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LIMITE

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WORKING DOCUMENT

From: To:	Presidency Ad hoc Working Party on Military Mobility
N° Cion doc.:	15794/25
Subject:	Proposal for a Regulation on establishing a framework of measures to facilitate the transport of military equipment, goods and personnel across the Union - Presidency compromise proposal (Chapters IV, V, VI and VII)

Delegations will find attached, both in clean and track changes format, a Presidency compromise on Chapters IV, V, VI and VII of the Commission proposal.

This document will be examined at the meeting of the Ad hoc Working Party on Military Mobility on 22 May.

In the track changes version, changes in comparison to the Commission proposal (doc. 15794/25) are marked in **bold** for additions and in ~~strikethrough~~ for deletions.

The numbering of the Commission proposal remains unchanged until the end of the negotiations.

Article 3

Definitions

(20) ‘dual-use transport capability’ means a capability that can be used for both civilian and military transport purposes;

Article 25

Enhanced access to transport and logistic capabilities during the period of activation of EMMERS

1. During the period of activation of EMMERS, and if the Solidarity Pool referred to in Article 35 is operational, the Military Mobility Transport Group shall identify specific dual-use capabilities registered in the Solidarity Pool that are urgently needed to support certain Member States. In such cases, requests for those capabilities from the affected Member States and Member States that support military transport operations for the affected Member States shall be given priority consideration.

   The sharing and coordination efforts under the Solidarity Pool referred to in Article 35 shall focus on supporting those priority requests, ensuring that the required capabilities are made available in a timely and efficient manner, in accordance with procedures to be set out in the implementing act referred to in Article 35.

2. The Commission and the European Defence Agency may assist the Member States in contracting any relevant transport and logistic capabilities identified in paragraph 1.

3. The Commission may contract any relevant transport and logistic capabilities identified in paragraph 1, following the advice of the Military Mobility Transport Group, in accordance with Article 35.

3a. During the period of activation of EMMERS, the Solidarity Pool shall be operational 24 hours a day, seven days a week.

Chapter IV
Availability of dual-use transport and logistic capabilities for military transport operations

Article 35

Solidarity Pool to facilitate military transport operations

1. The Solidarity Pool is established. It shall consist of a pool with a list of registered dual-use transport and logistic capabilities of Member States, as well as a digital platform enabling its functioning. The dual-use capabilities registered in the Solidarity Pool shall consist of transport and logistic capabilities and shall be used to guarantee, optimise, accelerate and facilitate the execution of military transport operations. The Solidarity Pool shall become operational subject to the adoption by the Commission of the implementing act referred to in paragraph 15.

2. After consulting the Military Mobility Transport Group and on the basis of the results of the stress tests referred to in Article 43, the Commission may adopt non-binding guidelines defining the types and specifying the number of key dual-use transport and logistic capabilities required for the Solidarity Pool. The European Defence Agency shall also be consulted in the preparation of these non-binding guidelines. These non-binding guidelines

shall be consistent with the defence capability priorities commonly agreed by Member States within the framework of the common foreign and security policy (CFSP), in particular within the context of the Capability Development Plan (CDP), and with the collaborative opportunities identified in the Coordinated Annual Review on Defence (CARD).

3. The Solidarity Pool shall have the ability to be operational 24 hours a day, seven days a week.

3a. The Commission shall develop and manage a secure and cyber-resilient digital platform for the Solidarity Pool, to enable communication and sharing of information between the Commission and the Member States' National Coordinators for Military Transport. The digital platform shall allow for the exchange of classified information.

4. Member States may voluntarily register through their National Coordinator for Military Transport their own dual-use transport and logistic capabilities in the Solidarity Pool.

4a. Capabilities that have been acquired or contracted by Member States with a financial contribution by the Union, of at least [22%], in the form of grants, as defined in Regulation (EU, Euratom) 2024/2509, shall be registered in the Solidarity Pool.

5. The registration of dual-use transport and logistic capabilities owned by two or more Member States shall be undertaken jointly by all the Member States concerned.

7. The capabilities voluntarily registered in the Solidarity Pool by Member States may comprise their own capabilities and those obtained through service contracts with commercial operators, where such contracts permit it.

7a. Dual-use transport and logistic capabilities may be made available by the Union through service contracts with commercial operators, to complement Member States' registered capabilities, pending the availability of Union funding. Such contracted services shall be registered in the Solidarity Pool.

