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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2017/815**of 12 May 2017****amending Implementing Regulation (EU) 2015/1998 as regards clarification, harmonisation and simplification of certain specific aviation security measures****(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 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 ⁽¹⁾, and in particular Article 4(3) thereof,

Whereas:

- (1) Experience with the implementation of Commission Implementing Regulation (EU) 2015/1998 ⁽²⁾ has shown the need for minor amendments to the implementing modalities of certain common basic standards. The changes proposed in the attached texts do not create any substantial new requirements but facilitate the practical implementation of the EU aviation security measures and are based on input received from Member States and aviation security stakeholders.
- (2) Certain specific aviation security measures should be clarified, harmonised or simplified in order to improve legal clarity, standardise the common interpretation of the legislation and further ensure the best implementation of the common basic standards on aviation security.
- (3) The amendments concern the implementation of a limited number of measures in relation to airport security, aircraft security, screening of liquids aerosols and gels, hold baggage, cargo and mail, in-flight supplies, staff recruitment and training, and security equipment.
- (4) Following the entry into force of this Regulation regulated agents should be prohibited from designating further account consignors as recommended by State letter 16/85 of the International Civil Aviation Organization (ICAO). Before losing their status by 30 June 2021 at the latest, account consignors designated before the entry into force of this Regulation should have the option of becoming regulated agents or known consignors.
- (5) Implementing Regulation (EU) 2015/1998 should therefore be amended accordingly.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Civil Aviation Security,

⁽¹⁾ OJ L 97, 9.4.2008, p. 72.⁽²⁾ Commission Implementing Regulation (EU) 2015/1998 of 5 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security (OJ L 299, 14.11.2015, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Implementing Regulation (EU) 2015/1998 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*.

It shall apply from 1 June 2017.

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

Done at Brussels, 12 May 2017.

For the Commission
The President
Jean-Claude JUNKER

ANNEX

The Annex to Implementing Regulation (EU) 2015/1998 is amended as follows:

(1) point 1.0.3 is replaced by the following:

‘1.0.3 Without prejudice to the criteria for derogations as set out in Part K of the Annex to Commission Regulation (EC) No 272/2009 (*), the appropriate authority may allow special security procedures or exemptions for the protection and security of airside areas at airports on days on which there is not more than one aircraft to be loaded, unloaded, boarded or disembarked at any one time either within the critical part of the security restricted area or at an airport that falls outside of the scope of point 1.1.3.

(*) Commission Regulation (EC) No 272/2009 of 2 April 2009 supplementing the common basic standards on civil aviation security laid down in the Annex to Regulation (EC) No 300/2008 of the European Parliament and of the Council (OJ L 91, 3.4.2009, p. 7).’;

(2) point 1.1.3.1 is replaced by the following:

‘1.1.3.1 Critical parts shall be established at airports where more than 60 persons hold airport identification cards giving access to security restricted areas.’;

(3) in point 1.2.6.2, the second paragraph is deleted;

(4) point 1.2.6.3 is replaced by the following:

‘1.2.6.3 An electronic vehicle pass shall, either:

(a) be fixed to the vehicle in a manner which ensures that it is non-transferable; or

(b) be linked to the registered vehicle user through a secure vehicle registration database.

Electronic vehicle passes need not display the areas for which the vehicle is authorised to have access nor the expiry date, provided that this information is electronically readable and checked before granting access to security restricted areas. Electronic vehicle passes shall also be electronically readable in security restricted areas.’;

(5) point 1.3.1.8 is replaced by the following:

‘1.3.1.8 Animals used for operational needs and handled by a person carrying a valid airport identification card shall be subjected to a visual check before access to security restricted areas is granted.’;

(6) the following point 1.3.1.9 is added:

‘1.3.1.9 The screening of persons other than passengers and items carried shall also be subject to the additional provisions laid down in Commission Implementing Decision C(2015) 8005.’;

(7) point 1.6.4 is replaced by the following:

‘1.6.4 Reconciliation shall be performed before the person is allowed to carry the article(s) concerned into security restricted areas and upon being challenged by persons performing surveillance or patrols under point (c) of point 1.5.1.’;

(8) point 3.0.6 is replaced by the following:

‘3.0.6 The list of prohibited articles for aircraft security searches of the interior of aircraft is the same as the one set out in Attachment 1-A. Assembled explosive and incendiary devices shall be considered as prohibited articles for aircraft security searches of the exterior of aircraft.’;

(9) the following points 3.0.7 and 3.0.8 are added:

‘3.0.7 For the purpose of this Chapter, ‘aircraft service panels and hatches’ means aircraft external access points and compartments that have external handles or external clip-down panels and are routinely used for providing aircraft ground handling services.

3.0.8 References to third countries in this Chapter and in Commission Implementing Decision C(2015) 8005 include other countries and territories to which, in accordance with Article 355 of the Treaty on the Functioning of the European Union, Title VI of Part Three of that Treaty does not apply.’;

(10) point 4.1.3.1 is replaced by the following:

‘4.1.3.1 LAGs carried by passengers may be exempted from screening with LEDS equipment upon entry to the SRA in the following cases:

- (a) if the LAGs are in individual containers with a capacity not greater than 100 millilitres or equivalent in one transparent resealable plastic bag of a capacity not exceeding 1 litre, whereby the contents of the plastic bag fit comfortably and the bag is completely closed;
- (b) if the LAG is sealed in a dedicated STEB upon purchase locally at the airport airside.’;

(11) point 4.1.3.2 is replaced by the following:

‘4.1.3.2 The dedicated STEBs referred to under point (b) of point 4.1.3.1 shall:

- (a) be clearly identifiable as a STEB of that airport; and
- (b) display inside proof of purchase at that airport within the preceding period of three hours; and
- (c) be subject to the additional provisions laid down in Commission Implementing Decision C(2015) 8005.’;

(12) point 4.1.3.3 is replaced by the following:

‘4.1.3.3 The appropriate authority may create categories of LAGs that, for objective reasons, shall be subjected to special screening procedures or may be exempted from screening. The Commission shall be informed of the categories created.’;

(13) the following point 4.1.3.4 is added:

‘4.1.3.4 The screening of LAGs shall also be subject to the additional provisions laid down in Commission Implementing Decision C(2015) 8005.’;

(14) point 5.4.3 is replaced by the following:

‘5.4.3 The air carrier shall ensure that passengers are informed of the prohibited articles listed in Attachment 5-B at any time before the check-in is completed.’;

(15) in point 6.2.1.5, the second paragraph is deleted;

(16) point 6.3.2.2 is replaced by the following:

‘6.3.2.2 The regulated agent or air carrier shall ask the person delivering any consignments to present an identity card, passport, driving licence or other document, which includes his or her photograph and which has been issued or is recognised by the national authority. The card or document shall be used to establish the identity of the person delivering the consignments.’;

(17) point 6.3.2.4 is replaced by the following:

‘6.3.2.4 After the security controls referred to in points from 6.3.2.1 to 6.3.2.3 of this Annex and point 6.3 of the Annex to Commission Implementing Decision C(2015) 8005 have been applied, the regulated agent shall ensure the protection of cargo and mail in accordance with point 6.6.’;

(18) point 6.3.2.6 (e) is replaced by the following:

‘(e) the reason why the security status was issued, stating:

- (i) ‘KC’, meaning received from known consignor; or
- (ii) ‘AC’, meaning received from account consignor; or
- (iii) ‘RA’, meaning selected by a regulated agent; or
- (iv) the means or method of screening used, as follows:
 - hand search (PHS);
 - X-ray equipment (XRY);
 - EDS equipment (EDS);
 - explosive detection dogs (EDD)
 - ETD equipment (ETD);

- visual check (VCK);
- metal detection equipment (CMD);
- any other method (AOM) in accordance with point 6.2.1.6 where the method used shall be specified;
or

(v) the grounds for exempting the consignment from screening;;

(19) in point 6.4.1.2, points (a) and (b) are replaced by the following:

‘(a) the applicant shall seek approval from the appropriate authority of the Member State in which its site is located.

The applicant shall submit a security programme to the appropriate authority concerned. The programme shall describe the methods and procedures which are to be followed by the consignor in order to comply with the requirements of Regulation (EC) No 300/2008 and its implementing acts. The programme shall also describe how compliance with these methods and procedures is to be monitored by the consignor itself.

The applicant shall be provided with the ‘Guidance for known consignors’ as contained in Attachment 6-B and the ‘Validation checklist for known consignors’ as contained in Attachment 6-C;

(b) the appropriate authority, or EU aviation security validator acting on its behalf, shall examine the security programme and then make an on-site verification of the sites specified in order to assess whether the applicant complies with the requirements of Regulation (EC) No 300/2008 and its implementing acts.

In order to assess whether the applicant complies with these requirements, the appropriate authority, or EU aviation security validator acting on its behalf, shall make use of the ‘Validation checklist for known consignors’ as contained in Attachment 6-C. This checklist includes a declaration of commitments which shall be signed by the applicant’s legal representative or by the person responsible for security at the site.

Once the validation checklist is completed, the information contained in the checklist shall be handled as classified information.

The signed declaration shall be retained by the appropriate authority concerned or retained by the EU aviation security validator and made available to the appropriate authority concerned;;

(20) in point 6.4.1.6, the second paragraph is deleted;

(21) points from 6.5.1 to 6.5.4 are replaced by the following:

‘6.5.1 The regulated agent shall maintain a database comprising the following information of any account consignor it has designated before 1 June 2017:

- the company details, including the bona fide business address; and
- the nature of the business; and
- contact details, including those of the person(s) responsible for security; and
- VAT reference number or company registration number; and
- signed ‘Declaration of commitments — account consignor’ as contained in Attachment 6-D.

Where the account consignor is a holder of an AEO certificate referred to in point (b) or (c) of point (1) of Article 14a of Commission Regulation (EEC) No 2454/93, the AEO certificate number shall be maintained in the database referred to in the first paragraph.

The database shall be available for inspection by the appropriate authority.

6.5.2 If there is no activity relating to movements of cargo or mail by air on the account of the account consignor within a period of 2 years, the status of account consignor shall expire.

6.5.3 If the appropriate authority or the regulated agent is no longer satisfied that the account consignor complies with the instructions as contained in Attachment 6-D, the regulated agent shall immediately withdraw the status of account consignor. The status of any account consignor designated by a regulated agent will end on 30 June 2021.

6.5.4 When, for whatever reason, the security controls specified in the ‘Aviation security instructions for account consignors’ have not been applied to a consignment, or where the consignment has not been originated by the account consignor for its own account, the account consignor shall clearly identify this to the regulated agent so that point 6.3.2.3 can be applied.’;

(22) points 6.5.5 and 6.5.6 are deleted;

(23) in point 6.6.2, the title is replaced by the following:

‘Protection for cargo and mail during handling, storage, and loading onto an aircraft’;

(24) point 6.6.2.2 is replaced by the following:

‘6.6.2.2 Consignments of cargo and mail in a part other than a critical part of a security restricted area shall be protected from unauthorised interference until they are handed over to another regulated agent or air carrier. Consignments shall be located in the access-controlled parts of a regulated agent’s premises or, whenever located outside of such parts, shall be considered as protected from unauthorised interference if:

- (a) they are physically protected so as to prevent the introduction of a prohibited article; or
- (b) they are not left unattended and access is limited to persons involved in the protection and loading of cargo and mail onto an aircraft.’;

(25) points 6.8.2.3 and 6.8.2.4 are replaced by the following:

‘6.8.2.3 The appropriate authority may accept the EU aviation security validation report of a third country entity, or of another ACC3, for ACC3 designation in cases where that entity or ACC3 carries out the entire cargo operation, including loading into the hold of the aircraft, on behalf of the applicant ACC3 and the EU aviation security validation report covers all these activities.

6.8.2.4 The EU aviation security validation shall be recorded in a validation report consisting at least of the declaration of commitments as set out in Attachment 6-H1, the checklist set out in Attachment 6-C3 and a declaration by the EU aviation security validator as set out in Attachment 11-A. The EU aviation security validator shall submit the validation report to the appropriate authority and provide the validated air carrier with a copy.’;

(26) point 6.8.2.5 is deleted;

(27) point 6.8.3.1 is replaced by the following:

‘6.8.3.1 The ACC3 shall ensure that all cargo and mail carried for transfer, transit or unloading at a Union airport is screened, unless:

- (a) the required security controls have been applied to the consignment by an EU aviation security validated regulated agent (RA3) and the consignment has been protected from unauthorised interference from the time that those security controls were applied and until loading; or
- (b) the required security controls have been applied to the consignment by an EU aviation security validated known consignor (KC3) and the consignment has been protected from unauthorised interference from the time that those security controls were applied and until loading; or
- (c) the required security controls have been applied to the consignment by an account consignor (AC3) under the responsibility of the ACC3 or of an EU aviation security validated regulated agent (RA3), the consignment has been protected from unauthorised interference from the time that those security controls were applied and until loading, and it is not carried on a passenger aircraft; or
- (d) the consignment is exempted from screening in accordance with point (d) of point 6.1.1 and protected from unauthorised interference from the time that it became identifiable air cargo or identifiable air mail and until loading.

Point (c) shall apply until 30 June 2021.’;

(28) points 6.8.3.4 and 6.8.3.5 are replaced by the following:

‘6.8.3.4 When tendering consignments to which it has applied the required security controls to another ACC3 or RA3, the ACC3, RA3, or KC3 shall indicate in the accompanying documentation the unique alphanumeric identifier received from the designating appropriate authority.

6.8.3.5 When accepting any consignments, an ACC3 or RA3 shall establish whether the air carrier or the entity from which it receives the consignments is another ACC3, RA3, or KC3 by the following means of:

- (a) verifying whether or not the unique alphanumeric identifier of the entity delivering the consignments is indicated on the accompanying documentation; and
- (b) confirming that the air carrier or entity delivering the consignment is listed as active in the Union database on supply chain security for the specified airport or site, as appropriate.

If there is no indication on the accompanying documentation of the identifier, or if the air carrier or entity delivering the consignments is not listed as active in the Union database on supply chain security, it shall be deemed that no security controls have previously been applied, and the consignments shall be screened by the ACC3 or by another EU aviation security validated RA3 before being loaded onto the aircraft.;

(29) the following points 6.8.3.6 and 6.8.3.7 are added:

‘6.8.3.6 After the security controls referred to in points 6.8.3.1 to 6.8.3.5 have been applied, the ACC3 or the EU aviation security validated regulated agent (RA3) operating on its behalf shall ensure that the accompanying documentation, either in the form of an air waybill, equivalent postal documentation or in a separate declaration and either in an electronic format or in writing, indicate at least:

- (a) the unique alphanumeric identifier of the ACC3; and
- (b) the security status of the consignment as referred to in point (d) of point 6.3.2.6 and issued by an EU aviation security validated regulated agent (RA3); and
- (c) the unique identifier of the consignment, such as the number of the house or master air waybill, when applicable; and
- (d) the content of the consignment; and
- (e) the reasons for issuing the security status, including the means or method of screening used or the grounds for exempting the consignment from screening, using the standards adopted in the Consignment Security Declaration scheme.

6.8.3.7 In the absence of a third country regulated agent referred to in point (b) of point 6.8.3.6, the security status declaration may be issued by the ACC3 or by the air carrier arriving from a third country listed in Attachments 6-Fi or 6-Fii.;

(30) points 6.8.4 and 6.8.5 are replaced by the following:

‘6.8.4. **Designation of regulated agents and known consignors**

6.8.4.1. Third country entities being, or intending to be, part of the supply chain of an air carrier holding the status of ACC3, may be designated as either ‘third country regulated agent’ (RA3) or ‘third country known consignor’ (KC3).

6.8.4.2. To obtain designation, the entity shall address the request to:

- (a) the appropriate authority of the Member State responsible for the ACC3 designation of an air carrier at the third country airport where the applicant handles EU bound cargo; or
- (b) where there is no ACC3 designated air carrier in that country, the appropriate authority of the Member State responsible for the approval of the EU aviation security validator performing, or having performed, the validation.

The appropriate authority receiving the request shall start the designation process, or agree with the appropriate authority of another Member State on its delegation, taking into account political or aviation cooperation, or both.

6.8.4.3. Before designation, the eligibility to obtain RA3 or KC3 status in accordance with point 6.8.4.1 shall be confirmed.

- 6.8.4.4. The designation of an entity as RA3 or KC3 in respect of its cargo and mail operations ('relevant cargo operations') shall be based on the following:
- (a) the nomination of a person with overall responsibility on the entity's behalf for the implementation of cargo or mail security provisions in respect of the relevant cargo operation; and
 - (b) an EU aviation security validation report confirming the implementation of security measures.
- 6.8.4.5. The appropriate authority shall allocate to the designated RA3 or KC3 a unique alphanumeric identifier in the standard format identifying the entity and the third country for which it has been designated to implement security provisions in respect of cargo or mail bound for the Union.
- 6.8.4.6. The designation shall be valid from the date the appropriate authority has entered the entity's details into the Union database on supply chain security, for a maximum period of three years.
- 6.8.4.7. An entity listed as RA3 or KC3 on the Union database on supply chain security shall be recognised in all Member States for operations conducted in respect of cargo or mail transported from the third country airport into the Union by an ACC3.
- 6.8.4.8. Designations of RA3 and KC3 issued before 1 June 2017 shall expire five years after their designation or on 31 March 2020, whichever date comes earlier.
- 6.8.4.9. Upon request by the appropriate authority of their approval, EU aviation security validators shall make available the details contained in Part 1 of the checklist set out in Attachment 6-C2 or Attachment 6-C4, as appropriate, for each entity they have designated, in order to establish a consolidated list of entities designated by EU aviation security validators.

6.8.5. Validation of regulated agents and known consignors

- 6.8.5.1. In order to be designated as EU aviation security validated regulated agent or known consignor, third country entities shall be validated according to one of the following two options:
- (a) the ACC3's security programme shall set out details of security controls implemented on its behalf by third country entities from which it accepts cargo or mail directly for carriage into the Union. The EU aviation security validation of the ACC3 shall validate the security controls applied by those entities; or
 - (b) the third country entities shall submit the relevant cargo handling activities to an EU aviation security validation at intervals not exceeding three years. The EU aviation security validation shall consist of the following:
 - (i) an examination of the entity's security programme ensuring its relevance and completeness in respect of the operations performed; and
 - (ii) on-site verification of the implementation of aviation security measures in respect of the relevant cargo operations.

