

MEMORANDUM OF UNDERSTANDING

between the Agency for the Cooperation of Energy Regulators and the Competent Authorities pursuant to Article 8(1) of Regulation (EU) No 347/2013, laying down administrative arrangements on the exchange of information under Regulation (EU) No 347/2013

The Agency for the Cooperation of Energy Regulators, hereinafter referred to as the 'Agency',

of the one part, and

the Competent Authorities pursuant to Article 8(1) of Regulation (EU) No 347/2013 (the 'Competent Authorities'),

of the other part,

hereinafter also referred to as 'Party' or 'Parties',

THE SIGNATORIES OF THIS MEMORANDUM OF UNDERSTANDING,

WHEREAS:

- 1) Pursuant to Article 5(4) of Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure ('TEN-E Regulation'), the Agency shall monitor the progress of Projects of Common Interest (PCIs), including, where relevant, delays compared to the implementation plan and the underlying reasons on the basis of the report submitted by the promoters of PCIs. Pursuant to Article 5(5) of the TEN-E Regulation, the Agency shall submit to the Regional Groups a consolidated report for PCIs falling under the categories set out in Annex II.1 and 2 of the TEN-E Regulation, evaluating the progress achieved, and shall make, where appropriate, recommendations on how to overcome the delays and difficulties encountered.
- 2) Pursuant to Article 5(4) and (6) of the TEN-E Regulation, the Competent Authorities (i.e. the authorities designated by the Member States pursuant to Article 8(1) of the TEN-E Regulation as responsible for facilitating and coordinating the permit granting process for PCIs) shall monitor the progress of PCIs on their respective territories and shall submit a report to the respective Regional Groups for PCIs falling under the categories set out in Annex II.1 and 2 of the TEN-E Regulation. This report shall provide information within the meaning of Article 2 of this Memorandum of Understanding on the progress achieved and, where relevant, the delays in the implementation with regard to permit granting processes, including the reasons for the delays.
- 3) Accordingly, the Agency and the Competent Authorities shall provide PCI monitoring reports which are based on a similar pool of information provided by promoters of PCIs.

- 4) To enhance the cost-efficiency of the monitoring process for project promoters and the Parties, promoters of PCIs shall be enabled to provide information through a single IT tool managed by the Agency, through which information is exchanged with the Competent Authorities.
- 5) The rules for the exchange of information between the Agency and the Competent Authorities in the context of PCI monitoring should enable the Parties to carry out their PCI monitoring tasks in an efficient, coordinated and consistent way, having regard to the most up-to-date PCI information and to the confidentiality, integrity and protection of that information, including personal data.
- 6) The information exchange mechanism should be flexible so that it can evolve over time, taking into account changing circumstances in the environment of the PCI implementation, legislative changes or the experience gained in implementation monitoring.

HAVE AGREED AS FOLLOWS:

Article 1

Purpose

1. The purpose of this Memorandum of Understanding is to establish a framework within which the Agency and the Competent Authorities can exchange information to enhance the efficiency of the fulfilment of their obligations pursuant to Article 5(4) and 5(6) of the TEN-E Regulation.
2. The Parties of this Memorandum of Understanding acknowledge that promoters of PCIs can fulfil their reporting obligation pursuant to Article 5(4) of the TEN-E Regulation towards both the Agency and the Competent Authorities when submitting their report via the IT tool managed by the Agency.

Article 2

Definitions

For the purpose of this Memorandum of Understanding, the following terms shall have the following meaning:

- (1) 'Competent Authority' means the national competent authority identified by each Member State as responsible for facilitating and coordinating the permit granting process of PCIs within the meaning of Article 8(1) of Regulation (EU) No 347/2013;