8. Capabilities registered in the Solidarity Pool shall be made available following a request made by a Member State to the Commission unless such capabilities are already used to support another request. In the event of competing requests, any decisions to allocate the capabilities shall be taken, in close coordination between the requesting Member States, the Commission and the Member State that has registered the capabilities. The final decision on the allocation of such capabilities shall rest with the Member State that has registered them.

9. When not being deployed or needed for planned deployment under the Solidarity Pool, registered dual-use capabilities may be used for national or other purposes by their registering Member States.

10. Member State's dual-use transport and logistic capabilities registered in the Solidarity Pool may not be deployed where that Member State is confronted with an exceptional situation requiring the use of those capabilities. In such case, the concerned Member State shall inform the Commission accordingly, as early as possible.

11. Member State's capabilities registered in the Solidarity Pool which are deployed for support shall remain under its command and control. Where the registering Member State is confronted with an exceptional situation requiring the use of registered capabilities that have been deployed, it may withdraw them, upon consultation with the requesting Member State for which the capabilities were deployed, and shall inform the Commission as early as possible.

13. Dual-use transport and logistic capabilities registered under the Solidarity Pool may be pre-positioned with the agreement of the Member State which registered these capabilities. When capabilities are pre-positioned, they shall be located in facilities that apply, where relevant, the basic protection measures referred to in Article 34.

15. The Commission may adopt an implementing act putting into operation the Solidarity Pool and its platform, pending the availability of Union funding. That implementing act shall also set out:

(a) the procedures to be followed to register and process requests by Member States for dual-use transport and logistic capabilities under the Solidarity Pool, including the respective roles of EU institutions, bodies and agencies involved;

(b) modalities for deployment and maintenance costs of capabilities;

(c) additional specifications under which the cost related to the pre-positioning of the dual-use transport and logistic capabilities shall be financed;

(ca) additional specifications for the secure and cyber-resilient digital platform of the Solidarity Pool;

(d) additional specifications under which the training, reskilling and upskilling costs of personnel operating the dual-use transport and logistic capabilities registered under the Solidarity Pool may be financed;

(e) any additional rules on the functioning of the Solidarity Pool, including operational rules, where necessary;

This implementing act may also set out the conditions under which a credit-based system may be established as a form of non-financial exchange mechanism for dual-use capabilities registered in the Solidarity Pool.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 45(4).

Article 36

Consultation of registries

1. Member States shall ensure that their services responsible for carrying out military transport operations are able to consult relevant data in their respective national road vehicle registers, with a view to identify dual-use road transport vehicles.

2. Member States through their competent authority, with the assistance of the European Union Agency for Railways, shall ensure that their services responsible for carrying out military transport operations are able to consult relevant data in their respective national railway vehicle registers and the European Vehicle Register referred to in Article 47(5) of Directive (EU) 2016/797, with a view to identify dual-use railway vehicles.

3. Member States shall ensure that their services responsible for carrying out military transport operations are able to consult relevant data in their respective national aircraft and shipping registers, with a view to identify dual-use aircraft and vessels.

Article 37

Identification of railway vehicles for potential use in military transport

1. The Commission may adopt implementing acts in order to:

(a) identify categories of railway vehicles most suitable for use as part of a military transport;

(b) where available, and after consulting the European Union Agency for Railways and national safety authorities, establish technical specifications on which the identification pursuant to point (a) may be based, and if necessary, establish any appropriate technical parameters and related compliance testing methods;

(c) for railway vehicles already authorised pursuant to Article 21 of Directive (EU) 2016/797 or put in operation under the Union or national legal framework previously applicable before the authorisation framework set out by that Directive, determine whether and under what conditions:

(1) railway undertakings and vehicle keepers are to identify if the vehicles for which they are responsible fall into a category under point (a), and if so, determine the full relevant technical characteristics of those vehicles;

(2) manufacturers of railway equipment are to identify if vehicles they manufacture fall into a category under point (a), and if so, determine the full relevant technical characteristics of those vehicles.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 45(4).

2. If the Commission adopts the implementing act referred to in paragraph 1, for every registered railway vehicle, the vehicle keeper shall include the identification as a vehicle that can be used as part of a military transport and any relevant parameters established under paragraph 1, point (b) in the respective vehicle's technical documentation. Vehicle keepers, in collaboration with the registration entities, shall be responsible for recording those parameters in the European Vehicle Register referred to in Article 47(5) of Directive (EU) 2016/797.

