same level of assurance as the methodology set out in Annex I of Regulation (EU) No 402/2013.</p>	X		X	X	
18.2	Mapping table indicating where the information needed for the aspects to be assessed according to Annex II and III can be found	X	X	X	X	
18.3	The relevant decisions for non-application of TSIs according to Article 7 of Directive (EU) 2016/797 (when applicable)	X	X	X	X	X
18.4	Declaration of conformity to the type and associated documentation (Article 24 Directive (EU) 2016/797)					X

		First authorisation	Renewed type authorisation	Extended area of use	New authorisation	Authorisation in conformity to type
18.5	EC Declarations of Verification for the mobile subsystems, including accompanying technical files (Article 15 Directive (EU) 2016/797).	X	X	X	X	
18.6	The file accompanying the application and the decision from the previous authorisation or when applicable the reference to the decision issued according to Article 46 and to the full accompanying file for the decision archived in the one-stop shop.		X	X	X	
18.7	Specification of and where applicable <sup>(1)</sup> a description of the methodology used for the requirements capture for the: <ul style="list-style-type: none"> <li>(a) essential requirements for subsystems as specified in Article 3 and Annex III of Directive (EU) 2016/797;</li> <li>(b) technical compatibility of the subsystems within the vehicle;</li> <li>(c) safe integration of the subsystems within the vehicle; and</li> <li>(d) technical compatibility of the vehicle with the network in the area of use.</li> </ul>	X		X	X	
18.8	CSM on risk assessment, safety assessment report (Article 15 Regulation (EU) No 402/2013) covering the requirements capture for the essential requirements 'safety' for the subsystems and safe integration between subsystems.	X		X	X	
18.9	When not fully covered by TSIs and/or national rules, the documentary evidence of the technical compatibility of the vehicle with the network in the area of use.	X		X	X	
18.10	Risk declaration (Article 16 Regulation (EU) No 402/2013) covering the requirements capture for the essential requirements 'safety' for the subsystems and safe integration between subsystems for aspects not covered by the TSIs and the national rules.	X		X	X	

		First authorisation	Renewed type authorisation	Extended area of use	New authorisation	Authorisation in conformity to type
18.11	CSM on risk assessment, safety assessment report (Article 15 Regulation (EU) No 402/2013) covering the potential modification of the overall safety level for the vehicle			X	X	
18.12	Risk declaration (Article 16 Regulation (EU) No 402/2013) covering the potential modification of the overall safety level for the vehicle			X	X	
18.13	Information required for ERATV (according to Annex II of Decision 2011/665/EU)	X		X	X	
18.14	Maintenance & operation documentation (including rescue), when not included in 18.4 and/or 18.5.	X		X	X	

<sup>(1)</sup> Non standardised methodology

## ANNEX II

**Aspects for assessment by the authorising entity**

The information that shall be assessed by the authorising entity is specified per authorisation case. An (x) in the column for the applicable authorisation case indicates that this aspect is mandatory to assess for this authorisation case.

		First authorisation	Renewed type authorisation	Extended area of use	New authorisation	Authorisation in conformity to type
1	Application consistent with the pre-engagement baseline (when applicable)	X	X	X	X	X
2	Authorisation case selected by the applicant is adequate	X	X	X	X	X
3	The TSIs and other applicable Union law identified by the applicant are correct	X	X	X	X	
4	Selected conformity assessment bodies (notified body(ies), assessment body (CSM RA)) have the proper accreditation or recognition as applicable	X	X	X	X	
5	Non-applications of TSIs according to the provisions of Article 7 of Directive (EU) 2016/797: 5.1. Validity (time and area of use); 5.2. Applicable to the project; and 5.3. Consistent with the identified and applied rules.	X	X	X	X	X
6	6.1. Is the applied methodology used for the requirements capture fit for purpose concerning the following aspects: (a) Has a standardised/accepted methodology been used?; and (b) Is the method intended for and suitable for the essential requirements it covers? 6.2. When the methodology applied is not standardised or covers other essential requirements than it is intended for, the following aspects shall be checked to evaluate if they are sufficiently considered and covered by the methodology: (a) Degree of independent assessment applied (b) System definition (c) Hazard identification and classification (d) Risk acceptance principles (e) Risk evaluation	X		X	X	

