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

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

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[1], 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 Article 3(4) of Regulation (EU) No 347/2013, the Commission is empowered to adopt delegated acts 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 30 October 2015 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 3 November 2015. 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.

Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2016/89. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(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. However, certain PCIs should be clustered because they are interdependent or (potentially) competing.

(8) The Union list contains projects at different stages of their development, including pre-feasibility, feasibility, permit-granting and construction. For PCIs at an early development stage, studies may be needed to demonstrate technical and economic viability and compliance with Union legislation, including environmental legislation. In this context, potential negative impacts on the environment should be adequately identified, assessed and avoided or mitigated.

(9) The inclusion of projects on the Union list is without prejudice to the outcome of the relevant environmental assessment and permit procedure. Under Article 5(8) of Regulation (EU) No 347/2013, a project that does not comply with Union law may be removed from the Union list. The implementation of PCIs, including their compliance with the relevant legislation, should be monitored in accordance with Article 5 of that Regulation.

(10) Pursuant to the second paragraph of Article 3(4) of Regulation (EU) No 347/2013, the Union list is established every two years, therefore the Union list established by Commission Delegated Regulation (EU) No 1391/2013[(2)] is no longer valid and should be replaced.

(11) Pursuant to Article 3(4) of Regulation (EU) No 347/2013, the Union list is to take the form of an annex to that Regulation.

(12) Regulation (EU) No 347/2013 should therefore be amended accordingly,

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.

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Done at Brussels, 18 November 2015.

For the Commission

The President

Jean-Claude JUNCKER

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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 **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;

— 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

— 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) **Definition of "No longer considered a PCI"**

The phrase "No longer considered a PCI" refers to projects from the Union list established by Regulation (EU) No 1391/2013 that are no longer considered PCIs for one or more of the following reasons:

— according to the new data the project does not satisfy the eligibility criteria;

— a promoter has not re-submitted it in the selection process for this Union list;

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— it 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; or

— it was ranked lower than other candidate PCIs in the selection process.

Such projects are not PCIs, but are listed with their original PCI numbers on the Union list for the sake of transparency and clarity.

They may be considered for inclusion in the next Union list if the reasons for not-inclusion in the current Union list no longer apply.

(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")**

Construction of the first interconnection between Belgium and United Kingdom:

No.	Definition
1.1	Cluster Belgium — United Kingdom between Zeebrugge and Canterbury [currently known as "NEMO" project], including the following PCIs: 1.1.1 Interconnection between Zeebrugge (BE) and the vicinity of Richborough (UK) 1.1.2 Internal line between the vicinity of Richborough and Canterbury (UK) 1.1.3 No longer considered a PCI
1.2	No longer considered a PCI

Increase of the transmission capacity between Denmark, Germany and the Netherlands:

1.3	Cluster Denmark — Germany between Endrup and Brunsbüttel, including the following PCIs: 1.3.1 Interconnection between Endrup (DK) and Niebüll (DE) 1.3.2 Internal line between Brunsbüttel and Niebüll (DE)
1.4	Cluster Denmark — Germany between Kassø and Dollern, 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)