Article 38

Establishment of a temporary control or right of use framework for military transport

1. By 2 years following the entry into force of this Regulation, each Member State shall have in place a framework allowing it to issue, as a last resort, binding orders to obtain the temporary control or right of use over an infrastructure, asset or equipment located on its territory which is necessary for the execution of military transport operations, in cases where no alternative solution can be achieved through mutual agreement or under an existing contract within the required timeframe. Where a Member State has an existing framework enabling such temporary control or right of use, it shall ensure that the existing framework complies with the requirements set out in paragraphs 2 and 3.

The decision to use this framework remains the sole responsibility of Member States.

2. Member States shall ensure that their framework referred to in paragraph 1 allows for the temporary control or right of use over an infrastructure, asset or equipment to support the military transport operations of another Member State, upon request from that Member State, and lays down a procedure for submitting and approving or rejecting such request.

3. Member States shall ensure that any measures adopted under their framework referred to in paragraph 1 are strictly necessary and proportionate.

Article 39

Framework agreements with dual-use transport service providers

1. In accordance with Directive 2009/81/EC and Directive 2014/24/EC, Member States may conclude framework agreements with dual-use transport service providers for ensuring the availability of transport capabilities for military transport operations, including the rapid deployment of personnel, equipment, and supplies.

2. The framework agreements referred to in paragraph 1 that are concluded, renewed or substantially modified after the entry into force of this Regulation shall:

(a) be designed to allow other Member States to join as contracting parties upon the agreement of the national authorities that concluded the framework agreement, and shall provide for the possibility to be amended to accommodate additional participants without compromising the primary objective of supporting military transport;

(b) entail an obligation for the transport service providers to disclose any potential double-booking of transport capability to all concerned Member States, prior to accepting conflicting orders, in accordance with Article 50.

3. Member States and the transport service providers referred to in paragraph 2, point (b), shall implement procedures to resolve transport capability allocation disputes, ensuring that military transport priorities are met without undue delay.

Chapter V
Horizontal provisions

Article 40

National Coordinator for Military Transport

1. By one year following the entry into force of this Regulation, each Member State shall designate a National Coordinator for Military Transport, an entity with permanent availability, to ensure coordination and effective communication on cross-border military transport.

2. Member States shall ensure that their respective National Coordinator for Military Transport:

(a) receives and sends military transport permission requests and notifications as referred to in Articles 8 and 20, as well as notifications to revoke and suspend military transport permissions as referred to in Articles 5 and 6;

(aa) coordinates traffic arrangements and receiving-nation support;

(ab) issues certificates for civilian operators and for military transport operations during the period of activation of EMMERS as referred to in Articles 8a and 20a;

(b) has the necessary expertise and resources to be able to provide advice and support to military transport operators regarding customs formalities, in support and in coordination with the competent customs authorities;

(c) receives and replies to requests for priority access submitted during a period of activation of EMMERS and facilitates the necessary procedures, in accordance with Article 21;

(d) ensures coordination with all relevant actors, at national, regional and local level, involved in military transport operations, in order to ensure the smooth execution of cross-border military transport operations, in particular during the activation of EMMERS;

(da) decides on deconflictions and priorisations between national and requesting Member State's military transport operations on its territory, in coordination with the National Coordinators for Military Transport of the requesting Member States;

(db) facilitates the coordination between infrastructure managers in case of transit through several Member States, as referred to in Article 7;

(dc) informs the Commission, the EEAS and the other potentially affected Member States of any incidents in relation to SDI, as referred to in Article 34;

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(dd) registers the dual-use capabilities in the Solidarity Pool and coordinates with the Commission and other Member States in accordance with Article 35.

(de) coordinates the Military Transport Readiness Check referred to in Article 42;

(df) collaborate with the Commission for the conduct of the stress tests referred to in Article 43.

2a. A network of National Coordinators for Military Transport shall be established, in order to communicate, plan and organise scheduled and ongoing cross-border military transport operations, as well as to share best practices.

Article 41

Military Mobility Transport Group

1. The Military Mobility Transport Group is established to assist and provide advice and recommendations to the Commission and to facilitate cooperation and exchange of information among Member States on issues relating to this Regulation and to ensure exchange and coordination with other relevant organisations and bodies, including EEAS and EDA.