		First authorisation	Renewed type authorisation	Extended area of use	New authorisation	Authorisation in conformity to type
	(f) Requirements established (g) Demonstration of compliance with the requirements (h) Hazard management (log)					
7	<p>Sufficient evidence from the methodology used for the requirements capture:</p> <p>7.1. When the risk management process set out in Annex I of Regulation (EU) No 402/2013, has been used as the methodology for requirements capture the following shall be checked:</p> <p>(a) CSM on risk assessment, declaration by the proposer (Article 16 Regulation (EU) No 402/2013) is signed by the proposer and supports that all identified hazards and associated risks are controlled to an acceptable level.</p> <p>(b) CSM on risk assessment, safety assessment report (Article 15 Regulation (EU) No 402/2013) supports the declaration by the proposer for the specified scope according to Article 13 and at least the essential requirement safety for subsystems and safe integration between subsystems within the vehicle.</p> <p>7.2. When another methodology than the risk management process set out in Annex I of Regulation (EU) No 402/2013, has been used as the methodology for requirements capture the following shall be checked:</p> <p>(a) System definition is complete and consistent with the design of the vehicle?</p> <p>(b) Hazard identification and classification is consistent and plausible?</p> <p>(c) All risks have been properly managed and mitigated?</p> <p>(d) Requirements derived from the risk management are properly traced to the risk and to the evidence of compliance with the requirement?</p> <p>(e) Structured and consistent management of the hazards throughout the process?</p> <p>(f) Is there a positive opinion from the independent assessment?</p>	X		X	X	

		First authorisation	Renewed type authorisation	Extended area of use	New authorisation	Authorisation in conformity to type
8	<p>EC Declarations of Verification and EC certificates (Article 15 Directive (EU) 2016/797), check:</p> <p>8.1. Signatures</p> <p>8.2. Validity</p> <p>8.3. Scope</p> <p>8.4. Conditions for use of the vehicle and other restrictions, non-compliances</p> <p>8.5. Non-application of TSIs (when applicable)</p> <p>8.6. All applicable legislation is covered, including other non-railway related legislation</p> <p>8.7. Interoperability constituents (validity, scope, conditions for use and other restrictions):</p> <p>(a) EC certificates of conformity</p> <p>(b) EC certificates of suitability of use</p>	X	X	X	X	
9	<p>Reports from Conformity assessment bodies (Article 15 Directive (EU) 2016/797), check:</p> <p>9.1. Consistency with EC Declarations of Verification and EC certificates</p> <p>9.2. All applicable rules are covered</p> <p>9.3. Deviations &amp; non-conformities (when applicable) are identified and match the non-application requests</p> <p>9.4. Combination of modules used is allowed</p> <p>9.5. Conditions for use of the vehicle and other restrictions are properly identified and are consistent with the conditions in the application for authorisation</p> <p>9.6. The supporting evidences used by the conformity assessment bodies are matching the applicable assessment phases described in TSIs (design review, type test, etc.).</p>	X	X	X	X	
10	Check of assessments from NSAs for the area of use, as specified in Article 43	X	X	X	X	

		First authorisation	Renewed type authorisation	Extended area of use	New authorisation	Authorisation in conformity to type
11	Validity of the original vehicle type authorisation		X	X	X	X
12	Original vehicle type authorisation is valid for the concerned area of use		X		X	X
13	Existing conditions for use of the vehicle and other restrictions		X	X	X	
14	CSM on risk assessment, safety assessment report (Article 15 Regulation (EU) No 402/2013) covering the requirements capture for the essential requirements 'safety' for the subsystems and safe integration between subsystems positive opinion.	X		X	X	
15	CSM on risk assessment, safety assessment report (Article 15 Regulation (EU) No 402/2013) covering the potential modification of the overall safety level for the vehicle (significant change) positive opinion			X	X	
16	Changes as compared to the authorised vehicle type are sufficiently described and match the CSM on risk assessment, safety assessment report (Article 15 Regulation (EU) No 402/2013)				X	
17	EC Declarations of Verification and EC certificates are properly updated in relation to the changed and/or updated rules		X			
18	Reports from conformity assessment bodies are properly updated in relation to the changed and/or updated rules:  18.1 Changed and/or updated rules are covered  18.2 There is evidence that the vehicle type still fulfils the requirements		X			
19	Evidence that the design of the vehicle type has not changed		X	X		
20	Identification of the vehicle or series of vehicles covered by the declaration of conformity to the vehicle type					X
21	Declaration of conformity to the type and supporting documents (Article 24 Directive (EU) 2016/797)					X



## ANNEX III

**Aspects for assessment by the concerned NSAs for the area of use**

This Annex is not applicable when the area of use covers the whole EU network and the TSIs contain specific conditions for this.

