Commission Implementing Regulation (EU) No 409/2013 of 3 May 2013 on the definition of common projects, the establishment of governance and the identification of incentives supporting the implementation of the European Air Traffic Management Master Plan (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) No 409/2013

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky[(1)], and in particular Article 15a thereof,

Whereas:

(1) The single European sky regulatory framework comprises the measures referred to in Article 3(1) of Regulation (EC) No 549/2004 of the European Parliament and of the Council[(2)].

(2) The application of single European sky regulatory framework shall be without prejudice to the Member States' responsibilities in accordance with Article 1(2) of Regulation (EC) No 549/2004.

(3) In its Communication of 22 December 2011[(3)], the Commission announced its intention to set out governance and incentive mechanisms for the deployment of SESAR (Single European Sky Air Traffic Management Research and development) based on Article 15a of Regulation (EC) No 550/2004. These mechanisms include common projects, which should assist the successful implementation of the ATM Master Plan; guidance on common projects, which should establish a binding framework on how common projects can support such implementation; and governance mechanisms which should ensure timely, coordinated and synchronised deployment by setting out a clear allocation of responsibilities amongst stakeholders.

(4) Regulation (EC) No 550/2004 aims to help airspace users and air navigation service providers improve collective air navigation infrastructure, the provision of air navigation services and the use of airspace by working together in common projects. The aim is also to speed up the deployment of the Single European Sky Air Traffic Management Research and Development (SESAR) project.

Changes to legislation: *Commission Implementing Regulation (EU) No 409/2013 is up to date with all changes known to be in force on or before 16 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) SESAR is the project set up to modernise European air traffic management system. It is the technological pillar of the single European sky initiative.

(6) SESAR is composed of three phases: the definition phase to define the content of the next generation of ATM systems; the development phase to develop and validate the new generation of technological systems, components and operational procedures; and the deployment phase that consists in the industrialisation and implementation of the new air traffic management systems.

(7) The European Air Traffic Management (ATM) Master Plan (hereinafter referred to as the ATM Master Plan), produced during the definition phase of SESAR is the agreed roadmap to bring ATM research and development to the deployment phase.

(8) The ATM Master Plan outlines the essential operational changes that are required to help achieve the Single European Sky (SES) performance objectives. It is a key tool for SESAR deployment and provides the basis for timely, coordinated and synchronised deployment of the new ATM functionalities.

(9) Deployment objectives and priorities should take into account also aspects of Network operations defined in the Network Strategy Plan, which includes the performance targets consistent with the European Union-wide performance targets and the actions planned to meet the targets, and in the Network Operations plan defined in Commission Regulation (EU) No 677/2011[(4)].

(10) A timely, coordinated and synchronised deployment of SESAR is essential to achieve the SES performance objectives and the overall economic benefits expected from ATM modernisation.

(11) Common projects provided for in Article 15a of Regulation (EC) No 550/2004 should help boost the performance of the European ATM network (EATMN) and demonstrate overall positive cost-benefit analysis, mindful of any potential negative impacts for specific regions or stakeholders.

(12) In order to ensure that common projects are implemented and monitored in a timely, coordinated and synchronised manner, making optimal use of the instruments and bodies identified in the single European sky regulatory framework, a governance of SESAR deployment should be established.

(13) In order to govern SESAR deployment effectively and ensure credibility of the deployment process, the operational stakeholders accountable for the performance of the ATM system should be involved in deployment governance.

(14) Operational stakeholders investing in SESAR deployment should play a leading role in managing and implementing deployment activities, preferably through a single entity, while avoiding any conflict of interest.

(15) The manufacturing industry should play an advisory role in SESAR deployment to ensure consistency with industrialisation and timely availability of equipment.

(16) The Commission should oversee deployment activities making sure they follow the SES objectives and safeguard the public interest, by establishing appropriate reporting

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and monitoring mechanisms making the best use of existing instruments such as the European and Local Single Sky ImPlementation (ESSIP Plan and Report and LSSIP documents).

(17) The Commission should keep the Single Sky Committee fully informed on the process for the selection of the deployment manager, for the approval of the deployment programme and for the selection of implementation projects. The Single Sky Committee should be consulted on these issues without prejudice to the rules and procedures laid down in the relevant Union funding programmes.

(18) The European Organisation for Civil Aviation Equipment (Eurocae), which produces technical material and performs preliminary and ancillary work in connection with European standardisation, should assist the Commission in monitoring and facilitating standardisation processes and in promoting the use of European standards.

(19) While the deployment of SESAR projects in relation to the military remains the responsibility of the States concerned, there should be coordination with the military to avoid any adverse impact on defence capabilities.