2. The specific tasks of the Military Mobility Transport Group shall be the following:

(a) to promote discussions and dialogue between Member States with a view to facilitating the granting of military transport permissions and traffic arrangements, in particular among Member States situated along the same military mobility corridors;

(b) to facilitate the use of pre-planned traffic arrangements and pre-defined routes for the purpose of military transport operations;

(ba) to provide advice to the Commission prior to the activation of EMMERS, in accordance with Article 19(2), first sub-paragraph;

(c) to advise on the identification of a set of protection measures for owners, operators and managers of SDI, with a view to the preparation of non-binding guidelines by the Commission, as referred to in Article 34;

(d) to advise the Commission for the adoption of non-binding guidelines on the key dual-use transport and logistic capabilities required for the Solidarity Pool, in accordance with Article 35;

(da) to identify specific dual-use capabilities registered in the Solidarity Pool that are urgently needed to support certain Member States during the period of activation of EMMERS, as referred to in Article 25;

(e) to exchange views on needs related to joint procurement by Member States of transport and logistic capabilities for military transport;

(f) to review the Military Transport Readiness Checks results and stress tests results carried out in accordance with Articles 42 and 43 and to issue recommendations on their basis, including lessons learned and best practices, where appropriate;

(g) to assess the functioning of the Military Mobility Digital Information System, once it is established in accordance with Article 14.

3. The Military Mobility Transport Group shall be composed of representatives of the Member States, the Commission, the High Representative and the European Defence Agency. Each Member State's representatives shall ensure appropriate cross-governmental representation. Where relevant for customs formalities, Member States' customs authorities and the European Union Customs Authority shall also be invited to participate. The Military

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Mobility Transport Group shall be chaired by a representative of the Member State holding the rotating presidency of the Council. The secretariat of the Military Mobility Transport Group shall be ensured by the Commission. Only Member States shall have voting rights.

4. The Military Mobility Transport Group may invite, where relevant, in accordance with its rules of procedure and with due respect to the security and defence interests of the Union and its Member States, other organisations and bodies, including NATO, as well as Ukraine, Moldova and countries of European Economic Area, to attend meetings as observers.

5. The Commission shall ensure transparency by providing members of the Military Mobility Transport Group equal access to information.

6. The Military Mobility Transport Group shall meet regularly, and whenever the situation so requires, upon request from the Commission or a Member State. It shall adopt its rules of procedure at its first meeting, on the basis of a proposal submitted by the Commission.

7. The Military Mobility Transport Group may issue opinions, advice and recommendations upon the request of the Commission or on its own initiative. The Military Mobility Transport Group shall endeavour to find solutions which command the widest possible support.

Article 42

Military Transport Readiness Check

1. Following the appointement of the National Coordinator for Military Transport, Member States shall conduct a Military Transport Readiness Check at least once a year to assess their preparedness to execute military transports. The Military Transport Readiness Check shall be comprised of information on all of the following:

   (a) the necessary measures taken at national level to ensure the implementation of EMMERS;

   (b) the measures taken at national level to ensure the whole-of-government approach when dealing with military transport;

   (c) whether measures and necessary traffic arrangements for planned military transport operations have been taken;

   (d) whether receiving-nation-support measures to accommodate for planned cross-border military transport on their territory have been taken;

   (e) whether procedures for military transport permissions are complied with in accordance with Articles 5 and 6;

   (f) where a Solidarity Pool is operationalised in accordance with Article 35, whether support requests from the Solidarity Pool have been submitted.

2. The National Coordinator for Military Transport of each Member State shall coordinate the Military Transport Readiness Checks and share their results with the Military Mobility Transport Group and the network of National Coordinators for Military Transport.

Article 43

Stress tests

1. Upon agreement by the concerned Member States, the Commission may conduct stress tests, in collaboration with them, through the National Coordinators for Military Transport, and with relevant Union bodies, including EEAS and EDA, to test and evaluate the Union's preparedness to facilitate military transport. Where appropriate, other relevant organisations and bodies may be invited to participate. Such tests shall:

(a) prepare for the activation of EMMERS;

(b) test the effectiveness of the whole-of-government approach in implementing this Regulation's objectives, including the coordination and cooperation among relevant bodies, authorities and stakeholders;

(c) test the implementation of the provisions of this Regulation in a specific geographical area, such as a specific military mobility corridor, in border regions of a Member State with a third country, or in a specific sectorial area, including customs.

2. Member States may request the Commission to conduct the stress tests referred to in paragraph 1.

3. The Commission shall communicate the results of the stress tests conducted pursuant to this Article to participating Member States and the Military Mobility Transport Group. Those results shall constitute classified information.

Article 45

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. The European External Action Service shall be invited to assist in the committee.

3. The European Defence Agency, the European Union Agency for Railways, the European Union Aviation Safety Agency, the European Maritime Safety Agency, the Network Manager (defined in point (49) of Article 2 of Regulation (EU) 2024/2803), the European Union Customs Authority and the European Network and Information Security Agency may, where appropriate, be invited to provide their views and expertise to the committee as observers.

4. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

4a. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.

Chapter VI
Amendments to other Union acts

Article 46

Amendment to Regulation (EU) 2016/796

Regulation (EU) 2016/796 is amended as follows:

1. In paragraph 3 of Article 1, the following point is added: '(d) preparedness of the Union rail system, including to facilitate military transport, as provided for in Regulation (EU) 202X/XXX'.

2. In Article 2, the last sentence is replaced by 'In pursuing those objectives, the Agency shall take full account of the process of enlargement of the Union and of the specific constraints relating to rail links with third countries and assist in ensuring the resilience and preparedness of the Union rail system.

3. In paragraph 1 of Article 19, the following point is added: '(m) Upon consultation of the national safety authorities and, where necessary, relevant stakeholders, assist the Commission in establishing military mobility technical specifications for the identification of railway vehicles most suitable for use as part of a military transport pursuant to Article 37 of Regulation (EU) 202X/XXX'.

3a. In Article 20, the following subparagraph is added: 'In case of a vehicle authorised by the Agency, it shall register the vehicle in the European vehicle register in accordance with Article 22 of Directive (EU) 2016/797'.

4. In Article 20, the following subparagraph is added: 'In case of a vehicle authorised by the Agency, it shall assign a European vehicle number (EVN) in accordance with Article 46(1) of Directive (EU) 2016/797'.

5. In paragraph 2 of Article 80, the following point is added: '(e) the registration of vehicles in the European vehicle register pursuant to Article 22 of Directive (EU) 2016/797'.

Article 47

Amendments to Directive (EU) 2016/797

Directive (EU) 2016/797 is amended as follows:

1. in Article 21, the following paragraph is added:

'8a. In cases where the area of use is limited to one or more networks within a Member State, national safety authorities may agree with the Agency to delegate their tasks to authorise railway vehicles that potentially can be used for military transport in accordance with Article 37 of Regulation (EU) 202X/XXXX to the Agency. The details of such delegation shall be agreed in cooperation agreements pursuant to Article 76 of Regulation (EU) 2016/796, and the Agency shall share the delegation it has received from a Member State via the one-stop-shop established under Article 12 of Regulation (EU) 2016/796.';

2. in Article 22, paragraph 3 is replaced by the following:

'3. When the area of use of the vehicle covers the territory of more than one Member State, it shall be registered either by a competent authority in one of the Member States concerned or by the Agency.';

3. in Article 46, paragraph 1 is replaced by the following:

'1. Upon registration in accordance with Article 22, each vehicle shall be assigned a European vehicle number (EVN) by the competent authority or the Agency. Each vehicle shall be marked with an assigned EVN.'.

3a. in Article 47, the following paragraph is added:

'8. The Agency shall establish strict security and access control protocols for the technical data of military vehicles identified in accordance with Article 37 of Regulation (EU) 202X/XXX, in accordance with Article 78 of Regulation (EU) 2016/796'.

Article 48

Amendments to Regulation (EU) 2024/2803

Regulation (EU) 2024/2803 is amended as follows:

1. in Article 9(1), the following subparagraph is inserted after the first subparagraph:

'By way of derogation [from the first subparagraph], air navigation service providers may, until 31 December 2030, avail themselves of the air traffic management and air navigation services of other service providers that are not certified or that did not declare their capability in accordance with Article 41 of Regulation (EU) 2018/1139, on the condition that those providers provided air traffic management and air navigation services in the Union prior to the entry into force of this Regulation.';

2. in Article 11(6), the following subparagraphs are added:

'By way of derogation from this paragraph, a provider of air traffic management and air navigation services that has been providing such services in the Union prior to the entry into force of this Regulation may, until 31 December 2030, be selected to provide the same services in the Union even if it does not comply with the condition set out in point (a).

By way of derogation from this paragraph, a provider of air traffic management and air navigation services that has been providing such services in the Union prior to the entry into force of this Regulation may, until 31 December 2033, be selected to provide the same services in the Union even if it does not comply with the conditions set out in points (b) and (c).'.