The validation report shall consist of, for third country regulated agents, the declaration of commitments as set out in Attachment 6-H2 and the checklist set out in Attachment 6-C2, and for third country known consignors, the declaration of commitments as set out in Attachment 6-H3 and the checklist set out in Attachment 6-C4. The validation report shall also include a declaration by the EU aviation security validator, as set out in Attachment 11-A.

- 6.8.5.2. Once the EU aviation security validation according to point (b) of point 6.8.5.1 has been completed, the EU aviation security validator shall submit the validation report to the appropriate authority and provide the validated entity with a copy.
- 6.8.5.3. A compliance monitoring activity conducted by the appropriate authority of a Member State or by the Commission may be considered as an EU aviation security validation, provided that it covers all areas specified in the checklist set out in Attachment 6-C2 or 6-C4, as appropriate.

6.8.5.4. The ACC3 shall maintain a database giving at least the following information for each regulated agent or known consignor that has been subject to EU aviation security validation in accordance with point 6.8.5.1, from which it directly accepts cargo or mail for carriage into the Union:

- (a) the company details, including the bona fide business address; and
- (b) the nature of the business, excluding business sensitive information; and
- (c) contact details, including those of the person(s) responsible for security; and
- (d) the company registration number, if applicable; and
- (e) where available, the validation report; and
- (f) the unique alphanumeric identifier attributed in the Union database on supply chain security.

Where applicable, the database shall contain the above information for each account consignor under its responsibility in accordance with point (c) of point 6.8.3.1, from which the ACC3 directly accepts cargo or mail for carriage into the Union.

The database shall be available for inspection of the ACC3.

Other EU aviation security validated entities may maintain such a database.

6.8.5.5. An air cargo or mail entity operating a network of different sites in third countries may obtain a single designation as EU aviation security validated regulated agent covering all sites of the network, provided that:

- (a) the relevant aviation security operations of the network, including transport services between sites, are covered by a single security programme or by standardised security programmes; and
- (b) the implementation of the security programme(s) is subject to a single internal security quality assurance programme that is equivalent to EU aviation security validation; and
- (c) before designation of the network as EU aviation security regulated agent, the following sites of the entity have been subject to an EU aviation security validation:
 - (i) the site(s) from which cargo or mail is directly delivered to an ACC3, and
 - (ii) at least two or 20 % of the sites of the network, whichever is the higher, from which cargo or mail is fed to site(s) referred to in point (i), and
 - (iii) all sites located in third countries listed in Attachment 6-I to Commission Implementing Decision C(2015) 8005.

In order to maintain EU aviation security validated regulated agent designation for all sites of the network not validated until 30 June 2018 at the latest, during every year after the year of designation, at least a further two or 20 %, whichever is the higher, of the sites from which cargo or mail is fed to the site(s) mentioned in point (i) shall be subjected to an EU aviation security validation, until all sites are validated.

An EU aviation security validator shall establish the roadmap listing the order of the locations to be validated each year selected on a random basis. The roadmap shall be established independently from the entity operating the network and may not be changed by that entity. This roadmap shall constitute an integral part of the validation report on the basis of which the network is designated as a third country EU validated regulated agent.

Once it has been subjected to an EU aviation security validation, a site of the network shall be considered as a third country regulated agent in accordance with point 6.8.4.2.

6.8.5.6. If the EU aviation security validation of a site of the network referred to in point (ii) of point (c) of point 6.8.5.5 concludes that the site has failed to comply with the objectives referred to in the checklist in Attachment 6-C2, cargo and mail from that site shall be screened at a site designated as third country regulated agent in accordance with point 6.8.4.2 until an EU aviation security validation confirms compliance with the objectives of the checklist.

6.8.5.7. Points 6.8.5.5 and 6.8.5.6 shall expire on 30 June 2018.;

(31) the following point 6.8.6 is added:

‘6.8.6 Non-compliance and discontinuation of ACC3, RA3 and KC3 designation

6.8.6.1. Non-Compliance

1. If the Commission or an appropriate authority identifies a serious deficiency relating to the operations of an ACC3, an RA3 or a KC3, which is deemed to have a significant impact on the overall level of aviation security in the Union, it shall:
 - (a) inform the air carrier or entity concerned promptly, request comments and appropriate measures rectifying the serious deficiency; and
 - (b) promptly inform the other Member States and the Commission.
2. Where the ACC3, the RA3 or the KC3 has not rectified the serious deficiency within a specific time-frame, or in case the ACC3, the RA3 or the KC3 does not react to the request set out in point (a) of point 6.8.6.1, the authority, or the Commission shall:
 - (a) deactivate the status as ACC3, RA3 or KC3 of the operator or entity in the Union database on supply chain security; or
 - (b) request the appropriate authority responsible for the designation to deactivate the status as ACC3, RA3 or KC3 of the operator or entity in the Union database on supply chain security.

In the situation referred to in the first paragraph, the authority, or the Commission, shall promptly inform the other Member States and the Commission.

3. An air carrier or entity whose status, respectively as an ACC3, RA3 or KC3, has been deactivated in accordance with point 6.8.6.1.2 shall not be reinstated or included in the Union database on supply chain security until an EU aviation security re-designation in accordance with 6.8.1 or 6.8.4 has taken place.
4. If an air carrier or an entity is no longer a holder of the ACC3, RA3 or KC3 status, the appropriate authorities shall undertake appropriate action to satisfy themselves that other ACC3s, RA3s and KC3s under their responsibility, operating in the supply chain of the air carrier or entity that has lost the status, still comply with the requirements of Regulation (EC) No 300/2008.

6.8.6.2. Discontinuation

1. The appropriate authority that designated the ACC3, the RA3 or the KC3, is responsible for removing the details thereof from the ‘Union database on supply chain security’:
 - (a) at the request of or in agreement with the air carrier or the entity; or
 - (b) where the ACC3, the RA3 or the KC3 does not pursue relevant cargo operations and does not react to a request for comments or otherwise obstructs the assessment of risk to aviation.
2. If an air carrier or an entity is no longer a holder of the ACC3, RA3 or KC3 status, the appropriate authorities shall undertake appropriate action to satisfy themselves that other ACC3s, RA3s and KC3s under their responsibility, operating in the supply chain of the air carrier or entity that has been discontinued, still comply with the requirements of Regulation (EC) No 300/2008.;

(32) Attachments 6-C2, 6-C3 and 6-C4 are replaced by the following:

‘ATTACHMENT 6-C2

VALIDATION CHECKLIST FOR THIRD COUNTRY EU AVIATION SECURITY VALIDATED REGULATED AGENTS

Third country entities have the option to become part of an ACC3's (*Air cargo or mail carrier operating into the Union from a third country airport*) secure supply chain by seeking designation as a third country EU aviation security validated regulated agent (RA3). An RA3 is a cargo handling entity located in a third country that is validated and approved as such on the basis of an EU aviation security validation.

An RA3 shall ensure that security controls including screening where applicable have been applied to consignments bound for the Union and the consignments have been protected from unauthorised interference from the time that those security controls were applied and until the consignments are loaded onto an aircraft or are otherwise handed over to an ACC3 or other RA3.

The prerequisites for carrying air cargo or air mail into the Union ⁽¹⁾ or Iceland, Norway and Switzerland are provided for in Implementing Regulation (EU) 2015/1998.

The checklist is the instrument to be used by the EU aviation security validator for assessing the level of security applied to EU or EEA bound air cargo or air mail ⁽²⁾ by or under the responsibility of the entity seeking designation as a RA3. The checklist is to be used only in the cases specified in point (b) of point 6.8.5.1 of the Annex to Implementing Regulation (EU) 2015/1998. In cases specified in point (a) of point 6.8.5.1 of that Annex, the EU aviation security validator shall use the ACC3 checklist.

A validation report shall be delivered to the designating appropriate authority and to the validated entity within a maximum of one month after the on-site verification. Integral parts of the validation report shall be at least:

- the completed checklist signed by the EU aviation security validator and where applicable commented by the validated entity; and
- the declaration of commitments (Attachment 6-H2 to Implementing Regulation (EU) 2015/1998) signed by the validated entity; and
- an independence declaration (Attachment 11-A to Implementing Regulation (EU) 2015/1998) in respect of the entity validated signed by the EU aviation security validator.

Page numbering, the date of the EU aviation security validation and initialling on each page by the validator and the validated entity shall be the proof of the validation report's integrity.

The RA3 shall be able to use the report in its business relations with any ACC3 and where applicable, with any RA3.

By default the validation report shall be in English.

Part 5 — Screening and Part 6 — High risk cargo or mail (HRCM) shall be assessed against the requirements of Chapters 6.7 and 6.8 of the Annex to Implementing Regulation (EU) 2015/1998. For those parts that cannot be assessed against the requirements of Implementing Regulation (EU) 2015/1998, baseline standards are the Standards and Recommended Practices (SARPs) of Annex 17 to the Convention on International Civil Aviation and the guidance material contained in the ICAO Aviation Security Manual (Doc 8973-Restricted).

Completion notes:

- All applicable and relevant parts of the checklist must be completed, in accordance with the business model and operations of the entity being validated. Where no information is available, this must be explained.

⁽¹⁾ The Union Member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

⁽²⁾ EU or EEA bound air cargo or air mail or aircraft in this validation checklist is equivalent to the Union and Iceland, Norway and Switzerland bound air cargo or air mail or aircraft.

- After each part, the EU aviation security validator shall conclude if and to what extent the objectives of this part are met.

PART 1

Identification of the entity validated and the validator

1.1. Date(s) of validation

Use exact date format, such as from 01.10.2012 to 02.10.2012

dd/mm/yyyy	
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1.2. Date of previous validation where applicable

dd/mm/yyyy	
------------	--

Previous RA3 registration number, where available	
---	--

AEO certificate or C-TPAT status or other certifications, where available	
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1.3. Aviation security validator information

Name	
------	--

Company/Organisation/Authority	
--------------------------------	--

Unique alphanumeric identifier (UAI)	
--------------------------------------	--

Email address	
---------------	--

Telephone number — including international codes	
--	--

1.4. Name of entity

Name	
------	--

Company number (for example, commercial register identification number, if applicable)	
--	--

Number/Unit/Building	
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Street	
--------	--

Town	
------	--

Postcode	
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State (where relevant)	
------------------------	--

Country	
P.O. Box address, if applicable	

1.5. Main address of organisation (if different from site to be validated)

Number/Unit/Building	
Street	
Town	
Postcode	
State (where relevant)	
Country	
P.O. Box address, if applicable	

1.6. Nature of business — More than one business type may be applicable

(a) air cargo only (b) air and other modes of transport (c) freight forwarder with cargo premises (d) freight forwarder without cargo premises (e) handling agent (f) others	
---	--

1.7. Does the applicant ...?

(a) receive cargo from another 3rd country regulated agent	
(b) receive cargo from 3rd country known consignors	
(c) receive cargo from 3rd country account consignors	
(d) receive exempted cargo	
(e) screen cargo	
(f) store cargo	
(g) other, please specify	

1.8. Approximate number of employees on site

Number	
--------	--

1.9. Name and title of person responsible for third country air cargo or air mail security

Name	
Job title	
Email address	
Telephone number — including international codes	

PART 2

Organisation and responsibilities of the third country EU aviation security validated regulated agent

Objective: No air cargo or air mail shall be carried to the EU or EEA without being subject to security controls. Cargo and mail delivered by an RA3 to an ACC3 or another RA3 may only be accepted as secure cargo or mail if such security controls are applied by the RA3. Details of such controls are provided in the following Parts of this checklist.

The RA3 shall have procedures in place to ensure that appropriate security controls are applied to all EU or EEA bound air cargo and air mail and that secure cargo or mail is protected until being transferred to an ACC3 or another RA3. Security controls shall consist of one of the following:

- (a) physical screening which shall be of a standard sufficient to reasonably ensure that no prohibited articles are concealed in the consignment;
- (b) other security controls, part of a supply chain security process, that reasonably ensure that no prohibited articles are concealed in the consignment and which have been applied by another RA3, KC3 or AC3 designated by the RA3.

Reference: point 6.8.3 of the Annex to Implementing Regulation (EU) 2015/1998.

2.1. Has the entity established a security programme?

YES or NO	
If NO go directly to point 2.5.	

2.2. Entity security programme

Date — use exact format dd/mm/yyyy	
Version	
Is the security programme submitted and/or approved by the appropriate authority of the state of the entity? If YES please describe the process.	

2.3. Does the security programme sufficiently cover the elements mentioned in parts 3 to 9 of the checklist?

YES or NO	
If NO, describe why detailing the reasons	

2.4. Is the security programme conclusive, robust and complete?

YES or NO	
If NO, specify the reasons	

2.5. Has the entity established a process to ensure that air cargo or air mail is submitted to appropriate security controls before being transferred to an ACC3 or another RA3?

YES or NO	
If YES, describe the process	

2.6. Has the entity a management system (such as instruments, instructions) in place to ensure that the required security controls are implemented?

YES or NO	
If YES, describe the management system and explain if it is approved, checked or provided by the appropriate authority or another entity.	
If NO, explain how the entity ensures that security controls are applied in the required manner.	

2.7. Conclusions and general comments on the reliance, conclusiveness and robustness of the process.

Comments from the entity	
Comments from the EU aviation security validator	

PART 3

Staff recruitment and training

Objective: To ensure the required security controls are applied, the RA3 shall assign responsible and competent staff to work in the field of securing air cargo or air mail. Staff with access to secured air cargo must possess all the competencies required to perform their duties and shall be appropriately trained.

To fulfil that objective, the RA3 shall have procedures in place to ensure that all staff (such as permanent, temporary, agency staff, drivers) with direct and unescorted access to air cargo or air mail to which security controls are being or have been applied:

- (a) have been subject to initial and recurrent pre-employment checks or background checks, which are at least in accordance with the requirements of the local authorities of the RA3 premises validated; and
- (b) have completed initial and recurrent security training to be aware of their security responsibilities in accordance with the requirements of the local authorities of the RA3 premises validated.

Note:

- A background check means a check of a person's identity and previous experience, including where legally permissible, any criminal history as part of the assessment of an individual's suitability to implement a security control and/or for unescorted access to a security restricted area (ICAO Annex 17 definition).
- A pre-employment check shall establish the person's identity on the basis of documentary evidence, cover employment, education and any gaps during at least the preceding five years, and require the person to sign a declaration detailing any criminal history in all states of residence during at least the preceding 5 years (Union definition).

Reference: point 6.8.3.1 of the Annex to Implementing Regulation (EU) 2015/1998.

3.1. Is there a procedure ensuring that all staff with direct and unescorted access to secured air cargo/air mail is subject to a pre-employment check that assesses background and competence?

YES or NO	
If YES, indicate the number of preceding years taken into account for the pre-employment check and state which entity carries it out.	

3.2. Does this procedure include?

☐ background check ☐ pre-employment check ☐ check of criminal records ☐ interviews ☐ other (provide details) Explain the elements, indicate which entity carries this element out and where applicable, indicate the preceding timeframe that is taken into account.	
--	--

3.3. Is there a procedure ensuring that the person responsible for the application and supervision of the implementation of security controls at the site is subject to a pre-employment check that assesses background and competence?

YES or NO	
If YES, indicate the number of preceding years taken into account for the pre-employment check and state which entity carries it out.	

3.4. Does this procedure include?

☐ background check ☐ pre-employment check ☐ check of criminal records ☐ interviews ☐ other (provide details) Explain the elements, indicate which entity carries this element out and where applicable, indicate the preceding timeframe that is taken into account.	
--	--

3.5. Do staff with direct and unescorted access to secured air cargo or air mail receive security training before being given access to secured air cargo or air mail?

YES or NO	
If YES, describe the elements and duration of the training	

3.6. Do staff that accept, screen or protect air cargo or air mail receive specific job-related training?

YES or NO	
If YES, describe the elements and durations of training courses.	

3.7. Do staff referred to in points 3.5 and 3.6 receive recurrent training?

YES or NO	
If YES, specify the elements and the frequency of the recurrent training	

3.8. Conclusion: do the measures concerning staff recruitment and training ensure that all staff with access to secured air cargo or air mail have been properly recruited and trained to a standard sufficient to be aware of their security responsibilities?

YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 4

Acceptance procedures

Objective: The RA3 may receive cargo or mail from another RA3, a KC3, an AC3 or from an unknown consignor. The RA3 shall have appropriate acceptance procedures for cargo and mail in place in order to establish whether a consignment comes from a secure supply chain or not and subsequently which security measures need to be applied to it.

When accepting any consignments, the RA3 shall establish the status of the entity from which it receives the consignments verifying whether or not the unique alphanumeric identifier (UAI) of the entity delivering the consignments is indicated on the accompanying documentation, and confirming that the air carrier or entity delivering the consignment is listed as active in the Union database on supply chain security for the specified airport or site, as appropriate.

If there is no indication of the UAI on the documentation or if the status of the air carrier or entity on the Union database on supply chain security is not active, the RA3 shall treat the consignments as arriving from an unknown source.

Additionally, a RA3 shall maintain a database giving at least the following information for each regulated agent or known consignor that has been subject to EU aviation security validation in accordance with point 6.8.5.1, from which it directly accepts cargo or mail to be delivered to an ACC3 for carriage into the Union:

- (a) the company details, including the bona fide business address;
- (b) the nature of the business, excluding business sensitive information;
- (c) contact details, including those of the person(s) responsible for security;

- (d) the company registration number, if applicable;
- (e) where available, the validation report;
- (f) the unique alphanumeric identifier attributed in the Union database on supply chain security.

Reference: points 6.8.3.1, 6.8.3.5, and 6.8.5.4 of the Annex to Implementing Regulation (EU) 2015/1998.

Note: An RA3 may only accept cargo from an AC3 as secure cargo, if this RA3 has designated this consignor itself as AC3, in accordance with point (c) of point 6.8.3.1 of the Annex to Implementing Regulation (EU) 2015/1998, and accounts for the cargo delivered by this consignor.

