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Delegations will find attached document C(2017) 5963 final ANNEX 1

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ANNEX 1

ANNEX

to the

COMMISSION DELEGATED DECISION

**replacing Annex VII to Directive 2012/34/EU of the European Parliament and of the
Council establishing a single European railway area**

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"Annex VII

SCHEDULE FOR THE ALLOCATION PROCESS

(referred to in Article 43)

- (1) The working timetable shall be established once per calendar year.
- (2) The change of working timetable shall take place at midnight on the second Saturday in December. Where an adjustment is carried out after the winter, in particular to take account, where appropriate, of changes in regional passenger traffic timetables, it shall take place at midnight on the second Saturday in June and at such other intervals between these dates as are required. Infrastructure managers may agree on different dates and in this case they shall inform the Commission if international traffic may be affected.
- (3) The deadline for receipt of requests for capacity to be incorporated into the working timetable shall be no more than twelve months in advance of the change of the working timetable. Requests received after the deadline shall also be considered by the infrastructure manager.
- (4) No later than 11 months before the change of the working timetable, the infrastructure managers shall ensure that provisional international train paths have been established in cooperation with other relevant infrastructure managers. Infrastructure managers shall ensure that as far as possible these are adhered to during the subsequent processes.
- (5) The infrastructure manager shall prepare and publish a draft working timetable at the latest four months after the deadline referred to in point (3).
- (6) The infrastructure manager shall decide on the requests it receives after the deadline referred to in point (3) in accordance with a process published in the network statement.

The infrastructure manager may reschedule an allocated train path if it is necessary to ensure the best possible matching of all path requests and if it is approved by the applicant to which the path had been allocated. The infrastructure manager shall update the draft working timetable no later than one month before the change of the

working timetable in order to include all train paths allocated after the deadline referred to in point (3).

- (7) In the case of trains crossing from one network to another which arrive with a presumed delay of not more than 10 hours and, from 14 December 2019, 18 hours, the infrastructure manager of the other network shall not consider the train path cancelled or request application for another train path, including if it decides to allocate a different train path, unless the applicant informs the infrastructure manager that the train will not cross to the other network. The infrastructure manager shall communicate to the applicant the updated or new train path without delay, including, if different, the link between that train path number and the train path number of the cancelled train path.
- (8) As regards temporary restrictions of the capacity of railway lines, for reasons such as infrastructure works, including associated speed restrictions, axle load, train length, traction, or structure gauge ('capacity restrictions'), of a duration of more than seven consecutive days and for which more than 30% of the estimated traffic volume on a railway line per day is cancelled, re-routed or replaced by other modes of transport, the infrastructure managers concerned shall publish all capacity restrictions and the preliminary results of a consultation with the applicants for a first time at least 24 months, to the extent they are known, and, in an updated form, for a second time at least 12 months before the change of the working timetable concerned.
- (9) The infrastructure managers concerned shall also create a mechanism whereby they jointly discuss those capacity restrictions, if the impact of the capacity restrictions is not limited to one network, with interested applicants, the associations of infrastructure managers referred to in Article 40(1) and the main operators of service facilities concerned when they are published for the first time, unless the infrastructure managers and the applicants agree that such a mechanism is not needed. The joint discussions shall help prepare timetables, including the provision of diversionary routes.
- (10) When publishing capacity restrictions in accordance with point (8) for a first time, the infrastructure manager shall launch a consultation with the applicants and the main operators of services facilities concerned on the capacity restrictions. Where a coordination in accordance with point (11) is required between the first and second publication of capacity restrictions, infrastructure managers shall consult with applicants and the main operators of service facilities concerned a second time between the end of that coordination and the second publication of the capacity restriction.
- (11) Before publishing capacity restrictions in accordance with point (8), if the impact of the capacity restrictions is not limited to one network, the infrastructure managers concerned, including infrastructure managers that might be impacted by the rerouting of trains, shall coordinate between themselves capacity restrictions that could involve a cancellation, re-routing of a train path or a replacement by other modes.