- (2) 'information' means the information contained in the annual report and any subsequent amendments or clarifications thereof, which promoters of PCIs submitted pursuant to Article 5(4) of the TEN-E Regulation to the Agency via the IT tool and which they agree to be transmitted to the Competent Authorities. This information may contain in particular:
- a) general project attributes, such as name and contact details of the project promoter, the description of the project, including all technical, operational and administrative details, and updates in the project design;
 - b) details related to the expected costs of the project, including, *inter alia*, project CAPEX and lifecycle costs and their estimated variations, and changes to previous estimates;
 - c) details related to the expected benefits, including the data about the studies carried out for their calculation, the project's contribution to the objectives laid down in the TEN-E Regulation, the monetised value of the benefits demonstrated by the project, information related to the benefits in the hosting country and benefits projected on other individual Member States;
 - d) the progress in the implementation of the project, including a description of the works performed since the previous report, the current status and the reasons for any delay, rescheduling, difficulties or cancellation and a detailed implementation schedule showing the project milestones, the previously and currently planned deadlines;
 - e) the actions which the project promoter took or proposed to take to overcome the delays and difficulties encountered;
- (3) 'exchange' means the transmission of information to the Competent Authorities via email or other means related only to those PCIs which are situated, at least in part, in the Member State of the Competent Authority;
- (4) 'IT tool' means the platform established and managed by the Agency for the purpose of enabling promoters of PCIs to fulfil, should they so wish, their reporting obligation, pursuant to Article 5(4) of the TEN-E Regulation, towards both the Agency and the Competent Authority.

Article 3

Exchange of information

1. The Agency collects and processes the information upon the expiry of the deadline as set out in Article 5(4) of the TEN-E Regulation and transmits it to the Competent Authority via the most efficient means available.

2. The Competent Authority communicates with the Agency through the same means.
3. Each Party shall confirm the receipt of the information to the other Party.

Article 4

Use of information

1. The Competent Authorities shall use the information received pursuant to this Memorandum of Understanding only for the purpose of fulfilling their monitoring and reporting obligations according to the provisions of the TEN-E Regulation.

Article 5

Exclusion of Liability

1. The Agency shall be in no event liable to any person or entity for any direct or indirect loss or damage arising from the use of the IT tool, its content, or its unavailability.
2. The Agency shall not be liable for the accuracy and/or validity of the information.
3. If any of the Parties becomes aware that any information exchanged under this Memorandum of Understanding is inaccurate, it shall inform the other Party without delay.

Article 6

Protection and confidentiality of information

1. The Parties shall have mechanisms in place to ensure the confidentiality, integrity and protection of the received information.
2. The Parties shall ensure the protection of personal data in accordance with their respective legislations.

3. Each Party remains fully responsible for the respective use and/or disclosure of the received information to third parties

Article 7

Publication

The Parties agree to make this Memorandum of Understanding publicly available.

Article 8

Communications

1. Unless otherwise agreed between the Parties, communications under this Memorandum of Understanding shall be made in the English language.
2. Each Party shall designate a contact point to facilitate communications on any matter relating to the implementation of this Memorandum of Understanding.

Article 9

Signature, entry into force and termination

1. This Memorandum of Understanding shall enter into force for each Competent Authority on the day after the receipt by the Agency of the separate signatory page according to the model provided in Annex A.
2. This Memorandum of Understanding shall be concluded for an unlimited period of time and may be terminated by any of the Parties at any time by giving 90 days prior written notice to the other Party.

Done at Ljubljana on 22 December 2015



Annex A

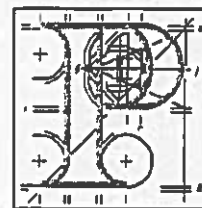
**Declaration on the MEMORANDUM OF UNDERSTANDING
between the Agency for the Cooperation of Energy Regulators and the Competent
Authorities pursuant to Article 8(1) of Regulation (EU) No 347/2013, laying down
administrative arrangements on the exchange of information under Regulation
(EU) No 347/2013**

In my capacity as Chairperson I hereby declare that An Bord Pleanála enters into the below Memorandum of Understanding between the Agency for the Cooperation of Energy Regulators and the Competent Authorities pursuant to Article 8(1) of Regulation (EU) No 347/2013, laying down administrative arrangements on the exchange of information under Regulation (EU) No 347/2013 as of 4th January, 2016.

Done at Dublin on 4th January, 2016.

Signature Mary Kelly

An Bord Pleanála



Reservation to Memorandum of Understanding between the Agency for the Cooperation of Energy Regulators and An Bord Pleanála.

An Bord Pleanála as Competent Authority advises project promoters to submit their annual reports for each project as is required by article 5.4 of Regulation (EU) No 347/2013 directly to An Bord Pleanála in addition to the use of the IT tool as operated by the Agency for the Cooperation of Energy Regulators.

Mary Kelly

Dr. Mary Kelly,
Chairperson of An Bord Pleanála.

4th January, 2016.