4.1. When accepting a consignment, does the entity establish whether it comes from another RA3, a KC3, an AC3 or an unknown consignor?

YES or NO	
If YES, how?	

4.2. Does the entity verify the indication of the UAI on the documentation accompanying consignments received from another ACC3, RA3 or KC3 and confirms the active status of the ACC3, RA3 or KC3 on the Union database on supply chain security?

YES or NO	
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4.3. Does the entity have a procedure to ensure that in case the documentation does not contain the UAI or the entity from which the cargo is received has no active status on the Union database on supply chain security, the consignment is treated as shipment coming from an unknown source?

YES or NO	
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4.4. Does the entity designate consignors as AC3?

YES or NO	
If YES, describe the procedure and the safeguards required by the entity from the consignor.	

4.5. When accepting a consignment, does the entity establish whether its destination is an EU or EEA airport?

YES or NO — explain	
---------------------	--

4.6. If YES — does the entity submit all air cargo or air mail to the same security controls when the destination is an EU or EEA airport?

YES or NO	
If YES, describe the procedure	

4.7. When accepting a consignment, does the entity establish whether it is to be regarded as high risk cargo and mail (HRCM) (see definition in Part 6), including for consignments that are delivered by other modes of transport than by air?

YES or NO	
If YES, how?	
Describe the procedure	

4.8. When accepting a secured consignment, does the validated entity establish whether it has been protected from unauthorised interference or tampering?

YES or NO

If YES, describe by which means (for example, using seals, locks, inspection)

4.9. Is the person making the delivery required to present an official identification document containing a photo?

YES or NO

4.10. Is there a process in place to identify consignments that require screening?

YES or NO

If YES, how?

4.11. Conclusion: Are the acceptance procedures sufficient to establish that air cargo or air mail to an EU or EEA airport destination comes from a secure supply chain or needs to be subject to screening?

YES or NO

If NO, specify reasons

Comments from the entity

Comments from EU aviation security validator

PART 5

Screening

Objective: Where the RA3 accepts cargo and mail which does not come from a secure supply chain, the RA3 needs to subject these consignments to appropriate screening before it may be delivered to an ACC3 as secure cargo. The RA3 shall have procedures in place to ensure that EU or EEA bound air cargo and air mail for transfer, transit or unloading at a Union airport is screened by the means or methods referred to in Union legislation to a standard sufficient to reasonably ensure that it contains no prohibited articles.

Where screening of air cargo or air mail is performed by or on behalf of the appropriate authority in the third country, the RA3 shall declare this fact and specify the way adequate screening is ensured.

Reference: point 6.8.3 of the Annex to Implementing Regulation (EU) 2015/1998.

5.1. Is screening applied on behalf of the entity by another entity?

YES or NO

If YES,

Specify the nature of these entities and provide details:

- private screening company;
- government regulated company;
- government screening facility or body;
- other

Specify the nature of the agreement or contract between the validated entity and the entity that applies the screening on its behalf.

5.2. Is the entity able to request the appropriate security controls in case the screening is carried out by one of the above entities?

YES or NO

If NO, provide details

5.3. By which instruments and instructions (such as oversight, monitoring, and quality control) does the entity ensure that security controls are applied in the required manner by such service providers?

5.4. What methods of screening are used for air cargo and mail?

Specify, including details of equipment used for screening air cargo and air mail (such as manufacturer, type, software version, standard, serial number) for all the methods deployed.

5.5. Is the equipment or method (such as explosive detection dogs) used included in the most recent EU, European Civil Aviation Conference (ECAC) or the Transportation Security Administration (TSA) of the US compliance list?

YES or NO

If YES, provide details

If NO, give details specifying the approval of the equipment and date thereof, as well as any indications that it complies with EU equipment standards.

5.6. Is the equipment used in accordance with the manufacturers' concept of operations (CONOPS) and is the equipment regularly tested and maintained?

YES or NO

If YES, describe the process

5.7. In case EDDs are deployed, are they subjected to initial and recurrent training, approval and quality control process to a standard equivalent to the EU or TSA requirements?

YES or NO

If YES, describe the entire process and the related documentation supporting the assessment

5.8. In case EDDs are used, is the screening process following a deployment methodology equivalent to EU or TSA standards?

YES or NO

If YES, describe the entire process and the related documentation supporting the assessment

5.9. Is the nature of the consignment taken into consideration during screening?

YES or NO

If YES, describe how it is ensured that the screening method selected is employed to a standard sufficient to reasonably ensure that no prohibited articles are concealed in the consignment.

5.10. Is there a process for the resolution of the alarm generated by the screening equipment? For some equipment, such as x-ray equipment, the alarm is triggered by the operator himself.

YES or NO

If YES, describe the process of resolving alarms to reasonably ensure the absence of prohibited articles.

If NO, describe what happens to the consignment

5.11. Are any consignments exempt from security screening?

YES or NO

5.12. Are there any exemptions that do not comply with the Union list?

YES or NO

If YES, detail

5.13. Is access to the screening area controlled to ensure that only authorised and trained staff are granted access?

YES or NO

If YES, describe

5.14. Is an established quality control and/or testing regime in place?

YES or NO

If YES, describe

5.15. Conclusion: Is air cargo or air mail screened by one of the means or methods listed in point 6.2.1 of the Annex to Implementing Regulation (EU) 2015/1998 to a standard sufficient to reasonably ensure that it contains no prohibited articles?

YES or NO

If NO, specify reason

Comments from the entity

Comments from the EU aviation security validator

PART 6

High Risk Cargo or Mail

Objective: Consignments which originate from or transfer in locations identified as high risk by the Union or which appear to have been significantly tampered with are to be considered as high risk cargo and mail (HRCM). Such consignments have to be screened in line with specific instructions. The RA3 shall have procedures in place to ensure that EU or EEA bound HRCM is identified and subject to appropriate controls as defined in the Union legislation.

The ACC3 to which the RA3 delivers air cargo or mail for transportation shall be authorised to inform the RA3 about the latest state of relevant information on high risk origins.

The RA3 shall apply the same measures, irrespective of whether it receives high risk cargo and mail from an air carrier or through other modes of transportation.

Reference: point 6.7 of the Annex to Implementing Regulation (EU) 2015/1998.

Note: HRCM cleared for carriage into the EU/EEA shall be issued the security status 'SHR', meaning secure for passenger, all-cargo and all-mail aircraft in accordance with high risk requirements.

6.1. Do staff responsible for performing security controls know which air cargo and mail is to be treated as high risk cargo and mail (HRCM)?

YES or NO	
If YES, describe	

6.2. Does the entity have procedures in place for the identification of HRCM?

YES or NO	
If YES, describe	

6.3. Is HRCM subject to HRCM screening procedures according to Union legislation?

YES or NO	
If NO, indicate procedures applied	

6.4. After screening, does the entity issue a security status declaration for SHR in the documentation accompanying the consignment?

YES or NO	
If YES, describe how security status is issued and in which document	

6.5. Conclusion: Is the process put in place by the entity relevant and sufficient to ensure that all HRCM has been properly treated before loading?

YES or NO	
If NO, specify reason	
Comments from the entity	
Comments from EU aviation security validator	

PART 7

Protection of secured air cargo and mail

Objective: The RA3 shall have procedures in place to ensure EU or EEA bound air cargo and/or air mail is protected from unauthorised interference and/or any tampering from the point where security screening or other security controls are applied or from the point of acceptance after screening or security controls have been applied, until loading or transferring to an ACC3 or another RA3. If previously secured air cargo and mail is not protected afterwards, it may not be loaded or transferred to an ACC3 or another RA3 as secure cargo or mail.

Protection can be provided by different means such as physical (for example barriers, locked rooms), human (for example patrols, trained staff) and technological (for example CCTV, intrusion alarm).

EU or EEA bound secured air cargo or mail should be separated from air cargo or mail which is not secured.

Reference: point 6.8.3.1 of the Annex to Implementing Regulation (EU) 2015/1998.

7.1. Is protection of secured air cargo and air mail applied on behalf of the validated entity by another entity?

YES or NO	
If YES, Specify the nature of these entities and provide details: — private screening company; — government regulated company; — government screening facility or body; — other	

7.2. Are security controls and protection in place to prevent tampering during the screening process?

YES or NO	
If YES, describe Specify what kind(s) of protection(s) are put in place: — physical (for example fence, barrier, building of solid construction), — human (for example patrols etc.), — technological (for example CCTV, alarm system). Explain how they are organised.	

7.3. Is the secure air cargo/air mail only accessible to authorised persons?

YES or NO	
If YES, describe Specify how all access points (including doors and windows) to identifiable and secured air cargo or air mail are controlled.	

7.4. Are there procedures in place to ensure EU or EEA bound air cargo or air mail to which security controls have been applied are protected from unauthorised interference from the time it has been secured until its loading or is transferred to an ACC3 or another RA3?

YES or NO	
If YES, describe how it is protected (for example by physical, human, technological means) Specify also if the building is of solid construction and what kinds of materials are used, if available.	
If NO, specify reasons	

7.5. Conclusion: Is the protection of consignments sufficiently robust to prevent unlawful interference?

YES or NO	
If NO, specify reason	
Comments from the entity	
Comments from EU aviation security validator	

PART 8

Documentation

Objective: The RA3 shall ensure that the documentation accompanying a consignment to which the RA3 has applied security controls (such as screening, protection), contains at least:

- (a) the unique alphanumeric identifier received from the designating appropriate authority; and
- (b) the unique identifier of the consignment, such as the number of the (house or master) air waybill, when applicable; and
- (c) the content of the consignment; and
- (d) the security status, indicated as follows:
 - ‘SPX’, which means secure for passenger, all-cargo and all-mail aircraft, or
 - ‘SCO’, which means secure for all-cargo and all-mail aircraft only, or
 - ‘SHR’, which means secure for passenger, all-cargo and all-mail aircraft in accordance with high risk requirements.

If the security status is issued by the RA3, the entity shall additionally indicate the reasons for issuing it, such as the means or method of screening used or the grounds for exempting the consignment from screening, using the standards adopted in the Consignment Security Declaration scheme.

The documentation accompanying the consignment may either be in the form of an air waybill, equivalent postal documentation or in a separate declaration, and either in an electronic format or in writing.

Reference: point (d) of point 6.3.2.6, points 6.8.3.4, 6.8.3.5 and 6.8.3.6 of the Annex to Implementing Regulation (EU) 2015/1998

8.1. Does the entity ensure that appropriate accompanying documentation is established, and include the information required in point (d) of point 6.3.2.6, points 6.8.3.4, 6.8.3.5 and 6.8.3.6 of the Annex to Implementing Regulation (EU) 2015/1998?

YES or NO	
If NO, explain	

8.2. In particular, does the entity specify the status of the cargo and how this was achieved?

YES or NO	
-----------	--

If NO, explain	
----------------	--

8.3. Conclusion: Is the documentation process sufficient to ensure that cargo or mail is provided with proper accompanying documentation which specifies the correct security status and all required information?

YES or NO	
-----------	--

If NO, specify reason	
-----------------------	--

Comments from the entity	
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Comments from EU aviation security validator	
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PART 9

Transportation

Objective: Air cargo and air mail must be protected from unauthorised interference or tampering from the time it has been secured until its loading or until it is transferred to an ACC3 or another RA3. This includes protection during transportation to the aircraft, to the ACC3 or to another RA3. If previously secured air cargo and mail is not protected during transportation, it may not be loaded or transferred to an ACC3 or another RA3 as secure cargo.

During transportation to an aircraft, an ACC3 or another RA3, the RA3 is responsible for the protection of the secure consignments. This includes cases where the transportation is undertaken by another entity, such as a freight forwarder, on its behalf. This does not include cases whereby the consignments are transported under the responsibility of an ACC3 or another RA3.

Reference: point 6.8.3 of the Annex to Implementing Regulation (EU) 2015/1998.

9.1. How is the air cargo or air mail conveyed to the ACC3 or to another RA3?

(a) Validated entity's own transport?

YES or NO	
-----------	--

(b) Other RA3's or ACC3's transport?

YES or NO	
-----------	--

(c) Contractor used by the validated entity?

YES or NO	
-----------	--

9.2. Is the air cargo or air mail tamper evidently packed?

YES or NO	
-----------	--

If YES, how	
-------------	--

9.3. Is the vehicle sealed or locked before transportation?

YES or NO

If YES, how

9.4. Where numbered seals are used, is access to the seals controlled and are the numbers recorded?

YES or NO

If YES, specify how

9.5. If applicable, does the respective haulier sign the haulier declaration?

YES or NO

9.6. Has the person transporting the cargo been subject to specific security controls and awareness training before being authorised to transport secured air cargo or air mail, or both?

YES or NO

If YES, please describe what kind of security controls (such as pre-employment check, background check) and what kind of training (such as security awareness training).

9.7. Conclusion: Are the measures sufficient to protect air cargo or air mail from unauthorised interference during transportation?

YES or NO

If NO, specify reasons

Comments from the entity

Comments from EU aviation security validator

PART 10

Compliance

Objective: After assessing Parts 1 to 9 of this checklist, the EU aviation security validator has to conclude if its on-site verification confirms the implementation of the security controls in compliance with the objectives listed in this checklist for the EU or EEA bound air cargo or air mail.

Two different scenarios are possible. The EU aviation security validator concludes that the entity:

1. has succeeded in complying with the objectives referred to in this checklist. A validation report shall be delivered to the designating appropriate authority and to the validated entity within a maximum of one month after the on-site verification;
2. has failed in complying with the objectives referred to in this checklist. In that case, the entity is not authorised to deliver secured air cargo or mail for EU or EEA destination to an ACC3 or to another RA3. It shall receive a copy of the completed checklist stating the deficiencies.

10.1. General conclusion: Indicate the case closest to the situation validated

1 or 2	
Comments from EU aviation security validator	
Comments from the entity	

Name of the validator:

Date:

Signature:

ANNEX

List of persons and entities visited and interviewed

Providing the name of the entity, the name and the position of the contact person and the date of the visit or interview.

Name of entity	Name of contact person	Position of contact person	Date of visit or interview

ATTACHMENT 6-C3

VALIDATION CHECKLIST FOR ACC3

ACC3 (*Air cargo or mail carrier operating into the Union from a third country airport*) designation is the prerequisite for carrying air cargo or air mail into the European Union ⁽¹⁾ (EU) or Iceland, Norway and Switzerland and is required by Implementing Regulation (EU) 2015/1998.

ACC3 designation is in principle required for all flights carrying cargo or mail for transfer, transit or unloading at EU or EEA airports ⁽²⁾. The appropriate authorities of the Member States of the European Union, Iceland, Norway and Switzerland are each responsible for the designation of specific air carriers as ACC3. The designation is based on the security programme of an air carrier and on an on-site verification of the implementation in compliance with the objectives referred to in this validation checklist.

The checklist is the instrument to be used by the EU aviation security validator for assessing the level of security applied to EU or EEA bound air cargo or air mail by or under the responsibility of the ACC3 or an air carrier applying for ACC3 designation.

A validation report shall be delivered to the designating appropriate authority and to the validated entity within a maximum of one month after the on-site verification. Integral parts of the validation report shall be at least:

- the completed checklist signed by the EU aviation security validator and where applicable commented by the validated entity; and

⁽¹⁾ The Union Member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

⁽²⁾ EU or EEA bound air cargo or air mail or aircraft in this validation checklist is equivalent to EU and Iceland, Norway and Switzerland bound air cargo or air mail or aircraft.

- the declaration of commitments (Attachment 6-H1 to Implementing Regulation (EU) 2015/1998) signed by the validated entity; and
- an independence declaration (Attachment 11-A to Implementing Regulation (EU) 2015/1998) in respect of the entity validated signed by the EU aviation security validator.

Page numbering, the date of the EU aviation security validation and initialling on each page by the validator and the validated entity shall be the proof of the validation report's integrity. By default the validation report shall be drafted in English.

Part 3 — Security programme of the air carrier, Part 6 — Database, Part 7 — Screening and Part 8 — High risk cargo or mail (HRCM) shall be assessed against the requirements of Chapters 6.7 and 6.8 of the Annex to Implementing Regulation (EU) 2015/1998. For the other parts, baseline standards are the Standards and Recommended Practices (SARPs) of Annex 17 to the Convention on International Civil Aviation and the guidance material contained in the ICAO Aviation Security Manual (Doc 8973-Restricted).

Completion notes:

- All applicable and relevant parts of the checklist must be completed, in accordance with the business model and operations of the entity being validated. Where no information is available, this must be explained.
- After each part, the EU aviation security validator shall conclude if and to what extent the objectives of this part are met.

PART 1

Identification of the entity validated and the validator

1.1. Date(s) of validation

Use exact date format, such as 01.10.2012 to 02.10.2012

dd/mm/yyyy	
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1.2. Date of previous validation and unique alphanumeric identifier (UAI) of the ACC3 where available

dd/mm/yyyy	
------------	--

UAI	
-----	--

1.3. Aviation security validator information

Name	
------	--

Company/Organisation/Authority	
--------------------------------	--

UAI	
-----	--

Email address	
---------------	--

Telephone number — including international codes	
--	--

1.4. Name of air carrier to be validated

Name	
------	--

AOC (Air Operators Certificate) issued in (name of State):	
International Air Transport Association (IATA) code or International Civil Aviation Organisation (ICAO) code if IATA code does not exist for. Specify which code applies.	
State responsible for designating air carrier as ACC3	

1.5. Details of third country airport location to be validated or cargo or mail facilities linked to it

Name	
IATA or ICAO code for the airport	
Country	

1.6. Nature of air carrier's business — More than one business type may be applicable

(a) passenger and cargo/mail carrier; (b) cargo and mail only carrier; (c) cargo only carrier; (d) mail only carrier; (e) integrator; (f) charter.	
---	--

1.7. Name and title of person responsible for third country air cargo or air mail security

Name	
Job title	
Email address	
Telephone number — including international codes	

1.8. Address of the air carrier's main office at the airport being visited

Number/Unit/Building/Airport	
Street	
Town	
Postcode	
State (where relevant)	
Country	

1.9. Address of the air carrier's main office, for example the corporate headquarters

Number/Unit/Building/Airport	
Street	
Town	
Postcode	
State (where relevant)	
Country	

PART 2

Organisation and responsibilities of the ACC3 at the airport

Objective: No air cargo or mail shall be carried to the EU or EEA without being subject to security controls. Details of such controls are provided by the following Parts of this checklist. The ACC3 shall not accept cargo or mail for carriage on an EU-bound aircraft unless the application of screening or other security controls is confirmed and accounted for by an EU aviation security validated regulated agent, an EU aviation security validated known consignor or an account consignor designated by itself or by an EU aviation security validated regulated agent, or such consignments are subject to screening in accordance with the Union legislation.