The information that shall be assessed by the concerned NSAs for the area of use in relation to the relevant national rules is specified per authorisation case. An (x) in the column for the applicable authorisation case indicates that this aspect is mandatory to assess for this authorisation case

		First authorisation	New authorisation	Extended area of use	Renewed type authorisation
1	Application consistent with the pre-engagement baseline (when applicable)	X	X	X	X
2	The area of use for the concerned Member State is correctly specified	X	X	X	X
3	The national rules and requirements for the concerned area of use identified by the applicant are correct.	X	X	X	
4	Selected conformity assessment bodies relevant for the concerned area of use (designated body(ies), assessment body (CSM RA)) have the proper accreditation or recognition as applicable.	X	X	X	X
5	<p>Sufficient evidence from the methodology used for the requirements capture only for the national rules for the concerned area of use:</p> <p>5.1. When another methodology than the risk management process set out in Annex I of Regulation (EU) No 402/2013, has been used as the methodology for requirements capture the following shall be checked:</p> <p>(a) System definition is complete and consistent with the design of the vehicle?</p> <p>(b) Hazard identification and classification is consistent and plausible?</p> <p>(c) All risks have been properly managed and mitigated?</p> <p>(d) Requirements derived from the risk management are properly traced to the risk and to the evidence of compliance with the requirement?</p>	X	X	X	
6	<p>EC Declarations of Verification and Certificates (national rules) (Article 15 Directive (EU) 2016/797), check:</p> <p>6.1. Signatures</p> <p>6.2. Validity</p> <p>6.3. Scope</p> <p>6.4. Conditions for use of the vehicle, other restrictions, non-compliances</p>	X	X	X	X

		First authorisation	New authorisation	Extended area of use	Renewed type authorisation
7	<p>Reports from conformity assessment bodies (Article 15 Directive (EU) 2016/797), check:</p> <p>7.1. Consistency with EC Declarations of Verification and certificates.</p> <p>7.2. Deviations &amp; non-conformities (when applicable) are identified</p> <p>7.3. Conditions for use and other restrictions are properly identified and are consistent with the conditions in the application for authorisation.</p> <p>7.4. The supporting evidences used by conformity assessment bodies are matching the applicable assessment phases described in national rules.</p>	X	X	X	X
8	Existing conditions for use of the vehicle and other restrictions		X	X	X
9	CSM on risk assessment, safety assessment report (Article 15 Regulation (EU) No 402/2013) covering the requirements capture for the essential requirements 'safety' for the subsystems and safe integration between subsystems positive opinion.	X	X	X	
10	CSM on risk assessment, safety assessment report (Article 15 Regulation (EU) No 402/2013) covering the potential modification of the overall safety level for the vehicle (significant change) positive opinion		X	X	
11	Changes as compared to the authorised vehicle type are sufficiently described and match the CSM on risk assessment, safety assessment report (Article 15 Regulation (EU) No 402/2013)		X		
12	EC Declarations of Verification and EC certificates are properly updated in relation to the changed/updated national rules				X
13	<p>Reports from conformity assessment bodies are properly updated in relation to the changed/updated rules:</p> <p>13.1. Changed/updated national rules are covered</p> <p>13.2. There is evidence that the vehicle type still fulfils the requirements</p>				X

## DECISIONS

**DECISION (EU) 2018/546 OF THE EUROPEAN CENTRAL BANK  
of 15 March 2018  
on delegation of the power to adopt own funds decisions (ECB/2018/10)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

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

Having regard to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 <sup>(1)</sup>, and in particular Article 26(3) and Articles 28, 29, 77 and 78 thereof,

Having regard to Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions <sup>(2)</sup>, and in particular Article 4(1)(d) thereof,

Having regard to Decision (EU) 2017/933 of the European Central Bank of 16 November 2016 on a general framework for delegating decision-making powers for legal instruments related to supervisory tasks (ECB/2016/40) <sup>(3)</sup>, and in particular Article 4 thereof,