(20) To encourage early investment from stakeholders and mitigate deployment aspects for which the cost-benefit analysis is less positive, implementation projects that aim to deploy common projects should be eligible for Union funding and other incentives, in accordance with the rules and procedures of Union funding programmes and incentive schemes.

(21) As far as possible, synergies shall be sought between SESAR deployment and Functional Airspace Blocks (FABs).

(22) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PRINCIPLES

Article 1

Subject matter and scope

1 This Regulation defines common projects, referred to in Article 15a of Regulation (EC) No 550/2004, explains how they shall be governed and identifies incentives for their deployment.

2 This Regulation shall apply to the European Air Traffic Management Network (EATMN).

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Article 2

Definitions

For the purpose of this Regulation, the definitions in Article 2 of Regulation (EC) No 549/2004 and in Article 2 of Regulation (EU) No 677/2011 shall apply.

In addition the following definitions shall apply:

(1) 'SESAR Joint Undertaking' means the body, established by Council Regulation (EC) No 219/2007[(5)], entrusted with the task of managing and coordinating the development phase of the SESAR project;

(2) 'charging scheme' means the scheme established by Commission Regulation (EC) No 1794/2006[(6)];

(3) 'ATM functionality' means a group of ATM operational functions or services related to trajectory, airspace and surface management or to information sharing within the en-route, terminal, airport or network operating environments;

(4) 'SESAR deployment' means the activities and processes relating to the industrialisation and implementation of ATM functionalities identified in the ATM Master Plan;

(5) 'industrialisation' of ATM functionalities means the activities and processes, following their validation that include standardisation, certification and production by the manufacturing industry (ground and airborne equipment manufacturers);

(6) 'implementation' of ATM functionalities means the procurement, installation and putting into service of equipment and systems, including associated operational procedures, carried out by operational stakeholders;

(7) 'essential operational change' means an Air Traffic Management (ATM) operational change that provides significant network performance improvements to the operational stakeholders, as referred to in the ATM Master Plan;

(8) 'performance scheme' means a scheme established by Commission Regulation (EU) No 691/2010[(7)];

(9) 'European Union-wide performance targets' means the targets referred to in Article 9 of Regulation (EU) No 691/2010;

(10) 'operational stakeholders' means civil and military: airspace users, air navigation service providers and airport operators.

Article 3

ATM Master Plan

1 The ATM Master Plan is the roadmap driving the modernisation of the European ATM system and connecting SESAR research and development with deployment. It shall be the key SES instrument for the seamless operation of the EATMN and the timely, coordinated and synchronised SESAR deployment.

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2 The updates of the ATM Master Plan shall contribute to achieving the European Union-wide performance targets and maintain consistency between these targets, SESAR deployment and SESAR research, development, innovation and validation activities. For this purpose, the ATM Master Plan updates shall take into account the Network Strategy Plan and the Network Operation plan.

CHAPTER II

COMMON PROJECTS

Article 4

Purpose and content

1 Common projects shall aim to deploy in a timely, coordinated and synchronised way ATM functionalities that will achieve the essential operational changes.

2 Common projects shall be consistent with and contribute to the European Union-wide performance targets.

3 Common projects shall identify the ATM functionalities that:

a having reached the appropriate level of industrialisation, are mature for implementation;

b require synchronised deployment.

4 The maturity of ATM functionalities shall be demonstrated, inter alia, on the basis of the results of validation carried out by the SESAR Joint Undertaking, the status of standardisation and certification processes and an assessment of their interoperability, also in relation to the ICAO Global Air Navigation Plan and relevant ICAO material.

5 The need for synchronised deployment of ATM functionalities shall be assessed on the basis of:

a a definition of their geographical scope and planning, including deployment target dates;

b an identification of the operational stakeholders required to deploy them;

c transitional measures for their progressive deployment.

6 Common projects shall also:

a demonstrate a positive business case for the EATMN, based on an independent cost-benefit analysis, and identify any potential local or regional negative impact for any specific category of operational stakeholders;

b identify incentives for deployment, referred to in Section 3 of Chapter III, in particular to mitigate negative impacts on a specific geographical area or category of operational stakeholders;

c refer to the implementing rules for interoperability and safety under Regulation (EC) No 552/2004 of the European Parliament and of the Council[8] and Regulation (EC) No 216/2008 of the European Parliament and of the Council[9]. In particular, reference shall be made to Community specifications under Regulation (EC) No 552/2004 and to acceptable means of compliance and certification specifications under Regulation (EC) No 216/2008;

d identify any need for new implementing rules for interoperability and safety, Community specifications and civil standards to support their deployment and their