The ACC3 shall have a process to ensure that appropriate security controls are applied to all EU or EEA bound air cargo and air mail unless it is exempted from screening in accordance with the Union legislation and that cargo or mail is protected thereafter until loading onto aircraft. Security controls shall consist of:

- physical screening which shall be of a standard sufficient to reasonably ensure that no prohibited articles are concealed in the consignment, or
- other security controls which are part of a supply chain security process that reasonably ensure that no prohibited articles are concealed in the consignment applied by EU aviation security validated regulated agents or known consignors or by an account consignor designated by itself or by an EU aviation security validated regulated agent.

Reference: point 6.8.3 of the Annex to Implementing Regulation (EU) 2015/1998

2.1. Has the air carrier established a process to ensure that air cargo or air mail is submitted to appropriate security controls prior to being loaded onto an EU or EEA bound aircraft?

YES or NO	
If YES, describe the process	

2.2. Are the security controls applied by the air carrier or on its behalf by an entity covered under the air carrier's security programme?

If YES, provide details	
If NO, which entities not covered by the air carrier's security programme apply security controls to air cargo or mail carried by this air carrier into the EU or EEA?	

Specify the nature of these entities and provide details: — private handling company; — government regulated company; — government screening facility or body; — other	
2.3. By which instruments and instructions (such as oversight, monitoring, and quality control) does the air carrier ensure that security controls are applied in the required manner by the above service providers?	
2.4. Is the air carrier able to request the appropriate security controls in case the screening is carried out by entities which are not covered by the air carrier's security programme, such as government facilities?	
YES or NO	
If NO, provide details	
2.5. By which instruments and instructions (such as oversight, monitoring, and quality control) does the air carrier ensure that security controls are applied in the required manner by such service providers?	
2.6. Has a regulated agent or known consignor programme for air cargo and mail been put in place in accordance with ICAO standards in the State of the airport at which the validation visit takes place?	
If YES, describe the elements of the programme and how it has been put in place	
2.7. Conclusions and general comments on the reliance, conclusiveness and robustness of the process.	
Comments from the air carrier	
Comments from the EU aviation security validator	

PART 3

Security programme of the air carrier

Objective: The ACC3 shall ensure that its security programme includes all the aviation security measures relevant and sufficient for air cargo and mail to be transported into the Union.

The security programme and associated documentation of the air carrier shall be the basis of security controls applied in compliance with the objective of this checklist. The air carrier may wish to consider passing its documentation to the EU aviation security validator in advance of the site visit to help acquaint him with the details of the locations to be visited.

Reference: point 6.8.2.1 of the Annex and Attachment 6-G to Implementing Regulation (EU) 2015/1998

Note: The following points listed in Attachment 6-G to Implementing Regulation (EU) 2015/1998 shall be appropriately covered:

- (a) description of measures for air cargo and mail;
- (b) procedures for acceptance;
- (c) regulated agent scheme and criteria;

- (d) known consignor scheme and criteria;
- (e) account consignor scheme and criteria;
- (f) standard of screening;
- (g) location of screening;
- (h) details of screening equipment;
- (i) details of operator or service provider;
- (j) list of exemptions from security screening;
- (k) treatment of high risk cargo and mail.

3.1. Air carrier security programme

Date — use exact date format dd/mm/yyyy	
Version	
Has the programme been submitted to an EU or EEA appropriate authority at an earlier stage? If YES was it for ACC3 designation? Other purposes?	

3.2. Does the security programme cover sufficiently the elements of the list above?

YES or NO	
If NO, describe why detailing the reasons	

3.3. Are the aviation security measures described by the security programme relevant and sufficient to secure EU or EEA bound air cargo or air mail according to the required standards?

YES or NO	
If NO, describe why detailing the reasons	

3.4. Conclusion: Is the security programme conclusive, robust and complete?

YES or NO	
If NO, specify reasons	
Comments from the air carrier	
Comments from the EU aviation security validator	

PART 4

Staff recruitment and training

Objective: The ACC3 shall assign responsible and competent staff to work in the field of securing air cargo or air mail. Staff with access to secured air cargo possess all the competencies required to perform their duties and are appropriately trained.

In order to fulfil that objective, the ACC3 shall have a procedure to ensure that all staff (such as permanent, temporary, agency staff, drivers) with direct and unescorted access to air cargo or air mail to which security controls are being or have been applied:

- have been subject to initial and recurrent pre-employment checks or background checks, which are at least in accordance with the requirements of the local authorities of the airport validated, and
- have completed initial and recurrent security training to be aware of their security responsibilities in accordance with the requirements of the local authorities of the airport validated.

Reference: point 6.8.3.1 of the Annex to Implementing Regulation (EU) 2015/1998

Note:

- A background check means a check of a person's identity and previous experience, including where legally permissible, any criminal history as part of the assessment of an individual's suitability to implement a security control or for unescorted access to a security restricted area (ICAO Annex 17 definition).
- A pre-employment check shall establish the person's identity on the basis of documentary evidence, cover employment, education and any gaps during at least the preceding five years, and require the person to sign a declaration detailing any criminal history in all states of residence during at least the preceding five years (Union definition).

4.1. Is there a procedure ensuring that all staff with direct and unescorted access to secured air cargo or air mail are subject to pre-employment checks that assesses background and competence?

YES or NO	
If YES, indicate the number of preceding years taken into account for the pre-employment check and state which entity carries it out.	

4.2. Does this procedure include?

— background check — pre-employment check — check of criminal records — interviews — other (provide details) Explain the elements, indicate which entity carries this element out and where applicable, indicate the preceding timeframe that is taken into account.	
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4.3. Is there a procedure ensuring that the person responsible for the application and supervision of the implementation of security controls at the site is subject to a pre-employment check that assesses background and competence?

YES or NO	
If YES, indicate the number of preceding years taken into account for the pre-employment check and state which entity carries it out.	

4.4. Does this procedure include?

— background check — pre-employment check — check of criminal records — interviews — other (provide details) Explain the elements, indicate which entity carries this element out and where applicable, indicate the preceding timeframe that is taken into account.	
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4.5. Do staff with direct and unescorted access to secured air cargo or air mail receive security training before being given access to secured air cargo or air mail?

YES or NO	
If YES, describe the elements and duration of the training	

4.6. Do staff that accept, screen or protect air cargo or air mail receive specific job related training?

YES or NO	
If YES, describe the elements and durations of training courses.	

4.7. Do staff referred to in points 4.5 and 4.6 receive recurrent training?

YES or NO	
If YES, specify the elements and the frequency of the recurrent training	

4.8. Conclusion: do the measures concerning staff recruitment and training ensure that all staff with access to secured air cargo or air mail have been properly assigned and trained to a standard sufficient to be aware of their security responsibilities?

YES or NO	
If NO, specify reasons	
Comments from the air carrier	
Comments from the EU aviation security validator	

PART 5

Acceptance procedures

Objective: The ACC3 shall have a procedure in place in order to assess and verify upon acceptance the security status of a consignment in respect of previous controls.

The procedure shall include the following elements:

- confirmation that the entity delivering the consignment is listed as active in the Union database on supply chain security for the specified airport or site;
- verification that the Union database unique alphanumeric identifier of the entity delivering the consignment is indicated on the accompanying documentation;
- in case of consignments received from an account consignor, verification that the entity is in listed in the air carrier's database.

If there is no indication on the accompanying documentation of the identifier, or if the air carrier or entity delivering the consignments is not listed as active in the Union database on supply chain security, or in the case of account consignors the entity is not in the air carrier's database, it shall be deemed that no security controls have previously been applied, and the consignments shall be screened by the ACC3 or by another EU aviation security validated RA3 before being loaded onto the aircraft;

- (d) verification of whether the consignment is delivered by a person nominated by the EU aviation security validated regulated agent or known consignor as listed in its database or an account consignor of such a regulated agent or designated by the air carrier itself;
- (e) the person nominated shall correspond to the person tasked to deliver the air cargo or air mail to the air carrier. The person delivering the consignment to the air carrier shall present an identity card, passport, driving license or other document, which includes his or her photograph and which has been issued or is recognised by the national authority;
- (f) where applicable, verification of whether the consignment is presented with all the required security information (air waybill and security status information on paper or by electronic means, description of the consignment and unique identifier thereof, reasons for issuing the security status, means or methods of screening or grounds for exemption from screening) that corresponds to the air cargo and mail consignments being delivered;
- (g) verification of whether the consignment is free from any signs of tampering; and
- (h) verification of whether the consignment has to be treated as high risk cargo and mail (HRCM).

Reference: point 6.8.3.5, 6.8.3.6, 6.8.3.7, and 6.8.5.4 of the Annex to Implementing Regulation (EU) 2015/1998

5.1. When directly accepting a consignment, does the air carrier establish whether it comes from a regulated agent, a known consignor or an account consignor recognised according to Union air cargo legislation and listed in the Union database on supply chain security and in the database kept by the air carrier?

YES or NO

If YES, describe the procedure

5.2. Does the air carrier verify the indication of the UAI on the documentation accompanying consignments received from another ACC3, RA3 or KC3 and confirms the active status of the ACC3, RA3 or KC3 on the database on supply chain security?

YES or NO

5.3. Does the entity have a procedure to ensure that in case the documentation does not contain the UAI or the entity from which the cargo is received has no active status on the Union database on supply chain security, the consignment is treated as shipment coming from an unknown source?

YES or NO

5.4. Does the air carrier designate consignors as AC3?

YES or NO

If YES, describe the procedure and the safeguards required by the air carrier from the consignor.

5.5. When directly accepting a consignment, does the air carrier establish whether its destination is an EU or EEA airport?

YES or NO — explain

5.6. If YES — does the air carrier submit all cargo or mail to the same security controls when the destination is an EU or EEA airport?

YES or NO

If YES, describe the procedure

5.7. When directly accepting a consignment, does the air carrier establish whether it is to be regarded as high risk cargo and mail (HRCM), including for consignments that are delivered by other modes of transport other than air?

YES or NO	
If YES, how? Describe the procedure	

5.8. When accepting a secured consignment, does the air carrier establish whether it has been protected from unauthorised interference and/or tampering?

YES or NO	
If YES, describe (such as seals, locks).	

5.9. If the air carrier accepts transit air cargo or air mail at this location (cargo or mail that departs on the same aircraft it arrived on), does the air carrier establish on the basis of the given data whether or not further security controls need to be applied?

YES or NO	
If YES, how is it established?	
If NO, what controls are applied to ensure security of EU or EEA bound cargo and mail?	

5.10. If the air carrier accepts transfer air cargo or air mail at this location (cargo or mail that departs on a different aircraft to the one it arrived on), does the air carrier establish on the basis of the given data whether or not further security controls need to be applied?

YES or NO	
If YES, how is it established?	
If NO, what controls are applied to ensure security of EU or EEA bound cargo and mail?	

5.11. Is the person delivering secured known air cargo to the air carrier required to present an official identification document containing a photograph?

YES or NO	
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5.12. Conclusion: Are the acceptance procedures sufficient to establish whether air cargo or air mail comes from a secure supply chain or that it needs to be subjected to screening?

YES or NO	
If NO, specify reasons	
Comments from the air carrier	
Comments from the EU aviation security validator	

PART 6

Database

Objective: Where the ACC3 is not obliged to apply 100 % screening to EU/EEA bound air cargo or air mail, the ACC3 shall ensure the cargo or mail comes from an EU aviation security validated entity designated by the appropriate authority of an EU Member State as third country regulated agent (RA3) or third country known consignor (KC3), or from an account consignor (AC3) designated by itself or by a third country regulated agent.

For monitoring the security relevant audit trail the ACC3 shall verify the active status of the RA3 and KC3 on the Union database of supply chain security, and maintain a database giving the following information for each entity or person from which it directly accepts cargo or mail:

- the status of the involved entity (regulated agent or known consignor),
- the company details, including the bona fide business address,
- the nature of the business, excluding business sensitive information,
- contact details, including those of the person(s) responsible for security,
- the unique alphanumeric identifier attributed in the Union database on supply chain security, or in case the entity is an AC3 the company registration number.

When receiving air cargo or mail from a RA3 or KC3 the ACC3 shall check in the Union database whether the entity is listed as active, and for AC3 in the air carrier's database. If the RA3 or KC3 status is not active or the AC3 is not included in the database, the air cargo or air mail delivered by such entity shall be screened before loading.

Reference: point (a) of point 6.8.3.5 and point 6.8.5.4 of the Annex to Implementing Regulation (EU) 2015/1998

6.1. When directly accepting a consignment, does the air carrier establish whether it comes from a regulated agent, a known consignor or an account consignor recognised according to Union air cargo legislation and listed in the Union database on supply chain security and in the database kept by the air carrier?

YES or NO	
If YES, describe the procedure	

6.2. Does the air carrier maintain a database including, as appropriate, the details referred to above, of:

- entities designated as third country regulated agent (RA3),
- entities designated as third country known consignor (KC3),
- entities designated as account consignors by an RA3 or by the air carrier (AC3)?

YES or NO	
If YES, describe the database	
If NO, explain why	

6.3. Does staff accepting air cargo and air mail have easy access to the Union database on supply chain security and to the air carrier's database?

YES or NO	
If YES, describe the process	

6.4. Is the database updated in a regular manner as to provide reliable data to the staff accepting air cargo and air mail?

YES or NO	
If NO, explain	

6.5. Conclusion: Does the air carrier maintain a database that ensures full transparency on its relation to entities from which it directly receives (screened or security controlled) cargo or mail for transport into the Union or EEA?

YES or NO	
If NO, specify reasons	
Comments from the air carrier	
Comments from the EU aviation security validator	

PART 7

Screening

Objective: Where the ACC3 accepts cargo and mail from an entity which is not an EU aviation security validated entity or the cargo received has not been protected from unauthorised interference from the time security controls were applied, the ACC3 shall ensure the air cargo or air mail is screened before being loaded onto an aircraft. The ACC3 shall have a process to ensure that EU or EEA bound air cargo and air mail for transfer, transit or unloading at an Union airport are screened by the means or methods referred to in Union legislation to a standard sufficient reasonably to ensure that it contains no prohibited articles.

Where the ACC3 does not screen air cargo or air mail itself, it shall ensure that the appropriate screening is carried out according to Union requirements. Screening procedures shall include where appropriate the treatment of transfer and transit cargo and mail

Where screening of air cargo or mail is performed by or on behalf of the appropriate authority in the third country, the ACC3 receiving such air cargo or air mail from the entity shall declare this fact in its security programme, and specify the way adequate screening is ensured.

Reference: points 6.8.3.1, 6.8.3.2, 6.8.3.3 of the Annex to Implementing Regulation (EU) 2015/1998

7.1. Is screening applied by the air carrier or on its behalf by an entity covered under the air carrier's security programme?

If YES, provide details. If applicable, provide details of the entity or entities covered under the air carrier's security programme: — name — site specific address — presence of AEO status, if applicable	
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If NO, which entities not covered by the air carrier's security programme apply screening to air cargo or mail carried by this air carrier into the EU or EEA?

Specify the nature of these entities and provide details

- private handling company
- government regulated company
- government screening facility or body
- other

7.2. Is the entity able to request the appropriate security controls in case the screening is carried out by one of the above entities?

YES or NO

If NO, provide details

7.3. By which instruments and instructions (for example oversight, monitoring, and quality control) does the entity ensure that security controls are applied in the required manner by such service providers?

7.4. What methods of screening are used for air cargo and air mail?

Specify, including details of equipment used for screening air cargo and air mail (such as manufacturer, type, software version, standard, serial number) for all the methods deployed

7.5. Is the equipment or method (for example explosive detection dogs) used included in the most recent EU, European Civil Aviation Conference (ECAC) or the Transportation Security Administration (TSA) of the US compliance list?

YES or NO

If YES, provide details

If NO, give details specifying the approval of the equipment and date thereof, as well as any indications that it complies with EU equipment standards

7.6. Is the equipment used in accordance with the manufacturers' concept of operations (CONOPS) and is the equipment regularly tested and maintained?

YES or NO

If YES, describe the process

7.7. In case EDDs are deployed, are they subjected to initial and recurrent training, approval and quality control process to a standard equivalent to the EU or TSA requirements?

YES or NO	
If YES, describe the entire process and the related documentation supporting the assessment	

7.8. In case EDDs are used, is the screening process following a deployment methodology equivalent to EU or TSA standards?

YES or NO	
If YES, describe the entire process and the related documentation supporting the assessment	

7.9. Is the nature of the consignment taken into consideration during screening?

YES or NO	
If YES, describe how it is ensured that the screening method selected is employed to a standard sufficient to reasonably ensure that no prohibited articles are concealed in the consignment	

7.10. Is there a process for the resolution of the alarm generated by the screening equipment?

YES or NO	
If YES, describe the process of resolving alarms to reasonably ensure the absence of prohibited articles.	
If NO, describe what happens to the consignment.	

7.11. Are any consignments exempt from security screening?

YES or NO	
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7.12. Are there any exemptions that do not comply with the Union list?

YES or NO	
If YES, detail	

7.13. Is access to the screening area controlled to ensure that only authorised and trained staff is granted access?

YES or NO	
If YES, describe	

7.14. Is an established quality control or testing regime in place?

YES or NO	
If YES, describe	

7.15. Conclusion: Is air cargo or air mail screened by one of the means or methods listed in point 6.2.1 of the Annex to Implementing Regulation (EU) 2015/1998 to a standard sufficient to reasonably ensure that it contains no prohibited articles?