Whereas:

- (1) Pursuant to Article 4(1)(d) of Regulation (EU) No 1024/2013, the European Central Bank (ECB), as the competent authority for significant supervised entities, is responsible for evaluating whether issuances of Common Equity Tier 1 instruments meet the criteria set out in Regulation (EU) No 575/2013. Significant supervised entities may classify capital instruments as Common Equity Tier 1 instruments only with the prior permission of the ECB.
- (2) As required under the third subparagraph of Article 26(3) of Regulation (EU) No 575/2013, the European Banking Authority (EBA) established and regularly updates a public list of types of instruments that qualify in each Member State as Common Equity Tier 1 instruments. The inclusion of a type of instrument in the EBA list implies that it meets the eligibility criteria set out in Article 28 or, where applicable, Article 29 of Regulation (EU) No 575/2013. Considering the scrutiny of the types of instruments by the competent authorities and, after 28 June 2013, by the EBA, and the public nature and regular updates of the EBA list, it is appropriate to use that list in determining the scope of the delegation of decision-making powers pursuant to Article 26(3) of Regulation (EU) No 575/2013.
- (3) According to recital 75 of Regulation (EU) No 575/2013, that Regulation does not prevent competent authorities from maintaining prior permission processes regarding the contracts governing Additional Tier 1 and Tier 2 instruments. Accordingly, the laws of some Member States establish such processes for the classification of capital instruments as Additional Tier 1 or Tier 2 instruments. The ECB is the competent authority to grant such permission to significant supervised entities pursuant to Article 4(1)(d) of Regulation (EU) No 1024/2013.
- (4) The ECB is also responsible, pursuant to Article 4(1)(d) of Regulation (EU) No 1024/2013, for granting prior permission to significant supervised entities to reduce, redeem or repurchase Common Equity Tier 1 instruments issued by them in a manner that is permitted under national law and to effect the call, redemption, repayment or repurchase of Additional Tier 1 or Tier 2 instruments, prior to the date of their maturity.
- (5) When the ECB assesses requests from significant supervised entities for prior permission to reduce own funds, it applies Article 78 of Regulation (EU) No 575/2013 and Section 2 of Chapter IV of Commission Delegated Regulation (EU) No 241/2014 <sup>(4)</sup>.

<sup>(1)</sup> OJ L 176, 27.6.2013, p. 1.

<sup>(2)</sup> OJ L 287, 29.10.2013, p. 63.

<sup>(3)</sup> OJ L 141, 1.6.2017, p. 14.

<sup>(4)</sup> Commission Delegated Regulation (EU) No 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for Own Funds requirements for institutions (OJ L 74, 14.3.2014, p. 8).

- (6) The ECB, as the competent authority, is required to adopt a substantial number of own funds decisions each year. To facilitate the decision-making process a delegation decision is necessary in relation to the adoption of such decisions. The Court of Justice of the European Union has recognised delegation of authority to be necessary to enable an institution required to adopt a considerable number of decisions to perform its duties. Similarly, it has recognised the need to ensure that decision-making bodies are able to function as a principle inherent to all institutional systems <sup>(1)</sup>.
- (7) Delegation of decision-making powers should be limited and proportionate, and the scope of the delegation should be clearly defined.
- (8) Decision (EU) 2017/933 (ECB/2016/40) specifies the procedure to be followed for adopting delegation decisions concerning supervision and the persons who may be delegated decision-making powers. That Decision does not affect the ECB's exercise of its supervisory tasks and is without prejudice to the Supervisory Board's competence to propose complete draft decisions to the Governing Council.
- (9) Where the criteria for the adoption of a delegated decision, as laid down in this Decision, are not met, decisions should be adopted in accordance with the non-objection procedure set out in Article 26(8) of Regulation (EU) No 1024/2013 and Article 13g of Decision ECB/2004/2 <sup>(2)</sup>. Furthermore, if the heads of work units have concerns regarding the fulfilment of assessment criteria for own funds decisions due to insufficient information being provided by the significant supervised entity or the complexity of the assessment, the non-objection procedure should also be used.
- (10) ECB supervisory decisions may be subject to administrative review pursuant to Article 24 of Regulation (EU) No 1024/2013 and as further specified in Decision ECB/2014/16 <sup>(3)</sup>. In the event of such administrative review, the Supervisory Board should take into account the opinion of the Administrative Board of Review and submit a new draft decision to the Governing Council for adoption under the non-objection procedure,