Article 49

Amendments to Regulation (EU) 2018/1139

Regulation (EU) 2018/1139 is amended as follows:

1. in Article 3, the following point is added:

'(35) 'regulatory sandbox' means a temporary and controlled framework, established by a Member State or the Agency, to enable the design, development, testing, and demonstration of innovative, including dual-use, products and services, in a real-world environment, subject to predefined conditions and timelines, with the aim of fostering innovation and military transport, and under the supervision of a national competent authority or the Agency.';

2. in Article 71, paragraph 1 is replaced by the following:

'1. Member States may grant exemptions to any natural or legal person subject to this Regulation from the requirements applicable to that person pursuant to Chapter III, other than the essential requirements laid down in that Chapter, or to the delegated or implementing acts adopted on basis of that Chapter, in the following circumstances:

(a) in the event of urgent unforeseeable circumstances affecting those persons or urgent operational needs of those persons;

(b) when those requirements prevent the certification, use or operation of innovative technologies, products, equipment, systems, components, operational concepts, services or business models.'.

The exemptions referred to in the first subparagraph may be granted where all of the following conditions have been met:

(a) it is not possible to adequately address those circumstances or needs in compliance with the applicable requirements;

(b) safety, environmental protection and compliance with the applicable essential requirements are ensured, where necessary through the application of mitigation measures;

(c) the Member State has mitigated any possible distortion of market conditions as a consequence of the granting of the exemption as far as possible; and

(d) the exemption is limited in scope and duration to the extent strictly necessary and it is applied in a non-discriminatory manner.

In such a case, the Member State concerned shall immediately notify the Commission, the Agency and the other Member States, through the repository established under Article 74, of the exemption granted, its duration, the reason for granting it and, where applicable, the necessary mitigation measures applied.';

3. in Article 74(1), second subparagraph, the following point is added:

'(s) notifications of decisions by Members States or by the Agency regarding the establishment, the suspension, and the termination of regulatory sandboxes pursuant to Article 86a, and the corresponding joint report.';

4. in Article 75(2) the following point is added:

' (k) cooperate with national competent authorities, including military, relevant Union and international bodies to enable dual-use air transport solutions as well as their safe integration into civil air traffic.';

5. the following new Article 86a is inserted:

'Article 86a

Regulatory sandboxes

1. Regulatory sandboxes may be established by a Member State or the Agency, where relevant after the approval of the affected Member States, at their own initiative or upon request from a legal or natural person, to contribute to the following objectives:

(a) promoting innovation and competitiveness in the aviation sector;

(aa) facilitating military transport;

(b) enabling the timely and safe introduction of innovations into the Union aviation market;

(c) improving legal certainty and facilitating compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof and, where relevant, other applicable Union and national law; supporting evidence-based regulatory learning and the development of performance-based requirements.

2. A regulatory sandbox may be established when the following criteria are met:

(a) the technologies, products, equipment, systems, components, operational concepts, services or business models to be tested represent a genuine innovative solution and are expected to deliver consumer or wider societal benefits;

(b) the innovation is sufficiently mature to be tested in a real-world controlled environment, and relevant legislative barriers or gaps have been identified;

(c) safety and environmental protection are ensured, and compliance with applicable essential requirements is achieved, where necessary through the application of mitigation measures; where appropriate, the testing may be accompanied by exemptions granted in accordance with Article 71(1)(b).

3. A regulatory sandbox shall set out:

(a) objectives;

(b) scope and duration, which shall be limited to the extent strictly necessary to achieve the proposed objectives;

(c) governance structure, including the roles and responsibilities of all participating authorities and entities, which shall:

(i) include the designation of a competent authority, either a national competent authority involved in the sandbox or the Agency, responsible for the supervision and oversight of the sandbox;

(ii) ensure that all Member States and authorities affected by the objectives and scope of the sandbox are adequately involved in its establishment and implementation;

(iii) ensure that the Agency is involved, particularly in the development of the safety case and of the expected regulatory learning;

(d) monitoring and evaluation criteria;

(e) eligibility criteria and admission procedures, which are transparent and non-discriminatory;

(f) reporting obligations, which support an adequate follow-up of activities.

4. An organisation applying for participation in a sandbox shall demonstrate that the technologies, products, equipment, systems, components, operational concepts, services or business models to be tested fulfil the criteria in paragraph 2. To this end, the organisation shall:

(a) specify the objectives of the innovative project or solution;

(b) identify the concrete regulatory barriers or gaps to be addressed;

(c) develop a safety case outlining the mitigation measures to be implemented to ensure an adequate level of safety and environmental protection and, as far as possible, compliance with the applicable essential requirements.

5. Upon receiving a request or application from an organisation, the Member State or the Agency shall, within their respective roles and responsibilities, assess whether the proposed mitigation measures are appropriate and sufficient to ensure an adequate level of safety and propose any additional measures it considers necessary. It shall also specify the expected regulatory learning from the sandbox.