YES or NO	
If NO, specify reason	
Comments from the air carrier	
Comments from the EU aviation security validator	

PART 8

High risk cargo or mail

Objective: Consignments which originate from or transfer in locations identified as high risk by the EU or which appear to have been significantly tampered with are to be considered as high risk cargo and mail (HRCM). Such consignments have to be screened in line with specific instructions. High risk origins and screening instructions are provided by the appropriate EU/EEA authority having designated the ACC3. The ACC3 shall have a procedure to ensure that EU or EEA bound HRCM is identified and subject to appropriate controls as defined in the Union legislation.

The ACC3 shall remain in contact with the appropriate authority responsible for the EU/EEA airports to which it carries cargo in order to have available the latest state of information on high risk origins.

The ACC3 shall apply the same measures, irrespective of whether it receives high risk cargo and mail from another air carrier or through other modes of transportation.

Reference: points 6.7 and 6.8.3.6 of the Annex to Implementing Regulation (EU) 2015/1998

Note: HRCM cleared for carriage into the EU or EEA shall be issued the security status 'SHR', which means secure for passenger, all-cargo and all-mail aircraft in accordance with high risk requirements.

8.1. Does the air carrier staff responsible for performing security controls know which air cargo and mail is to be treated as high risk cargo and mail (HRCM)?

YES or NO	
If YES, describe	

8.2. Does the air carrier have procedures in place for the identification of HRCM?

YES or NO	
If YES, describe	

8.3. Is HRCM subject to HRCM screening procedures according to the EU legislation?

YES or NO

If NO, indicate procedures applied

8.4. After screening, does the air carrier issue a security status declaration for SHR in the documentation accompanying the consignment?

YES or NO

If YES, describe how security status is issued and in which document

8.5. Conclusion: Is the process put in place by the air carrier relevant and sufficient to ensure that all HRCM has been properly treated before loading?

YES or NO

If NO, specify reason

Comments from the air carrier

Comments from EU aviation security validator

PART 9

Protection

Objective: The ACC3 shall have processes in place to ensure EU or EEA bound air cargo or air mail is protected from unauthorised interference from the point where security screening or other security controls are applied or from the point of acceptance after screening or security controls have been applied, until loading.

Protection can be provided by different means such as physical (for example barriers, locked rooms), human (for example patrols, trained staff) and technological (for example CCTV, intrusion alarm).

EU or EEA bound secured air cargo or mail should be separated from air cargo or mail which is not secured.

Reference: point 6.8.3 of the Annex to Implementing Regulation (EU) 2015/1998

9.1. Is protection of secured air cargo and air mail applied by the air carrier or on its behalf by an entity covered under the air carrier's security programme?

If YES, provide details

If NO, which entities not covered by the air carrier's security programme apply protection measures to secured air cargo or mail carried by this air carrier into the EU or EEA?

Specify the nature of these entities and provide details:

- private handling company
- government regulated company
- government screening facility or body
- other

9.2. Are security controls and protection in place to prevent tampering during the screening process?

YES or NO	
If YES, describe	

9.3. Are there processes in place to ensure EU or EEA bound air cargo or air mail to which security controls have been applied are protected from unauthorised interference from the time it has been secured until its loading?

YES or NO	
If YES, describe how it is protected	
If NO, specify reasons	

9.4. Conclusions: Is the protection of consignments sufficiently robust to prevent unlawful interference?

YES or NO	
If NO specify reason	
Comments from the air carrier	
Comments from EU aviation security validator	

PART 10

Accompanying documentation

Objective: The ACC3 shall ensure that the documentation accompanying a consignment to which the ACC3 has applied security controls (for example screening, protection), contains at least:

- (a) the unique alphanumeric identifier received from the designating appropriate authority; and
- (b) the unique identifier of the consignment, such as the number of the (house or master) air waybill, when applicable; and
- (c) the content of the consignment; and
- (d) the security status, indicated as follows:
 - 'SPX', which means secure for passenger, all-cargo and all-mail aircraft, or
 - 'SCO', which means secure for all-cargo and all-mail aircraft only, or
 - 'SHR', which means secure for passenger, all-cargo and all-mail aircraft in accordance with high risk requirements.

In the absence of a third country regulated agent, the security status declaration may be issued by the ACC3 or by the air carrier arriving from a third country exempted from the ACC3 regime.

If the security status is issued by the ACC3, the air carrier shall additionally indicate the reasons for issuing it, such as the means or method of screening used or the grounds for exempting the consignment from screening, using the standards adopted in the consignment security declaration scheme.

In the event that the security status and the accompanying documentation have been established by an upstream RA3 or by another ACC3, the ACC3 shall verify, during the acceptance process, that the above information is contained in the accompanying documentation.

The documentation accompanying the consignment may either be in the form of an air waybill, equivalent postal documentation or in a separate declaration, and either in an electronic format or in writing.

Reference: point (d) of point 6.3.2.6, points 6.8.3.4, 6.8.3.5, 6.8.3.6 and 6.8.3.7 of the Annex to Implementing Regulation (EU) 2015/1998

10.1. Does the air carrier ensure that appropriate accompanying documentation is established, and include the information required in point (d) of point 6.3.2.6), points 6.8.3.4, 6.8.3.5 and 6.8.3.6 of the Annex to Implementing Regulation (EU) 2015/1998?

YES or NO	
If YES, describe the content of the documentation	
If NO, explain why and how the cargo or mail is treated as 'secure' by the air carrier if it is loaded onto an aircraft	

10.2. Does the documentation include the air carrier's ACC3 unique alphanumeric identifier?

YES or NO	
If NO, explain why	

10.3. Does the documentation specify the security status of the cargo and how this status was achieved?

YES or NO	
Describe how this is specified	

10.4. Conclusion: Is the documentation process sufficient to ensure that cargo or mail is provided with proper accompanying documentation which specifies the correct security status and all required information?

YES or NO	
If NO specify reason	
Comments from the air carrier	
Comments from EU aviation security validator	

PART 11

Compliance

Objective: After assessing the ten previous Parts of this checklist, the EU aviation security validator has to conclude if its on-site verification corresponds with the content of the part of the air carrier security programme describing the measures for the EU or EEA bound air cargo or air mail and if the security controls sufficiently implements the objectives listed in this checklist.

Conclusions may comprise one of the following four possible main cases:

- (1) the air carrier security programme is in compliance with Attachment 6-G to Implementing Regulation (EU) 2015/1998 and the on-site verification confirms compliance with the objective of the checklist; or
- (2) the air carrier security programme is in compliance with Attachment 6-G to Implementing Regulation (EU) 2015/1998 but the on-site verification does not confirm compliance with the objective of the checklist; or

- (3) the air carrier security programme is not in compliance with Attachment 6-G to Implementing Regulation (EU) 2015/1998 but the on-site verification confirms compliance with the objective of the checklist; or
- (4) the air carrier security programme is not in compliance with Attachment 6-G to Implementing Regulation (EU) 2015/1998 and the on-site verification does not confirm compliance with the objective of the checklist.

11.1. General conclusion: Indicate the case closest to the situation validated

1, 2, 3 or 4	
Comments from EU aviation security validator	
Comments from the air carrier	

Name of the validator:

Date:

Signature:

ANNEX

List of persons and entities visited and interviewed

Providing the name of the entity, the name and the position of the contact person and the date of the visit or interview.

Name of entity	Name of contact person	Position of contact person	Date of visit or interview

ATTACHMENT 6-C4**VALIDATION CHECKLIST FOR THIRD COUNTRY EU AVIATION SECURITY VALIDATED KNOWN CONSIGNOR**

Third country entities have the option to become part of an ACC3's (*Air cargo or mail carrier operating into the Union from a third country airport*) secure supply chain by seeking designation as a third country EU aviation security validated known consignor (KC3). A KC3 is a cargo handling entity located in a third country that is validated and approved as such on the basis of an EU aviation security validation.

A (KC3) shall ensure that security controls have been applied to consignments bound for the Union ⁽¹⁾ and the consignments have been protected from unauthorised interference from the time that those security controls were applied and until transferring to an ACC3 or a third country EU aviation security validated regulated agent (RA3).

The prerequisites for carrying air cargo or air mail into the Union (EU) or Iceland, Norway and Switzerland are required by Implementing Regulation (EU) 2015/1998.

The checklist is the instrument to be used by the EU aviation security validator for assessing the level of security applied to EU or EEA bound air cargo or air mail ⁽²⁾ by or under the responsibility of the entity seeking designation as a KC3. The checklist is to be used only in the cases specified in point (b) of point 6.8.5.1 of the Annex to Implementing Regulation (EU) 2015/1998. In cases specified in point (a) of point 6.8.5.1 of that Annex, the EU aviation security validator shall use the ACC3 checklist.

A validation report shall be delivered to the designating appropriate authority and to the validated entity within a maximum of one month after the on-site verification. Integral parts of the validation report shall be at least the following:

- the completed checklist signed by the EU aviation security validator and where applicable commented by the validated entity; and

⁽¹⁾ The Union Member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom

⁽²⁾ EU or EEA bound air cargo or air mail or aircraft in this validation checklist is equivalent to the Union and Iceland, Norway and Switzerland bound air cargo or air mail or aircraft.

- the declaration of commitments (Attachment 6-H3 to Implementing Regulation (EU) 2015/1998) signed by the validated entity; and
- an independence declaration (Attachment 11-A to Implementing Regulation (EU) 2015/1998) in respect of the entity validated signed by the EU aviation security validator.

Page numbering, the date of the EU aviation security validation and initialling on each page by the validator and the validated entity shall be the proof of the validation report's integrity.

The KC3 shall be able to use the report in its business relations with any ACC3 and any RA3.

By default the validation report shall be in English.

For those parts that cannot be assessed against the requirements of Implementing Regulation (EU) 2015/1998, baseline standards are the Standards and Recommended Practices (SARPs) of Annex 17 to the Convention on International Civil Aviation and the guidance material contained in the ICAO Aviation Security Manual (Doc 8973-Restricted).

Completion notes:

- (1) All applicable and relevant parts of the checklist must be completed, in accordance with the business model and operations of the entity being validated. Where no information is available, this must be explained.
- (2) After each part, the EU aviation security validator shall conclude if and to what extent the objectives of this part are met.

PART 1

Organisation and responsibilities

1.1. Date(s) of validation

Use exact date format, such as from 01.10.2012 to 02.10.2012

dd/mm/yyyy	
------------	--

1.2. Date of previous validation where applicable.

dd/mm/yyyy	
------------	--

Previous KC3 registration number, where available	
---	--

AEO certificate or C-TPAT status or other certifications, where available	
---	--

1.3. Aviation security validator information

Name	
------	--

Company/Organisation/Authority	
--------------------------------	--

Unique alphanumeric identifier (UAI)	
--------------------------------------	--

Email address	
---------------	--

Telephone number — including international codes	
--	--

1.4. Name of entity

Name	
Company number (for example commercial register identification number, if applicable)	
Number/Unit/Building	
Street	
Town	
Postcode	
State (where relevant)	
Country	
P.O. Box address, if applicable	

1.5. Main address of organisation (if different from site to be validated)

Number/Unit/Building	
Street	
Town	
Postcode	
State (where relevant)	
Country	
P.O. Box address, if applicable	

1.6. Nature of business — Types of cargo processed

What is the nature of business(es) — type of cargo processed in the applicant's premises?	
---	--

1.7. Is the applicant responsible for...?

(a) production (b) packing (c) storage (d) despatch (e) other, please specify	
---	--

1.8. Approximate number of employees on site

Number	
--------	--

1.9. Name and title of person responsible for third country air cargo or air mail security

Name	
Job title	
Email address	
Telephone number — including international codes	

PART 2

Organisation and responsibilities of the third country EU aviation security validated known consignor

Objective: No air cargo or air mail shall be carried to the EU or EEA without being subject to security controls. Cargo and mail delivered by a KC3 to an ACC3 or RA3 may only be accepted as secure cargo or mail if such security controls are applied by the KC3. Details of such controls are provided by the following Parts of this checklist.

The KC3 shall have procedures in place to ensure that appropriate security controls are applied to all EU or EEA bound air cargo and air mail and that secure cargo or mail is protected until being transferred to an ACC3 or a RA3. Security controls reasonably ensure that no prohibited articles are concealed in the consignment.

Reference: point 6.8.3 of the Annex to Implementing Regulation (EU) 2015/1998.

2.1. Has the entity established a security programme?

YES or NO	
If NO, go directly to point 2.5	

2.2. Entity security programme information

Date — use exact format dd/mm/yyyy	
Version	
Is the security programme submitted to or approved by the appropriate authority of the state in which the entity is located? If YES, please describe the process.	

2.3. Does the security programme sufficiently cover the elements mentioned in parts 4 to 11 of the checklist?

YES or NO	
If NO, describe why, detailing the reasons	

2.4. Is the security programme conclusive, robust and complete?

YES or NO

If NO, specify the reasons

2.5. Has the entity established a process to ensure that EU or EEA bound air cargo or air mail is submitted to appropriate security controls before being transferred to an ACC3 or an RA3?

YES or NO

If YES, describe the process

2.6. Has the entity a management system (for example instruments, instructions) in place to ensure that the required security controls are implemented?

YES or NO

If YES, describe the management system and explain if it is approved, checked or provided by the appropriate authority or other entity.

If NO, explain how the entity ensures that security controls are applied in the required manner.

2.7. Conclusions and general comments on the reliance, conclusiveness and robustness of the process.

Comments from the entity

Comments from the EU aviation security validator

PART 3

Identifiable air cargo or air mail

Objective: To establish the point or place where cargo or mail becomes identifiable as air cargo or air mail.

3.1. By inspection of the production, packing, storage, selection, despatch and any other relevant areas, ascertain where and how a consignment of EU or EEA bound air cargo or air mail becomes identifiable as such.

Describe

Comments from the entity

Comments from the EU aviation security validator

Please note that detailed information should be given on the protection of identifiable air cargo or air mail from unauthorised interference or tampering in Parts 6 to 9.

PART 4

Staff recruitment and training

Objective: In order to ensure that the required security controls are applied, the KC3 shall assign responsible and competent staff to work in the field of securing air cargo or air mail. Staff with access to identifiable air cargo shall possess all the competencies required to perform their duties and be appropriately trained.

In order to fulfil that objective, the KC3 shall have procedures in place to ensure that all staff (such as permanent, temporary, agency staff, drivers) with direct and unescorted access to air cargo or air mail to which security controls are being or have been applied:

- (a) have been subject to initial and recurrent pre-employment checks or background checks, which are at least in accordance with the requirements of the local authorities of the KC3 premises validated; and
- (b) have completed initial and recurrent security training to be aware of their security responsibilities in accordance with the requirements of the local authorities of the KC3 premises validated.

Note:

- A background check means a check of a person's identity and previous experience, including where legally permissible, any criminal history as part of the assessment of an individual's suitability to implement a security control or for unescorted access to a security restricted area (ICAO Annex 17 definition).
- A pre-employment check shall establish the person's identity on the basis of documentary evidence, cover employment, education and any gaps during at least the preceding five years, and require the person to sign a declaration detailing any criminal history in all states of residence during at least the preceding 5 years (Union definition).

Reference: point 6.8.3.1 of the Annex to Implementing Regulation (EU) 2015/1998.

- 4.1. Is there a procedure ensuring that all staff with access to identifiable air cargo or air mail is subject to a pre-employment check that assesses background check and competence?

YES or NO	
If YES, indicate the number of preceding years taken into account for the pre-employment check and state which entity carries it out.	

- 4.2. Does this procedure include?

☐ background check ☐ pre-employment check ☐ check of criminal records ☐ interviews ☐ other (provide details) Explain the elements, indicate which entity carries this element out and where applicable, indicate the preceding timeframe that is taken into account.	
--	--

- 4.3. Is there a procedure ensuring that the person responsible for the application and supervision of the implementation of security controls at the site is subject to a pre-employment check that assesses background and competence?

YES or NO	
If YES, indicate the number of preceding years taken into account for the pre-employment check and state which entity carries it out.	

- 4.4. Does this procedure include?

☐ background check ☐ pre-employment check ☐ check of criminal records ☐ interviews ☐ other (provide details) Explain the elements, indicate which entity carries this element out and where applicable, indicate the preceding timeframe that is taken into account.	
--	--

- 4.5. Do staff with access to identifiable air cargo/air mail receive training before being given access to identifiable air cargo or air mail?

YES or NO	
If YES, describe the elements and duration of the training	

- 4.6. Do staff referred to in point 4.5 receive recurrent training?

YES or NO	
If YES, specify the elements and the frequency of the recurrent training	

- 4.7. Conclusion: do measures concerning staff recruitment and training ensure that all staff with access to identifiable EU or EEA bound air cargo or air mail have been properly recruited and trained to a standard sufficient to be aware of their security responsibilities?

YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 5

Physical security

Objective: The KC3 shall have procedures in place to ensure identifiable air cargo or air mail bound for the EU or EEA is protected from unauthorised interference or any tampering. If such cargo or mail is not protected, it cannot be forwarded to an ACC3 or RA3 as secure cargo or mail.

The entity has to demonstrate how its site or its premises are protected and that relevant access control procedures are in place. It is essential that access to the area where identifiable air cargo or air mail is processed or stored, is controlled. All doors, windows and other points of access to secure EU or EEA bound air cargo or air mail need to be secured or subject to access control.

Physical security can be, but is not limited to:

- physical obstacles such as fencing or barriers,
- technology using alarms and/or CCTV systems,
- human security such as staff dedicated to carry out surveillance activities.

Reference: point 6.8.3.1 of the Annex to Implementing Regulation (EU) 2015/1998.

5.1. Are all access points to identifiable air cargo/air mail subject to access control and is access limited to authorised persons?

YES or NO	
If YES, how is access controlled? Explain and describe. Multiple answers may be possible. ☐ by security staff ☐ by other staff ☐ manual checking if persons are allowed to enter the area ☐ electronic access control systems ☐ other, specify	
If YES, how is it ensured that a person is authorised to enter the area? Explain and describe. Multiple answers may be possible. — use of a company identification card — use of another type of identification card such as passport or driver's licence — list of authorised persons used by (security) staff — electronic authorisation, e.g. by use of a chip; — distribution of keys or access codes only to authorised personnel — other, specify	

5.2. Are all access points to identifiable air cargo or air mail secured? This includes access points which are not permanent in use and points which are normally not used as access points, such as windows.