HAS ADOPTED THIS DECISION:

#### Article 1

#### Definitions

For the purposes of this Decision, the following definitions shall apply:

- (1) 'own funds decision' means a decision of the ECB on prior permission to classify an instrument as a Common Equity Tier 1, Additional Tier 1 or Tier 2 instrument and on own funds reductions;
- (2) 'own funds reduction' means any action referred to in Article 77 of Regulation (EU) No 575/2013;
- (3) 'reductions with replacement' means own funds reductions as referred to in Article 78(1)(a) of Regulation (EU) No 575/2013;
- (4) 'reductions without replacement' means own funds reductions as referred to in Article 78(1)(b) of Regulation (EU) No 575/2013;
- (5) 'EBA list' means a list established, maintained and published <sup>(4)</sup> by the EBA pursuant to the third subparagraph of Article 26(3) of Regulation (EU) No 575/2013, containing all the forms of capital instruments in each Member State that qualify as Common Equity Tier 1 instruments on the basis of information from each competent authority;
- (6) 'Common Equity Tier 1 instrument', 'Additional Tier 1 instrument' and 'Tier 2 instrument' mean a capital instrument which qualifies as Common Equity Tier 1 instrument, Additional Tier 1 instrument or Tier 2 instrument, respectively, under Regulation (EU) No 575/2013;
- (7) 'replacing instrument' means the capital instrument which replaces the capital instrument to be reduced, repurchased, called or redeemed within the meaning of Article 78(1)(a) of Regulation (EU) No 575/2013;

<sup>(1)</sup> AKZO Chemie v Commission, 5/85, ECLI:EU:C:1986:328, paragraph 37, and Carmine Salvatore Tralli v ECB, C-301/02 P, ECLI:EU:C:2005:306, paragraph 59.

<sup>(2)</sup> Decision ECB/2004/2 of 19 February 2004 adopting the Rules of Procedure of the European Central Bank (OJ L 80, 18.3.2004, p. 33).

<sup>(3)</sup> Decision ECB/2014/16 of 14 April 2014 concerning the establishment of an Administrative Board of Review and its Operating Rules (OJ L 175, 14.6.2014, p. 47).

<sup>(4)</sup> Published on the EBA's website at [www.eba.europa.eu](http://www.eba.europa.eu)

- (8) 'replaced instrument' means the capital instrument to be subject to an action referred to in Article 77 of Regulation (EU) No 575/2013 and replaced by a replacing instrument in a reduction with replacement pursuant to Article 78(1)(a) of Regulation (EU) No 575/2013;
- (9) 'Common Equity Tier 1 capital ratio', 'Tier 1 capital ratio' and 'total capital ratio' mean Common Equity Tier 1 capital ratio, Tier 1 capital ratio and total capital ratio, respectively, as referred to in Article 92(2) of Regulation (EU) No 575/2013;
- (10) 'SREP decision' means the decision adopted by the ECB on the basis of Article 16 of Regulation (EU) No 1024/2013 following the annual supervisory review and evaluation process within the meaning of Article 97 of Directive 2013/36/EU of the European Parliament and of the Council <sup>(1)</sup> and which establishes prudential requirements;
- (11) 'delegation decision' and 'delegated decision' have the same meaning as in point (2) and point (4) of Article 3 of Decision (EU) 2017/933 (ECB/2016/40), respectively;
- (12) 'heads of work units' means the heads of work units of the ECB to whom the power to adopt own funds decisions is delegated;
- (13) 'non-objection procedure' means the procedure set out in Article 26(8) of Regulation (EU) No 1024/2013 and further specified in Article 13g of Decision ECB/2004/2;
- (14) 'negative decision' means a decision that does not or does not fully grant the permission as requested by the significant supervised entity. A decision with ancillary provisions such as conditions or obligations shall be considered as a negative decision unless such ancillary provisions (a) ensure that the supervised entity fulfils the requirements of relevant Union law referred to in Articles 3(4), 4(3) and 5(6) and have been agreed in writing or (b) merely restate one or more of the existing requirements that the institution has to comply with pursuant to provisions referred to in Articles 3(4), 4(3) and 5(6) or require information on the fulfilment of one or more of such requirements;
- (15) 'significant supervised entity' means a significant supervised entity as defined in point (16) of Article 2 of Regulation (EU) No 468/2014 of the European Central Bank (ECB/2014/17) <sup>(2)</sup>.