6. A Member State or the Agency establishing a regulatory sandbox shall immediately notify the other Member States and the Agency of the creation of the sandbox. The notification shall include all the elements referred to in paragraph 3.

7. The establishment of a regulatory sandbox shall not affect the oversight or corrective powers of the competent authorities supervising the sandbox. National competent authorities and the Agency shall have the power to suspend or terminate the testing process or the participation in the sandbox if no effective mitigation is possible. They shall inform the Agency and the Member States of such decisions through the repository established under Article 74.

8. Upon conclusion of the regulatory sandbox, a joint report shall be prepared by the organisation and the relevant Member State or the Agency. The report shall detail the activities carried out, the results achieved, the regulatory learning outcomes and, where appropriate, include recommendations for regulatory adaptation and certification pathways. Organisations may use that report to support a demonstration of compliance with this Regulation and the delegated and implementing acts adopted on the basis thereof. The Agency shall include that report in the repository established under Article 74.

9. Member States and the Agency shall coordinate their regulatory sandbox activities and exchange best practices.

10. Organisations participating in a regulatory sandbox shall remain liable under applicable Union and national law for any damage inflicted on third parties as a result of the experimentation taking place in the sandbox. However, except in cases of gross negligence or wilful misconduct, provided that the organisation complies with the sandbox plan, its terms and conditions, and follows the guidance provided by the Member Sate or the Agency in good faith, no administrative fines shall be imposed, and no action shall be taken against existing certificates for infringements of this Regulation and the delegated and implementing acts adopted on the basis thereof.

11. To support the implementation of this Article, the Agency shall, in accordance with Article 115, adopt guidance on the establishment and operation of regulatory sandboxes, including to ensure consistency and harmonisation across Member States. The guidance shall ensure that requirements and procedures applicable to regulatory sandboxes are proportionate to the size, risks and complexity of the innovation concerned, and include, at a minimum, common principles and procedures on the following issues:

(a) the eligibility and selection criteria for participation in regulatory sandboxes;

(b) the application, participation, monitoring, exiting from, and termination of regulatory sandboxes, including the sandbox plan and the joint report;

(c) the terms and conditions applicable to the participants.';

6. in Article 126(1), first subparagraph, the following point is added:

'(d) the establishment, operation, and oversight of regulatory sandboxes referred to in Article 86a.'.

Chapter VII
Final provisions

Article 49a

Protection of classified information

1. The Commission shall protect classified information in accordance with the security rules set out in the Commission Decision (EU, Euratom) 2015/444. Each Member State shall ensure that it offers a degree of protection of EU classified information equivalent to security rules set out in Council Decision 2013/488/EU or, where applicable, the Agreement between the Member States of the European Union, meeting within the Council, regarding the protection of classified information exchanged in the interests of the European Union.

2. Any EU institution, agency or body that will have access to classified information under this Regulation shall protect it in accordance with its security rules.

3. Information systems handling classified informaiton used for the implementation of this Regulation shall be security accredited by the Commission or a Security Accreditation Board in accordance with the Commission Decision 2015/444.

4. Exchange for classified information under this Regulation with third states or NATO is subject to the relevant security of information agreements that are in force and applicable.

5. Access to classified information under this Regulation by civilian operators shall be in accordance with the provisions on industrial security in the Commission Decision 2015/444.

Article 50

Confidentiality of information

2. Member States and the Commission shall ensure the appropriate protection of trade and business secrets acquired and generated in application of this Regulation in accordance with Union and national law.

3. The Commission shall not share any information that it has received under this Regulation in a way that can lead to the identification of an individual economic operator where the sharing of the information would result in potential commercial or reputational damage to that economic operator or in the divulgence of trade secrets.

Article 51

Personal data protection

This Regulation shall be without prejudice to Directive 2002/58/EC of the European Parliament and of the Council and Regulations (EU) 2016/679 and (EU) 2018/1725 of the European Parliament and of the Council.

Article 52

Evaluation

The Commission shall evaluate and present to the European Parliament and the Council a report on the application of this Regulation by three years after the entry into force of this Regulation, and every five years thereafter. The evaluation report shall build on consultations of the Member States and key stakeholders.

Article 53

Entry into force

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

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*
[...]	[...]