YES or NO	
If YES, how are these points secured? Explain and describe. Multiple answers may be possible. — presence of security staff — electronic access control systems which allow access to one person at a time — barriers, for example shutters or locks — CCTV system — intruder detection system	

5.3. Are there additional measures to enhance the security of the premises in general?

YES or NO	
If YES, explain and describe what they are ☐ fencing or barriers ☐ CCTV system ☐ intruder detection system ☐ surveillance and patrols ☐ other, specify	

5.4. Is the building of solid construction?

YES or NO	
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5.5. Conclusion: Are the measures taken by the entity sufficient to prevent unauthorised access to those parts of the site and premises where identifiable EU or EEA bound air cargo or air mail is processed or stored?

YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 6

Production

Objective: The KC3 shall have procedures in place to ensure identifiable air cargo or air mail bound for the EU or EEA is protected from unauthorised interference or any tampering during the production process. If such cargo or mail is not protected, it cannot be forwarded to an ACC3 or RA3 as secure cargo or mail.

The entity has to demonstrate that access to the production area is controlled and the production process is supervised. If the product becomes identifiable as EU or EEA bound air cargo or air mail in the course of production, the entity has to show that measures are taken to protect air or cargo or air mail from unauthorised interference or tampering from this stage.

Answer these questions where the product can be identified as EU or EEA bound air cargo/air mail in the course of the production process.

6.1. Is access to the production area controlled and limited to authorised persons?

YES or NO	
If YES, explain how the access is controlled and limited to authorised persons	

6.2. Is the production process supervised?

YES or NO	
If YES, explain how it is supervised	

6.3. Are controls in place to prevent tampering at the stage of production?

YES or NO	
If YES, describe	

6.4. Conclusion: Are measures taken by the entity sufficient to protect identifiable EU or EEA bound air cargo or air mail from unauthorised interference or tampering during production?

YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 7

Packing

Objective: The KC3 shall have procedures in place to ensure identifiable air cargo or air mail bound for the EU or EEA is protected from unauthorised interference or any tampering during the packing process. If such cargo or mail is not protected, it cannot be forwarded to an ACC3 or RA3 as secure cargo or mail.

The entity has to demonstrate that access to the packing area is controlled and the packing process is supervised. If the product becomes identifiable as EU or EEA bound air cargo or air mail in the course of packing, the entity has to show that measures are taken to protect air cargo/air mail from unauthorised interference or tampering from this stage. All finished goods need to be checked prior to packing.

Answer these questions where the product can be identified as EU or EEA bound air cargo/air mail in the course of the packing process.

7.1. Is access to the packing area controlled and limited to authorised persons?

YES or NO	
If YES, explain how the access is controlled and limited to authorised persons	

7.2. Is the packing process supervised?

YES or NO	
If YES, explain how it is supervised	

7.3. Are controls in place to prevent tampering at the stage of packing?

YES or NO	
If YES, describe	

7.4. Describe the finished outer packaging:

(a) Is the finished outer packing robust?

YES or NO	
Describe	

(b) Is the finished outer packaging tamper evident?

YES or NO	
If YES, describe which process is used to make the packaging tamper evident, for example by use of numbered seals, special stamps or security tape.	
If NO, describe what protection measures that ensure the integrity of the consignments are taken.	

7.5. Conclusion: Are measures taken by the entity sufficient to protect identifiable EU or EEA bound air cargo or air mail from unauthorised interference or tampering during packing?

YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 8

Storage

Objective: The KC3 shall have procedures in place to ensure identifiable air cargo or air mail bound for the EU or EEA is protected from unauthorised interference or any tampering during storage. If such cargo or mail is not protected, it cannot be forwarded to an ACC3 or RA3 as secure cargo or mail.

The entity has to demonstrate that access to the storage area is controlled. If the product becomes identifiable as EU or EEA bound air cargo or air mail while being stored, the entity has to show that measures are taken to protect air cargo or air mail from unauthorised interference or tampering as from this stage.

Answer these questions where the product can be identified as EU or EEA bound air cargo/air mail in the course of the storage process.

8.1. Is access to the storage area controlled and limited to authorised persons?

YES or NO	
If YES, explain how the access is controlled and limited to authorised persons	

8.2. Is the finished and packed air cargo or air mail stored securely and checked for tampering?

YES or NO	
If YES, describe	
If NO, explain how the entity ensures that the finished and packed EU or EEA bound air cargo and air mail is protected against unauthorised interference and any tampering.	

8.3. Conclusion: Are measures taken by the entity sufficient to protect identifiable EU or EEA bound air cargo or air mail from unauthorised interference or tampering during storage?

YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 9

Despatch

Objective: The KC3 shall have procedures in place to ensure identifiable air cargo or air mail bound for the EU or EEA is protected from unauthorised interference or any tampering during the despatch process. If such cargo or mail is not protected, it must not be forwarded to an ACC3 or RA3 as secure cargo or mail.

The entity has to demonstrate that access to the despatch area is controlled. If the product becomes identifiable as EU or EEA bound air cargo or air mail in the course of despatch, the entity has to show that measures are taken to protect air cargo or air mail from unauthorised interference or tampering from this stage.

Answer these questions where the product can be identified as EU/EEA bound air cargo or air mail in the course of the despatch process.

9.1. Is access to the despatch area controlled and limited to authorised persons?

YES or NO	
If YES, explain how the access is controlled and limited to authorised persons	

9.2. Who has access to the despatch area? Multiple answers may be possible.

☐ employees of the entity ☐ drivers ☐ visitors ☐ contractors ☐ others, specify	
---	--

9.3. Is the despatch process supervised?

YES or NO	
If YES, explain how it is supervised	

9.4. Are controls in place to prevent tampering in the despatch area?

YES or NO	
If YES, describe	

9.5. Conclusion: Are measures taken by the entity sufficient to protect identifiable EU or EEA bound air cargo or air mail from unauthorised interference or tampering during the despatch process?

YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 10

Consignments from other sources

Objective: The KC3 shall have procedures in place to ensure that cargo or mail which it has not originated itself, shall not be forwarded to an ACC3 or an RA3 as secure cargo or mail.

A KC3 may pass consignments which it has not itself originated to a RA3 or an ACC3, provided that following conditions are met:

- (a) they are separated from consignments which it has originated; and
- (b) the origin is clearly indicated on the consignment or an accompanying documentation.

All such consignments must be screened by an RA3 or ACC3 before they are loaded onto an aircraft.

10.1. Does the entity accept consignments of cargo or mail intended for carriage by air from any other entity?

YES or NO	
If YES, how are these consignments kept separate from the company's own cargo or mail and how are they identified to the regulated agent or haulier?	
Comments from the entity	
Comments from the EU aviation security validator.	

PART 11

Documentation

Objective: The KC3 shall ensure that the documentation accompanying a consignment to which the KC3 has applied security controls (for example protection), contains at least:

- (a) the unique alphanumeric identifier received from the designating appropriate authority; and
- (b) the content of the consignment.

The documentation accompanying the consignment may either be in an electronic format or in writing.

Reference: point 6.8.3.4 of the Annex to Implementing Regulation (EU) 2015/1998

11.1. Does the entity ensure that appropriate accompanying documentation is established, containing the UAI received from the designating appropriate authority and a description of the consignment?

YES or NO	
If NO, explain	

11.2. Conclusion: Is the documentation process sufficient to ensure that cargo or mail is provided with proper accompanying documentation?

YES or NO	
If NO, specify reason	
Comments from the entity	
Comments from EU aviation security validator	

PART 12

Transportation

Objective: The KC3 shall have procedures in place in order to ensure identifiable air cargo or air mail bound for the EU or EEA is protected from unauthorised interference or any tampering during transportation. If such cargo or mail is not protected, it must not be accepted by an ACC3 or RA3 as secure cargo or mail.

During transportation, the KC3 is responsible for the protection of the secure consignments. This includes cases where the transportation is undertaken by another entity, such as a freight forwarder, on its behalf. This does not include cases whereby the consignments are transported under the responsibility of an ACC3 or RA3.

Answer these questions where the product can be identified as EU or EEA bound air cargo or air mail when transported.

12.1. How is the air cargo or air mail conveyed to the ACC3 or RA3?

(a) Validated entity's own transport?

YES or NO

(b) ACC3's or RA3's transport?

YES or NO

(c) Contractor used by the validated entity?

YES or NO

12.2. Is the air cargo or air mail tamper evidently packed?

YES or NO

If YES, how

12.3. Is the vehicle sealed or locked before transportation?

YES or NO

If YES, how

12.4. Where numbered seals are used, is access to the seals controlled and are the numbers recorded?

YES or NO

If YES, specify how

12.5. If applicable, does the respective haulier sign the haulier declaration?

YES or NO

12.6. Has the person transporting the cargo been subject to specific security controls and awareness training before being authorised to transport secured air cargo or air mail, or both?

YES or NO

If YES, please describe what kind of security controls (for example, pre-employment check, background check) and what kind of training (for example, security awareness training, etc.)

12.7. Conclusion: Are the measures sufficient to protect air cargo or air mail from unauthorised interference during transportation?

YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 13

Compliance

Objective: After assessing the twelve previous parts of this checklist, the EU aviation security validator has to conclude whether its on-site verification confirms the implementation of the security controls in compliance with the objectives listed in this checklist for EU or EEA bound air cargo or air mail.

Two different scenarios are possible. The EU aviation security validator concludes that the entity:

- (1) has succeeded in complying with the objectives referred to in this checklist. A validation report shall be delivered to the designating appropriate authority and to the validated entity within a maximum of one month after the on-site verification;
- (2) has failed in complying with the objectives referred to in this checklist. In that case, the entity is not authorised to deliver air cargo or mail for EU or EEA destination to an ACC3 or RA3 without it being screened by an authorised party. It shall receive a copy of the completed checklist stating the deficiencies.

The EU aviation security validator has to keep in mind that the assessment is based on an overall objective-based compliance methodology.

12.1. General conclusion: Indicate the scenario closest to the situation validated

1 or 2	
Comments from EU aviation security validator	
Comments from the entity	

Name of the validator:

Date:

Signature:

ANNEX

List of persons and entities visited and interviewed

Providing the name of the entity, the name and the position of the contact person and the date of the visit or interview.

Name of entity	Name of contact person	Position of contact person	Date of visit or interview;

(33) Attachments 6-H1, 6-H2 and 6-H3 are replaced by the following:

‘ATTACHMENT 6-H1**DECLARATION OF COMMITMENTS — EU AVIATION SECURITY VALIDATED ACC3**

On behalf of [name of air carrier] I take note of the following:

This report establishes the level of security applied to EU or EEA bound air cargo operations in respect of the security standards listed in the checklist or referred to therein.

[name of air carrier] can only be designated ‘air cargo or mail carrier operating into the Union from a third country airport’ (ACC3) once an EU aviation security validation report has been submitted to and accepted by the appropriate authority of a Member State of the European Union or Iceland, Norway or Switzerland for that purpose, and the details of the ACC3 have been entered in the Union database on supply chain security.

If a non-compliance in the security measures the report refers to is identified by the appropriate authority of an EU Member State or by the European Commission, this could lead to the withdrawal of [name of air carrier] designation as ACC3 already obtained for this airport which will prevent [name of air carrier] transport air cargo or mail into the EU or EEA area from this airport.

The report is valid for five years and shall therefore expire on ... at the latest.

On behalf of [air carrier] I declare that:

- (1) [name of air carrier] will accept appropriate follow-up action for the purpose of monitoring the standards confirmed by the report.

- (2) I will provide the designating appropriate authority with the relevant details promptly but at least within 15 days if:
- (a) any changes to [name of air carrier] security programme occur;
 - (b) the overall responsibility for security is assigned to anyone other than the person named in point 1.7 of Attachment 6-C3 to Implementing Regulation (EU) 2015/1998;
 - (c) there are any other changes to premises or procedures likely to significantly impact on security;
 - (d) the air carrier ceases trading, no longer deals with air cargo or mail bound to the Union, or can no longer meet the requirements of the relevant Union legislation that have been validated in this report.
- (3) [name of air carrier] will maintain the security level confirmed in this report as compliant with the objective set out in the checklist and, where appropriate, implement and apply any additional security measures required to be designated ACC3 where security standards were identified as insufficient, until the subsequent validation of [name of air carrier] activities.
- (4) [name of air carrier] will inform the designating appropriate authority in case it is not able to request, obtain or ensure the application of appropriate security controls in respect of cargo or mail it accepts for carriage into the EU or EEA area, or it cannot exercise effective oversight on its supply chain.

On behalf of [name of air carrier] I accept full responsibility for this declaration.

Name:

Position in company:

Date:

Signature:

ATTACHMENT 6-H2

DECLARATION OF COMMITMENTS — THIRD COUNTRY EU AVIATION SECURITY VALIDATED REGULATED AGENT (RA3)

On behalf of [name of entity] I take note of the following:

This report establishes the level of security applied to EU or EEA bound air cargo operations in respect of the security standards listed in the checklist or referred to therein.

[Name of entity] can only be designated 'third country EU aviation security validated regulated agent' (RA3) once an EU aviation security validation report has been submitted to and accepted by the appropriate authority of a Member State of the European Union or Iceland, Norway or Switzerland for that purpose, and the details of the RA3 have been entered in the Union database on supply chain security.

If a non-compliance in the security measures the report refers to is identified by the appropriate authority of a Union Member State or by the European Commission, this could lead to the withdrawal of [name of entity] designation as a RA3 already obtained for this premises which will prevent [name of entity] from delivering secured air cargo or mail for EU or EEA destination to an ACC3 or another RA3.

The report is valid for three years and shall therefore expire on ... at the latest.

On behalf of [name of entity] I declare that:

- (1) [name of entity] will accept appropriate follow-up action for the purpose of monitoring the standards confirmed by the report.
- (2) I will provide the designating appropriate authority with the relevant details promptly but at least within 15 days if:
 - (a) any changes to [name of entity] security programme occur;

- (b) the overall responsibility for security is assigned to anyone other than the person named in point 1.9 of Attachment 6-C2 to Implementing Regulation (EU) 2015/1998;
 - (c) there are any other changes to premises or procedures likely to significantly impact on security;
 - (d) the company ceases trading, no longer deals with air cargo or mail bound to the European Union, or can no longer meet the requirements of the relevant Union legislation that have been validated in this report.
- (3) [name of entity] will maintain the security level confirmed in this report as compliant with the objective set out in the checklist and, where appropriate, implement and apply any additional security measures required to be designated RA3 where security standards were identified as insufficient, until the subsequent validation of [name of entity] activities.
- (4) [name of entity] will inform the ACC3s and RA3s to which it delivers secured air cargo and/or air mail if [name of entity] ceases trading, no longer deals with air cargo/air mail or can no longer meet the requirements validated in this report.

On behalf of [name of entity] I accept full responsibility for this declaration.

Name:

Position in company:

Date:

Signature:

ATTACHMENT 6-H3

DECLARATION OF COMMITMENTS — THIRD COUNTRY EU AVIATION SECURITY VALIDATED KNOWN CONSIGNOR (KC3)

On behalf of [name of entity] I take note of the following:

This report establishes the level of security applied to EU or EEA bound air cargo operations in respect of the security standards listed in the checklist or referred to therein.

[Name of entity] can only be designated 'third country EU aviation security validated known consignor' (KC3) once an EU aviation security validation report has been submitted to and accepted by the appropriate authority of a Member State of the European Union or Iceland, Norway or Switzerland for that purpose, and the details of the KC3 have been entered in the Union database on supply chain security.

If a non-compliance in the security measures the report refers to is identified by the appropriate authority of a Union Member State or by the European Commission, this could lead to the withdrawal of [name of entity] designation as a KC3 already obtained for this premises which will prevent [name of entity] from delivering secured air cargo or mail for EU or EEA destination to an ACC3 or an RA3.

The report is valid for three years and shall therefore expire on ... at the latest.

On behalf of [name of entity] I declare that:

- (1) [name of entity] will accept appropriate follow-up action for the purpose of monitoring the standards confirmed by the report;
- (2) I will provide the designating appropriate authority with the relevant details promptly but at least within 15 days if:
 - (a) any changes to [name of entity] security programme occur;
 - (b) the overall responsibility for security is assigned to anyone other than the person named in point 1.9 of Attachment 6-C4 to Implementing Regulation (EU) 2015/1998;

- (c) there are any other changes to premises or procedures likely to significantly impact on security;
 - (d) the company ceases trading, no longer deals with air cargo/mail bound to the European Union, or can no longer meet the requirements of the relevant Union legislation that have been validated in this report.
- (3) [name of entity] will maintain the security level confirmed in this report as compliant with the objective set out in the checklist and, where appropriate, implement and apply any additional security measures required to be designated KC3 where security standards were identified as insufficient, until the subsequent validation of [name of entity] activities.
- (4) [name of entity] will inform the ACC3s and RA3s to which it delivers secured air cargo and/or air mail if [name of entity] ceases trading, no longer deals with air cargo/air mail or can no longer meet the requirements validated in this report.

On behalf of [name of entity] I accept full responsibility for this declaration.