## *Article 2*

### **Delegation of own funds decisions**

1. In accordance with Article 4 of Decision (EU) 2017/933 (ECB/2016/40), the Governing Council hereby delegates the adoption of decisions on (a) prior permission for the classification of capital instruments as Common Equity Tier 1 instruments under Article 26(3) of Regulation (EU) No 575/2013; (b) prior permission for the classification of capital instruments as Additional Tier 1 or Tier 2 instruments, where required by national law; and (c) prior permission for own funds reductions under Article 77 of Regulation (EU) No 575/2013, to the heads of work units nominated by the Executive Board in accordance with Article 5 of that Decision.
2. The own funds decisions referred to in paragraph 1 shall be adopted by means of a delegated decision if the criteria for the adoption of delegated decisions, as set out in Articles 3, 4 and 5, are fulfilled.
3. Own funds decisions shall not be adopted by means of a delegated decision if insufficient information or the complexity of assessment require that they are adopted under the non-objection procedure.

## *Article 3*

### **Criteria for the adoption of delegated decisions on prior permission to classify instruments as Common Equity Tier 1 instruments**

1. Decisions on the classification of capital instruments as Common Equity Tier 1 instruments shall be taken by means of a delegated decision if the type of instruments in respect of which prior permission is sought has been included, at the time the application was received by the ECB, in the EBA list.
2. Negative decisions and decisions pursuant to Article 31 of Regulation (EU) No 575/2013 shall not be adopted by means of a delegated decision.

<sup>(1)</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

<sup>(2)</sup> Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17) (OJ L 141, 14.5.2014, p. 1).

3. Where, pursuant to paragraphs 1 and 2, a decision on the classification of capital instruments as Common Equity Tier 1 instruments cannot be adopted by means of a delegated decision, it shall be adopted in accordance with the non-objection procedure.
4. The assessment on the classification of capital instruments as Common Equity Tier 1 instruments shall be carried out in accordance with Articles 27, 28 and 29 of Regulation (EU) No 575/2013 and Articles 4 to 11 of Delegated Regulation (EU) No 241/2014.

#### *Article 4*

##### **Criteria for the adoption of delegated decisions on prior permission to classify instruments as Additional Tier 1 or Tier 2 instruments**

1. Where prior permission is required under national law, decisions on prior permission to classify capital instruments as Additional Tier 1 or Tier 2 instruments shall be taken by means of a delegated decision.
2. Negative decisions shall not be adopted by means of a delegated decision and shall be adopted in accordance with the non-objection procedure.
3. The assessment on the classification of instruments as Additional Tier 1 or Tier 2 instruments shall be carried out in accordance with Articles 52 to 54 and 63 of Regulation (EU) No 575/2013 and Articles 8, 9 and 20 to 24a of Delegated Regulation (EU) No 241/2014.

#### *Article 5*

##### **Criteria for the adoption of delegated decisions on prior permission for own funds reductions**

1. Decisions on prior permission for own funds reductions shall be taken by means of a delegated decision where the conditions of either paragraph 2 or 3 are fulfilled.
2. For reductions with replacement, decisions shall be taken by means of a delegated decision if:
  - (a) the replacing instrument is a Common Equity Tier 1 instrument with an aggregate nominal amount at least equal to the nominal amount of the replaced instrument; or
  - (b) the replacing instrument is an Additional Tier 1 instrument with an aggregate nominal amount at least equal to the nominal amount of the replaced instrument, if the replaced instrument is an Additional Tier 1 instrument; or
  - (c) the replacing instrument is an Additional Tier 1 or Tier 2 instrument with an aggregate nominal amount at least equal to the nominal amount of the replaced instrument, if the replaced instrument is a Tier 2 instrument.
3. For reductions without replacement, decisions shall be taken by means of a delegated decision if:
  - (a) following the reduction, the own funds exceed and are estimated to continue exceeding, for at least three financial years after the date of the application, the sum of the requirements laid down in Article 92(1) of Regulation (EU) No 575/2013, the own funds required to be held in accordance with Article 16(2)(a) of Regulation (EU) No 1024/2013, the combined buffer requirement as defined in point (6) of Article 128 of Directive 2013/36/EU and the Pillar 2 capital guidance as set out in the last available SREP decision; and
  - (b) the impact of the reduction on the Common Equity Tier 1 capital ratio, the Tier 1 capital ratio and the total capital ratio is below 100 basis points.
4. Negative decisions shall not be adopted by means of a delegated decision.
5. Where, pursuant to paragraphs 1 to 4, a decision on an own funds reduction cannot be adopted by means of a delegated decision, it shall be adopted in accordance with the non-objection procedure.
6. The assessment on an own funds reduction shall be carried out in accordance with Article 78 of Regulation (EU) No 575/2013 and Section 2 of Chapter IV of Delegated Regulation (EU) No 241/2014.