The coordination before the second publication shall be completed:

- (a) no later than 18 months before the change of the working timetable if more than 50% of the estimated traffic volume on a railway line per day is cancelled,

re-routed or replaced by other modes of transport for a duration of more than 30 consecutive days

- (b) no later than 13 months and 15 days before the change of the working timetable period if more than 30% of the estimated traffic volume on a railway line per day is cancelled, re-routed or replaced by other modes of transport for a duration of more than seven consecutive days
- (c) no later than 13 months and 15 days before the change of the working timetable period if more than 50% of the estimated traffic volume on a railway line per day is cancelled, re-routed or replaced by other modes of transport for a duration of seven consecutive days or less.

The infrastructure managers shall, if necessary, invite the applicants active on the lines concerned and the main operators of service facilities concerned to get involved in that coordination.

- (12) As regards capacity restrictions of a duration of seven consecutive days or less that need not be published in accordance with point (8) and for which more than 10% of the estimated traffic volume on a railway line per day is cancelled, re-routed or replaced by other modes, that occur during the following timetable period and that the infrastructure manager becomes aware of no later than 6 months and 15 days before the change of the working timetable, the infrastructure manager shall consult the applicants concerned on the envisaged capacity restrictions and communicate the updated capacity restrictions at least four months before the change of the working timetable . The infrastructure manager shall provide details on the offered train paths for passenger trains no later than four months and for freight trains no later than one month before the beginning of the capacity restriction, unless the infrastructure manager and the concerned applicants agree on a shorter lead time .
- (13) Infrastructure managers may decide to apply more stringent thresholds for capacity restrictions based on lower percentages of estimated traffic volumes or shorter durations than indicated in this Annex or to apply criteria in addition to the ones mentioned in this Annex, pursuant to a consultation with applicants and facility operators. They shall publish the thresholds and criteria for clustering capacity restrictions in their network statements under point 3 of Annex IV.
- (14) The infrastructure manager may decide not to apply the periods laid down in points (8) to (12), if the capacity restriction is necessary to re-establish safe train operations, the timing of the restrictions is beyond the control of the infrastructure manager, the application of those periods would be cost ineffective or unnecessarily damaging in respect of asset life or condition, or if all concerned applicants agree. In those cases and in case of any other capacity restrictions that are not subject to consultation in accordance with other provisions of this Annex, the infrastructure manager shall consult the applicants and the main operators of service facilities concerned forthwith.
- (15) The information to be provided by the infrastructure manager when acting in accordance with points (8), (12) or (14) shall include:
 - (a) the planned day,

- (b) time of day, and, as soon as it can be set, the hour of the beginning and of the end of the capacity restriction,
- (c) the section of line affected by the restriction, and
- (d) where applicable, the capacity of diversionary lines.

The infrastructure manager shall publish that information, or a link where it can be found, in its network statement as referred to in point (3) of Annex IV. The infrastructure manager shall keep this information updated.

- (16) As regards the capacity restrictions of a duration of at least 30 consecutive days and affecting more than 50% of the estimated traffic volume on a railway line, the infrastructure manager shall provide the applicants upon their request during the first round of consultation with a comparison of the conditions to be encountered under at least two alternatives of capacity restrictions. The infrastructure manager shall design those alternatives on the basis of the input provided by the applicants at the time of their requests and jointly with them.

The comparison shall, for each alternative, include at least:

- (a) the duration of the capacity restriction,
- (b) the expected indicative infrastructure charges due,
- (c) the capacity available on diversionary lines,
- (d) the available alternative routes, and
- (e) the indicative travel times.

Before making a choice between the alternatives of capacity restrictions, the infrastructure manager shall consult the interested applicants and take into account the impacts of the different alternatives on those applicants and on the users of the services.

- (17) As regards the capacity restrictions of a duration of more than 30 consecutive days and affecting more than 50% of the estimated traffic volume on a railway line, the infrastructure manager shall establish criteria for which trains of each type of service should be re-routed, taking into account the applicant's commercial and operational constraints, unless those operational constraints result from managerial or organisational decisions of the applicant, and without prejudice to the aim of reducing costs of the infrastructure manager in accordance with Article 30(1). The infrastructure manager shall publish in the network statement those criteria together with a preliminary allocation of the remaining capacity to the different types of train services when it acts in accordance with point (8). After the end of the consultation and without prejudice to the obligations of the infrastructure manager as referred to in point (3) of Annex IV, the infrastructure manager, based on the feed-back it received from the applicants, shall provide the railway undertakings concerned with an indicative break-down by type of service of the remaining capacity.