Name:

Position in company:

Date:

Signature:;

(34) point 8.1.3.2 is amended as follows:

(a) point (c) is replaced by the following:

‘(c) if the appropriate authority is satisfied with the information provided in accordance with points (a) and (b), it shall ensure that the necessary details of the regulated supplier are entered into the Union database on supply chain security not later than the next working day. When making the database entry the appropriate authority shall give each approved site a unique alphanumeric identifier in the standard format. If the appropriate authority is not satisfied, the reasons shall promptly be notified to the entity seeking approval as a regulated supplier.’;

(b) the following point (d) is added:

‘(d) a regulated supplier shall not be considered as approved until its details are listed in the Union database on supply chain security.’;

(35) point 11.2.2(e) is replaced by the following:

‘(e) knowledge of identification card systems in use;’

(36) in point 11.2.3.8, the following paragraph is added:

‘In addition, where the person holds an airport identification card, training shall also result in all of the following competences:

- (h) understanding of the configuration of the screening checkpoint and the screening process;
- (i) awareness of access control and relevant screening procedures;
- (j) knowledge of airport identification cards used at the airport;
- (k) knowledge of reporting procedures;
- (l) ability to respond appropriately to security related incidents.’;

(37) in point 11.2.3.9, the following paragraph is added:

‘In addition, where the person holds an airport identification card, training shall also result in all of the following competences:

- (k) understanding of the configuration of the screening checkpoint and the screening process;
- (l) awareness of access control and relevant screening procedures;
- (m) knowledge of identification cards in use;
- (n) ability to respond appropriately to security related incidents.’;

(38) in point 11.2.3.10, the following paragraph is added:

‘In addition, where the person holds an airport identification card, training shall also result in all of the following competences:

- (k) understanding of the configuration of the screening checkpoint and the screening process;
- (l) awareness of access control and relevant screening procedures;
- (m) knowledge of identification cards in use;
- (n) ability to respond appropriately to security related incidents.’;

(39) in point 11.5.1, the following paragraph is added:

‘Instructors shall be subject to recertification at least every 5 years.’;

(40) point 11.6.4.3 is replaced by the following:

‘11.6.4.3 When a Member State is no longer satisfied that an EU aviation security validator meets the requirements referred to in points 11.6.3.1 or 11.6.3.5, it shall withdraw the approval and remove the validator from the Union database on supply chain security, or inform the appropriate authority that approved it, sharing the basis for its concern.’;

(41) Attachment 11-A is replaced by the following:

‘ATTACHMENT 11-A

INDEPENDENCE DECLARATION — EU AVIATION SECURITY VALIDATOR

- (a) I confirm that I have established the level of compliance of the validated entity in an impartial and objective way.
- (b) I confirm that I am not, and have not in the preceding two years, been employed by the validated entity.
- (c) I confirm that I have no economic or other direct or indirect interest in the outcome of the validation activity, the validated entity or its affiliates.
- (d) I confirm that I have, and have had in the preceding 12 months no business relations such as training and consultancy beyond the validation process with the validated entity in areas related to aviation security.
- (e) I confirm that the EU aviation security validation report is based on a thorough fact finding evaluation of relevant security documentation, consisting of:
 - the validated entities’ security programme or equivalent, and
 - an on- site verification of the implementation thereof.
- (f) I confirm that the EU aviation security validation report is based on an assessment of all security relevant areas on which the validator is required to give an opinion based on the relevant EU checklist.
- (g) I confirm that I have applied a methodology that allows for separate EU aviation security validation reports in respect of each entity validated and ensures objectivity and impartiality of the fact finding and evaluation, where several entities are being validated in a joint action.
- (h) I confirm that I accepted no financial or other benefits, other than a reasonable fee for the validation and a compensation of travel and accommodation costs.

I accept full responsibility for the EU aviation security validation report.

Name of the validated entity:

Name of the EU aviation security validator:

Date:

Signature:’;

(42) points 12.7.1.2 and 12.7.1.3 are replaced by the following:

‘12.7.1.2 The equipment shall be used in a manner that ensures that the container is positioned and orientated so as to ensure that the detection capabilities are utilised in full.

12.7.1.3 The equipment shall give an alarm in each of the following circumstances:

- (a) when it detects threat material;
- (b) when it detects the presence of an item that prevents threat material from being detected;
- (c) when it cannot assess whether the LAG is benign or not;
- (d) when the contents of the screened bag are too dense to be analysed.’;

(43) point 12.7.1.4 is deleted;

(44) point 12.7.2.2 is replaced by the following:

‘12.7.2.2 All LEDS equipment shall meet standard 2.’;

(45) point 12.7.2.3 is deleted;

(46) point 12.9.2.5 is replaced by the following:

‘12.9.2.5 An EDD used for the detection of explosive materials shall be fitted with appropriate means to allow for the unique identification of the EDD.’.

COMMISSION IMPLEMENTING REGULATION (EU) 2017/816**of 12 May 2017****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ⁽¹⁾,

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

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.
- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 12 May 2017.

*For the Commission,
On behalf of the President,*

Jerzy PLEWA

Director-General

Directorate-General for Agriculture and Rural Development

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

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

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MA	97,0
	TN	158,2
	TR	93,0
	ZZ	116,1
0707 00 05	TR	126,8
	ZZ	126,8
0709 93 10	TR	143,5
	ZZ	143,5
0805 10 22, 0805 10 24, 0805 10 28	EG	56,6
	MA	68,4
	ZZ	62,5
0805 50 10	TR	65,0
	ZA	147,3
	ZZ	106,2
0808 10 80	AR	106,2
	BR	106,5
	CL	118,7
	NZ	145,9
	US	111,3
	ZA	96,1
	ZZ	114,1

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COUNCIL DECISION (EU) 2017/817

of 11 May 2017

establishing the position to be taken on behalf of the European Union within the World Trade Organisation on the modification of paragraph C(ii) of Annex 3 to the WTO Agreement as regards the frequency of WTO Trade Policy Reviews and of the rules of procedure of the Trade Policy Review Body

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Paragraph C(ii) of Annex 3 to the Marrakesh Agreement establishing the World Trade Organisation ('WTO Agreement') sets out the frequency for reviewing WTO Members' trade policies and practices. The frequency of the reviews of each Member's trade policy depends on its share of world trade. The four biggest trading Members are currently examined every two years. The next 16 Members in terms of their share of world trade are reviewed every four years, while all other Members are currently reviewed every six years.
- (2) The increase in WTO membership since 1995 has also increased the number of reviews necessary to comply with Annex 3 to the WTO Agreement, increasing the burden on Members and the WTO Secretariat. In order to safeguard the effectiveness of the review system, the Trade Policy Review Body (TPRB) of the WTO suggests extending by one year the cycles currently in place. As a result, WTO Members would be reviewed every three, five or seven years, depending on their share of world trade.
- (3) In accordance with Article X:8 of the WTO Agreement, decisions approving amendments to Annex 3 to the WTO Agreement are to be taken by consensus by the Ministerial Conference or, pursuant to Article IV:2 of the WTO Agreement, by the General Council in the intervals between meetings of the Ministerial Conference, and are to take effect for all WTO Members upon approval.
- (4) In order to safeguard the effectiveness of the review system, the TPRB has recommended also to amend its rules of procedure to introduce slight modifications that would facilitate the conduct of reviews, such as granting four weeks instead of the current three to the Member reviewed so as to reply to advance questions when it uses the alternative timeline. Other changes in the rules of procedure involve, for example, the possibility for a WTO Member to present significant changes to its trade policy at a meeting of the TPRB in between two Trade Policy Reviews or the possibility, on request of a Member, to make the second day of the review more interactive, using panels or the issuance by the WTO Secretariat of a list of speakers for the interventions of the WTO Members on the first day of the review. The TPRB can take the decision to amend its own rules of procedure pursuant to Article IV:4 of the WTO Agreement.
- (5) It is in the interest of the Union to ensure a well-functioning Trade Policy Review Mechanism so that all WTO Members continue to be reviewed regularly and meetings in the TPRB are as efficient and well prepared as possible.
- (6) Therefore, it is appropriate to establish that the position to be taken on behalf of the Union in the WTO is to extend by one year the cycles of Trade Policy Reviews of WTO Members and to modify the rules of procedure of the TPRB to facilitate the conduct of reviews,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the Union within the General Council of the World Trade Organisation shall be to join the consensus to amend paragraph C(ii) of Annex 3 to the WTO Agreement to extend by one year the cycles of Trade Policy Reviews of WTO Members. The review cycles in paragraph C(ii) of Annex 3 to the WTO Agreement depend on the share of world trade and currently stand at two, four or six years. They will be replaced, respectively, by cycles of three, five or seven years.

This position shall be expressed by the Commission at the upcoming meeting of the General Council.

Article 2

The position to be taken on behalf of the Union within the Trade Policy Review Body shall be to join the consensus to amend the TPRB's rules of procedure, as envisaged in Document WT/RD/TPR/745.

This position shall be expressed by the Commission at an upcoming meeting of the TPRB.

Article 3

After its adoption, the amendment of paragraph C(ii) of Annex 3 to the WTO Agreement, as notified by the WTO, shall be published in the *Official Journal of the European Union*.

Article 4

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

Done at Brussels, 11 May 2017.

For the Council
The President
C. CARDONA

COUNCIL IMPLEMENTING DECISION (EU) 2017/818**of 11 May 2017****setting out a Recommendation for prolonging temporary internal border control in exceptional circumstances putting the overall functioning of the Schengen area at risk**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) ⁽¹⁾, and in particular Article 29 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) In accordance with Article 29 of the Schengen Borders Code, the Council adopted on 12 May 2016, on a proposal from the Commission, an Implementing Decision setting out a Recommendation for temporary internal border control in exceptional circumstances putting the overall functioning of the Schengen area at risk.
- (2) The Council recommended that five Schengen States (Austria, Germany, Denmark, Sweden and Norway) maintain proportionate temporary border control at a limited number of their internal border sections, for an initial period of 6 months, in order to address the serious threat to public policy and internal security in these States by — deficiencies in external border control in Greece and the subsequent secondary movements of irregular migrants entering via Greece and who move to other Schengen States. This period was prolonged by the Council on a proposal from the Commission twice, respectively on 11 November 2016 and on 7 February 2017, for further periods of 3 months at a time.
- (3) Under Articles 25 and 29 of the Schengen Borders Code, the initial period recommended by the Council can be further prolonged if the exceptional circumstances persist.
- (4) The Recommendations of 11 November 2016 and 7 February 2017 required that the Schengen States concerned report monthly to the Commission on the outcome of the controls carried out and on the assessment concerning the continued necessity of such controls, when applicable. The Commission received such reports from all the Schengen States concerned. The information contained in these reports demonstrates that the controls have remained within the conditions set by the Recommendation. It also confirms a stabilisation of the situation in these States, in terms of number of refusals of entry and asylum applications received during the controls.
- (5) However, despite this progress, the conditions identified in the Roadmap 'Back to Schengen' in order to allow lifting all internal border control and returning to a normally functioning Schengen area are still not entirely fulfilled. Moreover, in spite of the ongoing progress and the significant improvement related to the external border management that Greece has made in 2016 as well as the fulfilment by Greece of recommendations made following the 2015 unannounced evaluation visit, an important number of irregular migrants is still present in Greece and along the Western Balkans route. The risk of irregular secondary movements within the Schengen area of these migrants remains.
- (6) In its Communication 'Back to Schengen — A Roadmap', the Commission identified the various policies to be put in place to return to a fully functioning Schengen area. The process of rolling out of the European Border and Coast Guard Agency is ongoing. However, further contributions from Member States are needed to complete its resources and allow it to fully play its role in securing the external borders of the Union. Recommendations following the first vulnerability assessments have not been issued yet. The status agreements with Serbia is currently being negotiated.

⁽¹⁾ OJ L 77, 23.3.2016, p. 1.

- (7) After more than 1 year, the implementation of the EU-Turkey Statement of 18 March 2016 continues to deliver tangible results, as was confirmed in the fifth progress report ⁽¹⁾. Yet arrivals continue to outpace the number of returns from Greece to Turkey which leads to additional pressure on the Greek islands. Progress on other elements of the Statement needs to continue. The implementation of the Statement thus needs to be constantly monitored. The same applies to the situation along the Western Balkans Route and the implementation of the Statement of the Western Balkans Route Leaders meeting.
- (8) The exceptional circumstances constituting a serious threat to public policy and internal security and putting at risk the overall functioning of the Schengen area therefore still persist.
- (9) In light of the facts above, it appears justified, as a last resort measure, to allow a further and final prolongation of the temporary border control at the internal borders concerned by the Schengen States currently carrying out such controls, namely Austria, Germany, Denmark, Sweden and the associated country Norway, in accordance with Article 29 of the Schengen Borders Code.
- (10) The Council takes note of the Commission Recommendation on proportionate police checks and police cooperation in the Schengen area that would also contribute in gradually phasing out temporary internal border controls with the objective of lifting all internal border control and returning to a normal functioning of the Schengen area as soon as possible by giving precedence to the use of police checks to adequately address the serious threats to public policy or internal security. The Council takes note that the Commission recommends that all Schengen States implement the recommended measures as soon as possible and at the latest within 6 months.
- (11) Based on the estimation of the remaining time necessary to implement the pending measures aiming at ensuring adequate protection of the EU external borders and adequate security within the Schengen area, this prolongation should not exceed 6 months as from the date of adoption of the present Implementing Decision.
- (12) The Member States that decide to continue carrying out internal border control under the present Implementing Decision should notify the other Member States, the European Parliament and the Commission accordingly.
- (13) Before opting for such border controls, the Member States concerned should examine whether other measures alternative to border controls and impeding less the free movement of persons and goods could not be used to effectively remedy the identified threat. In the Commission Recommendation on proportionate police checks and police cooperation in the Schengen area, the Commission calls upon the Schengen States to use their police powers across the territory, including in the border area and on the main routes in a more effective way and give precedence to police checks. However, pending the implementation of that Commission Recommendation, the Schengen States concerned should inform of the outcome of the reflection on the most appropriate tools and the reasons for opting for border controls as a last resort measure in their notifications.
- (14) The controls under the present Implementing Decision should continue to be carried out only to the necessary extent, limited in their intensity to the absolute minimum necessary and adjusted to the circumstances. Accordingly, it can be envisaged that any further decrease of the flow should lead to suspending the controls at given border sections. Only targeted controls, based on constantly updated risk analysis and intelligence, should be carried out, in order to optimise the benefit of the controls and limit their negative effects on free movement. The Schengen States affected by these controls at the relevant border sections should be admitted to regularly express their views on their necessity; the Schengen State having decided to reintroduce such controls should take these views into account when examining and reviewing the necessity of such checks, with the objective of progressively reducing them.
- (15) At the end of each month of implementation of the present Implementing Decision, a complete report on the results of the checks carried out should be promptly sent to the Commission and the Council, together with an assessment of their continuous necessity when applicable. This report should include the total number of persons checked, the total number of refusals of entry following the checks, the total number of return decisions issued following the checks and the total number of asylum applications received at the internal borders where the checks take place.
- (16) The Council takes note that the Commission has announced that it will closely monitor the application of this Implementing Decision,

⁽¹⁾ Fifth Report from the Commission to the European Parliament, the European Council and the Council on the Progress made in the implementation of the EU-Turkey Statement, COM(2017) 204 final of 2 March 2017.

HEREBY RECOMMENDS:

1. Austria, Germany, Denmark, Sweden and Norway to prolong proportionate, temporary border controls for a maximum period of 6 months, starting from the day of adoption of this Implementing Decision, at the following internal borders:
 - Austria at the Austrian-Hungarian land border and Austrian-Slovenian land border,
 - Germany at the German-Austrian land border,
 - Denmark in the Danish ports with ferry connections to Germany and at the Danish-German land border,
 - Sweden in the Swedish harbours in the Police Region South and West and at the Öresund bridge,
 - Norway in the Norwegian ports with ferry connections to Denmark, Germany and Sweden.
2. Before deciding on further prolongation of such controls based on this Recommendation, the Member States concerned should exchange views with the relevant Member State(s) with a view to ensuring that internal border controls are carried out only where it is considered necessary and proportionate. Furthermore, the Member States concerned should ensure that internal border controls are only carried out as a last resort measure when other alternative measures cannot achieve the same effect, and only at those parts of the internal border where it is considered necessary and proportionate, in accordance with the Schengen Borders Code. When it provides the same security results, the use of police powers should be preferred as a measure with a lesser impact on the free movement of persons and goods. The Member States concerned should notify the other Member States, the European Parliament and the Commission accordingly.
3. Border control should remain targeted, based on constantly updated risk analysis and intelligence, and limited in scope, frequency, location and time, to what is strictly necessary to respond to the serious threat and to safeguard public policy and internal security. The Member State that carries out internal border control pursuant to the present Implementing Decision should review weekly the necessity, frequency, location and time of controls, adjust the intensity of the controls to the level of the threat addressed, phasing them out wherever appropriate, and report promptly to the Commission and the Council every month.

Done at Brussels, 11 May 2017.

For the Council
The President
C. CARDONA

COMMISSION IMPLEMENTING DECISION (EU) 2017/819**of 12 May 2017****amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States***(notified under document C(2017) 3331)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽¹⁾, and in particular Article 9(4) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽²⁾, and in particular Article 10(4) thereof,

Whereas:

- (1) Commission Implementing Decision (EU) 2017/247 ⁽³⁾ was adopted following outbreaks of highly pathogenic avian influenza of subtype H5 in a number of Member States ('the concerned Member States'), and the establishment of protection and surveillance zones by the competent authority of the concerned Member States in accordance with Council Directive 2005/94/EC ⁽⁴⁾.
- (2) Implementing Decision (EU) 2017/247 provides that the protection and surveillance zones established by the competent authorities of the concerned Member States in accordance with Directive 2005/94/EC are to comprise at least the areas listed as protection and surveillance zones in the Annex to that Implementing Decision. Implementing Decision (EU) 2017/247 also lays down that the measures to be applied in the protection and surveillance zones, as provided for in Article 29(1) and Article 31 of Directive 2005/94/EC, are to be maintained until at least the dates for those zones set out in the Annex to that Implementing Decision.
- (3) The Annex to Implementing Decision (EU) 2017/247 was subsequently amended by Commission Implementing Decisions (EU) 2017/417 ⁽⁵⁾, (EU) 2017/554 ⁽⁶⁾, (EU) 2017/696 ⁽⁷⁾ and (EU) 2017/780 ⁽⁸⁾, in order to take account of changes to the protection and surveillance zones established by the competent authorities of the Member States in accordance with Directive 2005/94/EC, following further outbreaks of highly pathogenic avian influenza of subtype H5 in the Union. In addition, Implementing Decision (EU) 2017/247 was amended by Implementing Decision (EU) 2017/696 in order to lay down rules regarding the dispatch of consignments of day-old chicks from the areas listed in the Annex to Implementing Decision (EU) 2017/247, following certain improvements in the epidemiological situation as regards that virus in the Union.