*Article 6***Transitional provision**

This Decision shall not apply in cases where the application was submitted to the ECB prior to the entry into force of this Decision.

*Article 7***Entry into force**

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

Done at Frankfurt am Main, 15 March 2018.

*The President of the ECB*  
Mario DRAGHI

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**DECISION (EU) 2018/547 OF THE EUROPEAN CENTRAL BANK**  
**of 27 March 2018**  
**nominating heads of work units to adopt delegated own funds decisions (ECB/2018/11)**

THE EXECUTIVE BOARD OF THE EUROPEAN CENTRAL BANK,

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

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 11.6 thereof,

Having regard to Decision (EU) 2017/933 of the European Central Bank of 16 November 2016 on a general framework for delegating decision-making powers for legal instruments related to supervisory tasks (ECB/2016/40) <sup>(1)</sup>, and in particular Articles 4 and 5 thereof,

Having regard to Decision (EU) 2018/546 of the European Central Bank of 15 March 2018 on delegation of the power to adopt own funds decisions (ECB/2018/10) <sup>(2)</sup>, and in particular Article 2 thereof,

Having regard to Decision ECB/2004/2 of 19 February 2004 adopting the Rules of Procedure of the European Central Bank <sup>(3)</sup>, and in particular Article 10 thereof,

Whereas:

- (1) To address the considerable number of decisions that the European Central Bank (ECB) is to adopt for the performance of its supervisory tasks, a procedure for the adoption of specific delegated decisions has been established.
- (2) A delegation decision is effective upon the adoption of a decision by the Executive Board nominating one or more heads of work units to take decisions on the basis of that delegation decision.
- (3) The importance of the delegation decision and the number of addressees to whom delegated decisions need to be sent should be taken into account by the Executive Board in nominating heads of work units.
- (4) The Chair of the Supervisory Board has been consulted on the heads of work units to whom the power to adopt own funds decisions should be delegated,

HAS ADOPTED THIS DECISION:

*Article 1*

**Delegated own funds decisions**

Delegated decisions pursuant to Article 2 of Decision (EU) 2018/546 (ECB/2018/10) shall be adopted by one of the following heads of work units:

- (a) the Director-General of Directorate-General Microprudential Supervision I, if supervision of the relevant supervised entity or group is carried out by Directorate-General Microprudential Supervision I;
- (b) the Director-General of Directorate-General Microprudential Supervision II, if supervision of the relevant supervised entity or group is carried out by Directorate-General Microprudential Supervision II; or
- (c) if a Director-General is unavailable, their Deputy Director-General.

<sup>(1)</sup> OJ L 141, 1.6.2017, p. 14.

<sup>(2)</sup> See page 105 of this Official Journal.

<sup>(3)</sup> OJ L 80, 18.3.2004, p. 33.



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*Article 2***Entry into force**

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

Done at Frankfurt am Main, 27 March 2018.

*The President of the ECB*  
Mario DRAGHI

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**CORRIGENDA****Corrigendum to Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127**

*(Official Journal of the European Union L 27 of 31 January 2018)*

On page 56, Annex IA 'Skagerrak, Kattegat, ICES Subareas 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12 and 14, Union waters of CECAF, French Guiana waters', in the entry for blue whiting *Micromesistius poutassou* in Union and international waters of 1, 2, 3, 4, 5, 6, 7, 8a, 8b, 8d, 8e, 12 and 14 (WHB/1X14):

*for:* 'Portugal 4 826 (1) (3)',

*read:* 'Portugal 4 826 (1) (2)'.

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