⁽¹⁾ OJ L 395, 30.12.1989, p. 13.

⁽²⁾ OJ L 224, 18.8.1990, p. 29.

⁽³⁾ Commission Implementing Decision (EU) 2017/247 of 9 February 2017 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 36, 11.2.2017, p. 62).

⁽⁴⁾ Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC (OJ L 10, 14.1.2006, p. 16).

⁽⁵⁾ Commission Implementing Decision (EU) 2017/417 of 7 March 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 63, 9.3.2017, p. 177).

⁽⁶⁾ Commission Implementing Decision (EU) 2017/554 of 23 March 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 79, 24.3.2017, p. 15).

⁽⁷⁾ Commission Implementing Decision (EU) 2017/696 of 11 April 2017 amending Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 101, 13.4.2017, p. 80).

⁽⁸⁾ Commission Implementing Decision (EU) 2017/780 of 3 May 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 116, 5.5.2017, p. 30).

- (4) While there has been a significant improvement in the epidemiological situation in the Union as regards highly pathogenic avian influenza, since the date of the last amendments made to Implementing Decision (EU) 2017/247 by Implementing Decision (EU) 2017/780, the United Kingdom has notified the Commission of further outbreaks of highly pathogenic avian influenza of subtype H5 in holdings located outside the areas currently listed in the Annex to Implementing Decision (EU) 2017/247 for that Member State. It has also notified that it has taken the necessary measures required in accordance with Directive 2005/94/EC, including the establishment of protection and surveillance zones around those new outbreaks.
- (5) The Commission has examined the measures taken by the United Kingdom in accordance with Directive 2005/94/EC, following the latest outbreaks of avian influenza of subtype H5 in that Member State, and it has satisfied itself that the boundaries of the protection and surveillance zones, established by the competent authorities of that Member State, are at a sufficient distance to any holding where an outbreak of highly pathogenic avian influenza of subtype H5 has been confirmed.
- (6) In order to prevent any unnecessary disturbance to trade within the Union and to avoid unjustified barriers to trade being imposed by third countries, it is necessary to rapidly describe at Union level, in collaboration with the United Kingdom, the new protection and surveillance zones established in that Member State in accordance with Directive 2005/94/EC. Therefore, the areas listed for that Member State in the Annex to Implementing Decision (EU) 2017/247 should be amended.
- (7) Accordingly, the Annex to Implementing Decision (EU) 2017/247 should be amended to update regionalization at Union level to include the new protection and surveillance zones established in accordance with Directive 2005/94/EC and the duration of the restrictions applicable therein.
- (8) Implementing Decision (EU) 2017/247 should therefore be amended accordingly.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Implementing Decision (EU) 2017/247 is amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 12 May 2017.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX

The Annex to Implementing Decision (EU) 2017/247 is amended as follows:

(1) Part A is amended as follows:

The entry for the United Kingdom is replaced by the following:

'Member State: United Kingdom

Area comprising:	Date until applicable in accordance with Article 29(1) of Directive 2005/94/EC
The area of the parts of Lancashire County (ADNS code 00151) contained within a circle with a radius of three kilometres and centred on WGS84 dec. coordinates N53.8682 and W2.9593.	28.5.2017
The area of the parts of Lancashire County (ADNS code 00151) contained within a circle with a radius of three kilometres and centred on WGS84 dec. coordinates N53.8745 and W2.9576.	29.5.2017'

(2) Part B is amended as follows:

The entry for the United Kingdom is replaced by the following:

'Member State: United Kingdom

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
The area of the parts of Lancashire County (ADNS code 00151) contained within a circle with a radius of ten kilometres and extending beyond the protection zones in part A, centred on WGS84 dec. coordinates N53.8682 and W2.9593.	6.6.2017
The area of the parts of Lancashire County (ADNS code 00151) contained within a circle with a radius of ten kilometres centred on WGS84 dec. coordinates N53.8682 and W2.9593.	29.5.2017 to 6.6.2017
The area of the parts of Lancashire County (ADNS code 00151) contained within a circle with a radius of ten kilometres and extending beyond the protection zones in part A, centred on WGS84 dec. coordinates N53.8745 and W2.9576.	7.6.2017
The area of the parts of Lancashire County (ADNS code 00151) contained within a circle with a radius of ten kilometres centred on WGS84 dec. coordinates N53.8745 and W2.9576.	30.5.2017 to 7.6.2017'

RECOMMENDATIONS

COMMISSION RECOMMENDATION (EU) 2017/820

of 12 May 2017

on proportionate police checks and police cooperation in the Schengen area

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) In an area without controls at internal borders, it is necessary to have a common response to cross-border threats affecting the public policy or internal security of that area. The proper functioning of such an area relies not only on the uniform application of the Union acquis, but also on the use of national competences with regard to the maintenance of law and order and the safeguarding of internal security in line with the objectives of Schengen acquis. For the proper functioning of the Schengen area, it is important to consider not only how the Member States manage their external borders, but also how they exercise their police powers, across their entire territory as well as in the border areas.
- (2) In 2012, the Commission issued Guidelines for Member States concerning police measures in the internal border zones accompanying the First Bi-annual report on the functioning of the Schengen area ⁽¹⁾. Based on the experience of the last three years, those guidelines should be reviewed. This Recommendation serves that purpose. This Recommendation builds upon the 'lessons learnt' over the last three years in addressing threats to public policy or internal security and good practice in exercising police powers and cross-border police cooperation, relevant case-law on the police checks, Schengen evaluations conducted so far in the field of police cooperation and new possibilities resulting from technological developments.
- (3) In accordance with Regulation (EU) 2016/399 of the European Parliament and of the Council ⁽²⁾, the absence of border controls at internal borders does not affect the exercise of police powers by competent authorities of the Member States under national law, insofar as the exercise of those powers does not have an effect equivalent to border checks. The exercise of police powers should not, in particular, be considered equivalent to the exercise of border checks when the police measures do not have border control as an objective, are based on general police information or experience regarding possible threats to public security and aim, in particular, to combat cross-border crime, are devised and executed in a manner clearly distinct from systematic checks on persons at the external borders, and are carried out on the basis of spot-checks. In light of the judgement of the Court of Justice in the Adil case ⁽³⁾, this is neither a cumulative nor an exhaustive list of criteria, meaning that these criteria should not be considered as prescribing the only set of possible police measures in border areas ⁽⁴⁾.
- (4) The provisions of Article 23 of Regulation (EU) 2016/399 and the wording of Article 72 of the Treaty on the Functioning of the European Union confirm that the abolition of internal border controls has not affected the prerogatives of the Member States with regard to the maintenance of law and order and the safeguarding of internal security.
- (5) Police powers applicable across the territory of a Member State are compatible with Union law. Accordingly, Member States may carry out police checks also in the border areas, including internal border areas, in the context of the police powers that exist under national law applicable to the entire territory.

⁽¹⁾ COM(2012)230, Report covering period 1 November 2011 — 30 April 2012.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0230:FIN:EN:PDF>

⁽²⁾ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

⁽³⁾ Judgement of the Court of Justice of 19 July 2012, Adil, ECLI:EU:C:2012:508, C-278/12 PPU.

⁽⁴⁾ Judgement Adil, ECLI:EU:C:2012:508, point 65.

- (6) In the current circumstances of threats related to public policy or internal security from terrorism and other serious cross-border crime and risks of secondary movements of persons who have irregularly crossed the external borders, the intensification of police checks in the entire territory of Member States, including in border areas and the carrying-out of police checks along the main transport routes such as motorways and railways, may be considered necessary and justified. The decision on such checks, their location and intensity remains fully in the hands of the Member States and should always be proportionate to the identified threats. Such checks may prove more efficient than internal border controls, notably as they are more flexible than static border controls at specific border crossing points and can be adapted more easily to evolving risks.
- (7) Border areas may have specific risks as regards cross-border crime and may also be more exposed to certain offences committed throughout the entire territory such as burglaries, vehicle theft, drugs trafficking, unauthorised secondary movement of third-country nationals, migrant smuggling or trafficking in human beings. The risks of breaches of the rules on the legality of residence within the territory might be also higher in border areas. Taking account of those risks, Member States may decide to carry out and intensify police checks in border areas, which are adapted to the specific risks of border areas, as long as those measures do not have an effect equivalent to border checks.
- (8) Modern technologies to monitor traffic flows, notably on motorways and other important roads determined by the Member States, can be instrumental in addressing threats to public policy or internal security. From that perspective, the use of monitoring and surveillance systems allowing for automatic number plate recognition for law enforcement purposes should therefore be encouraged, subject to the applicable rules concerning camera surveillance, including data protection safeguards. This could help the surveillance of the main European transport corridors, used by considerable numbers of travellers and vehicles to move across the Union, without a disproportionate impact to the traffic flow.
- (9) It is only in cases of police powers under national legislation which are specifically limited to border areas and imply identity checks even without concrete suspicion, that Member States have to provide for a specific framework to ensure that those police checks do not amount to measures equivalent to border controls. While in the *Melki* judgment ⁽¹⁾ the Court of Justice recognised that Member States may establish such specific police powers for internal border areas allowing for enhanced identity checks only in those parts of the territory, it ruled that in those situations, Member States must provide specific provisions in relation to the intensity and frequency of such controls. In addition, if a check does not depend upon the behaviour of the person checked or on specific circumstances or information giving rise to a risk for public policy or internal security, Member States are to provide for the necessary framework to guide its practical application to avoid that such police measures have an effect equivalent to border controls.
- (10) Over the past three years a number of Member States have intensified police checks in the border areas in the context of the increased threats to public policy or internal security (namely, Austria, Belgium, Czech Republic, Germany, Denmark, Netherlands, France, Italy, Slovenia, and Switzerland). Those checks sometimes focused on specific means of transport, for instance, trains, or specific border areas. The use of technological means is also increasing in this context. The Commission has not contested any of those cases. Some of those cases set examples of good practice in addressing persistent, increased threats to public policy or internal security.
- (11) Pursuant to Regulation (EU) 2016/399, the temporary reintroduction of border controls may be used only in exceptional circumstances, as a last resort measure. In this context Council Implementing Decision (EU) 2017/246 ⁽²⁾ explicitly encouraged the Member States to assess whether police checks would not achieve the same results as temporary internal border controls, before introducing or prolonging such controls.
- (12) While in some circumstances it may be clear from the outset that police checks alone are not sufficient to address the identified threats to public policy or internal security (for example, searching for specific suspects following a terrorist attack), in other cases, similar objectives as those of reintroduced border controls may be pursued by means of enhanced police checks in border areas. Therefore, on the one hand, the decision on the temporary reintroduction of border controls at internal borders should be in principle preceded by the assessment of other alternative measures. In particular in case of decisions on the temporary reintroduction of border controls at internal borders due to foreseeable events Member States should demonstrate that such

⁽¹⁾ Judgment of the Court of Justice of 22 June 2010, *Melki and Abdeli*, joined cases C-188/10 and C-189/10, ECLI:EU:C:2010:363, points 73 and 74.

⁽²⁾ Council Implementing Decision (EU) 2017/246 of 7 February 2017 setting out a Recommendation for prolonging temporary internal border control in exceptional circumstances putting the overall functioning of the Schengen area at risk (OJ L 36, 11.2.2017, p. 59).

assessment has been carried out. On the other hand in specific cases of urgent and serious threats to public policy or internal security at the level of the area without internal border control or at national level, the temporary reintroduction of internal border controls may be necessary immediately.

- (13) This Recommendation encourages Member States to better use their police powers and to give precedence to police checks before deciding on the temporary reintroduction of internal border controls.
- (14) Whichever measures a Member State takes to address a specific threat to its public policy or internal security, it should ensure that the implementation of the measure does not lead to obstacles to the free movement of persons and goods which would not be necessary, justified by and proportionate to those threats to public policy or internal security and that it fully respects fundamental rights and in particular the principle of non-discrimination.
- (15) The area without internal border control also relies on the effective and efficient application by the Member States of accompanying measures in the area of cross-border police cooperation. The Schengen evaluations conducted so far in the field of police cooperation have highlighted that even though Member States are generally legally compliant with the Schengen acquis, a number of obstacles hamper the practical use of some of the cross-border police cooperation tools available to Member States. Member States should therefore be encouraged to tackle these obstacles to better address cross-border threats.
- (16) Joint police patrols and other existing tools of operational police cooperation contribute to internal security in the area without internal border controls. Joint patrols on board of cross-border trains e.g. clearly enhance security, by preventing situations where the lack of symmetry in controls undermines the efforts taken on one side of the border only. A number of Member States have established practices which facilitate or allow for joint police operations to take place (for instance, the joint police stations which Germany and Poland have established at their border focussing on joint patrolling and other operations, or the micro-teams established for joint investigations at the Austrian-Czech border, joint train patrols in Austria, Germany, France, Italy, and Hungary, or the recruitment by German police of nationals from other Member States, in particular for patrolling in the border regions). Other Member States should be encouraged to follow these best practices.
- (17) Joint threat analysis and cross-border information exchange between Member States sharing border regions can help in designing efficient police checks to address the identified threats. Such cooperation can cover the risks on specific cross-border traffic routes, as well as specific means of transportation often used in criminal activities, in order to allow for targeted police checks ahead of border areas. Such police checks can provide a joint tool to address the threats to public policy or internal security faced by the Member States concerned. For this reason it is important to encourage Member States to further develop cross-border cooperation.
- (18) To reinforce cross-border police cooperation, Member States may request the support from the Commission in the implementation of this Recommendation. Such support can contribute for instance to facilitate the exchange of best practices among practitioners and decision makers of the Member States and enhance the cooperation between Member States and the relevant agencies (Europol and the European Border and Coast Guard). It can contribute also to further enhance cross-border cooperation structures such as the Police Customs Cooperation Centres. In addition, the Commission will support the updating, based on input from Member States, the 2011 'Schengen catalogue' ⁽¹⁾, which identifies, among others, best practices in the field of operational cross-border police cooperation, and the National Fact Sheets of the 'Manual on cross-border operations' ⁽²⁾.
- (19) As demonstrated by the recent migratory crisis, uncontrolled secondary movements of irregular migrants may pose a serious threat to public policy or internal security. The proper application of the bilateral readmission agreements in accordance with Article 6(3) of Directive 2008/115/EC of the European Parliament and of the Council ⁽³⁾, can be instrumental in addressing secondary movements of illegally staying third-country nationals. The bilateral agreements may also help in achieving similar results as targeted border controls at internal borders

⁽¹⁾ Council Document 15785/3/10 Rev 3.

⁽²⁾ Council Document 10505/4/09 Rev 4.

⁽³⁾ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

in terms of addressing the threats to public policy or internal security, while limiting the impact on the movement of bona fide travellers. It is therefore important that Member States apply the bilateral readmission agreements efficiently while respecting the Commission Recommendation (EU) 2017/432 ⁽¹⁾.

- (20) The Commission considers that this Recommendation needs a reasonable time to be implemented; therefore the Commission recommends that it should be implemented as soon as possible and at the latest within 6 months.
- (21) This Recommendation should be implemented in full respect of fundamental rights.
- (22) This Recommendation should be addressed to all Schengen States bound by Title III of Regulation (EU) 2016/399,

HAS ADOPTED THIS RECOMMENDATION:

More effective use of police checks

- (1) To adequately remedy the threats to public policy or internal security within the Schengen area, Member States should, where needed and justified in accordance with national law:
 - (a) intensify police checks across the entire territory, including in border areas;
 - (b) carry out police checks on main transport routes, including in border areas;
 - (c) adapt the police checks in border areas on the basis of continuous risk assessment, while ensuring that those police checks do not have border control as an objective;
 - (d) make use of modern technologies in order to monitor vehicles and traffic flows.

Giving precedence to police checks in case of a serious threat to internal security or public policy

- (2) Where in a situation of a serious threat to public policy or internal security, Member States consider applying chapter II of Title III of the Regulation (EU) 2016/399, they should first assess whether the situation can be adequately addressed by way of stepping up police checks within the territory, including in border areas.

Strengthening cross-border police cooperation

- (3) To strengthen cross-border police cooperation in addressing threats to public policy or internal security, Member States should:
 - (a) re-assess the extent to which they currently use all available cross-border police operational cooperation tools such as joint patrols, joint operations, joint investigation teams, cross-border hot pursuits, or cross-border surveillances, Police and Customs Cooperation centers;
 - (b) work jointly with their neighbouring Member States to remove legal or operational barriers to the full use of all cross-border operational police cooperation tools;
 - (c) develop and implement, as appropriate, joint threat analysis and cross-border information exchanges with their neighbouring Member States to support joint actions to address threats to public policy or internal security in shared internal border areas, including through coordinated police checks in their internal border areas;
 - (d) assess the need for technical investments to enhance joint operations, notably for surveillance and detection.

⁽¹⁾ Commission Recommendation (EU) 2017/432 of 7 March 2017 on making returns more effective when implementing the Directive 2008/115/EC of the European Parliament and of the Council (OJ L 66, 11.3.2017, p. 15).

Effective use of bilateral readmission agreements or arrangements between Member States

- (4) To ensure that police checks and police cooperation can lead to the effective countering of unauthorised secondary movements where those movements pose a specific threat to public policy or internal security, Member States should:
- (a) in accordance with Article 6(3) of Directive 2008/115/EC, take back third-country nationals who transited their territory before being apprehended in another Member State, under the provisions of bilateral agreements or arrangements existing on the date of entry into force of that Directive (13 January 2009), in particular among neighbouring Member States;
 - (b) take all necessary measures, including establishing operational practices between competent authorities and facilitating the exchange of information among them, to ensure that procedures under such bilateral agreements or arrangements are finalised swiftly by the Member States concerned, to ensure that the transfer is carried out as soon as possible;
 - (c) ensure that, where a Member State decides not to apply the provisions of a bilateral readmission agreement or arrangement or where the third-country nationals concerned are taken back by another Member State, return procedures are launched in accordance with Directive 2008/115/EC and in line with Recommendation (EU) 2017/432.

Done at Brussels, 12 May 2017.

For the Commission
Dimitris AVRAMOPOULOS
Member of the Commission