PUBLIC

Article 3

Definitions

(20) 'dual-use transport capability' means a ~~civilian~~ capability that can be used for both civilian and military transport purposes;

Article 25

Enhanced access to transport and logistic capabilities during the period of activation of ~~EMERS~~EMMERS

1. During the period of activation of ~~EMERS~~**EMMERS**, and if the Solidarity Pool referred to in Article 35 is operational, the ~~Commission, taking into account the advice of the~~ Military Mobility Transport Group~~, may~~ **shall** identify specific **dual-use** capabilities registered in the Solidarity Pool that are urgently needed to support certain Member States. In such cases, requests for those capabilities from the affected Member States and Member States that support military transport operations for the affected Member States shall be given priority consideration.

   The sharing and coordination efforts under the Solidarity Pool referred to in Article 35 shall focus on supporting those priority requests, ensuring that the required capabilities are made available in a timely and efficient manner**, in accordance with procedures to be set out in the implementing act referred to in Article 35**.

   ~~Where Member States' capabilities have been acquired, contracted or purchased, after the entry into force of this Regulation, with the financing support of any Union funding and could support priority requests in accordance with the first subparagraph of this paragraph, the Member States shall not invoke the exceptional situation requiring the use of their capabilities, referred to in Article 35(10) and (11).~~

2. The Commission **and the European Defence Agency** may assist the Member States in contracting any relevant transport and logistic capabilities **identified in paragraph 1**.

3. The Commission may contract any relevant transport and logistic capabilities **identified in paragraph 1**, following the advice of the Military Mobility Transport Group**, in accordance with Article 35**.

3a. During the period of activation of EMMERS, the Solidarity Pool shall be operational 24 hours a day, seven days a week.

Chapter IV
Availability of dual-use transport and logistic capabilities for military transport operations

Article 35

Solidarity Pool to facilitate military transport operations

1. The Solidarity Pool is established. It shall consist of a pool with a list of registered **dual-use transport and logistic** capabilities of Member States ~~and possibly of the Union.~~**, as well as a digital platform enabling its functioning.** The **dual-use** capabilities registered in the Solidarity Pool shall consist of transport and logistic capabilities and shall be used to guarantee, optimise**, accelerate** and facilitate the execution of military transport operations.

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The Solidarity Pool shall become operational subject to the adoption by the Commission of the implementing act referred to in paragraph 15.

2. **After consulting** the Military Mobility Transport Group and **on the basis of** the results of the stress tests referred to in Article 43, the Commission may adopt **non-binding** guidelines defining the types and specifying the number of key **dual-use** transport **and logistic** capabilities required for the Solidarity Pool ~~to address the Union's gaps~~**. The European Defence Agency shall also be consulted** in the ~~area~~**preparation of these non-binding guidelines. These non-binding guidelines shall be consistent with the defence capability priorities commonly agreed by Member States within the framework** of ~~military transport capabilities.~~**the common foreign and security policy (CFSP), in particular within the context of the Capability Development Plan (CDP), and with the collaborative opportunities identified in the Coordinated Annual Review on Defence (CARD).**

3. The Solidarity Pool shall **have the ability to** be operational 24 hours a day, seven days a week.

3a. The Commission shall develop and manage a secure and cyber-resilient digital platform for the Solidarity Pool, to enable communication and sharing of information between the Commission and the Member States' National Coordinators for Military Transport. The digital platform shall allow for the exchange of classified information.

4. Member States may voluntarily register **through their National Coordinator for Military Transport** their own **dual-use transport and logistic** capabilities in the Solidarity Pool.

4a. Capabilities that have been acquired or contracted by Member States with ~~the financing support of any~~**a financial contribution by the** Union ~~funding~~**, of at least [22%], in the form of grants, as defined in Regulation (EU, Euratom) 2024/2509,** shall be registered in the Solidarity Pool.

5. The registration of ~~multinational~~**dual-use transport and logistic** capabilities ~~provided~~**owned** by two or more Member States shall be undertaken jointly by all the Member States concerned ~~or by any relevant entity~~.

~~6. Subject to the availability of Union funding, Union capabilities may be procured with the objective of addressing the Union's gaps in the area of transport capabilities, under conditions to be specified in the implementing act referred to in paragraph 15. Union capabilities shall be automatically registered in the Solidarity Pool.~~

7. The capabilities **voluntarily** registered in the Solidarity Pool by Member States ~~or the Union, or both,~~ may comprise their own capabilities and those obtained through service contracts with commercial operators, where such contracts permit it.

7a. Dual-use transport and logistic capabilities may be made available by the Union through service contracts with commercial operators, to complement Member States' registered capabilities, pending the availability of Union funding. Such contracted services shall be registered in the Solidarity Pool.

8. Capabilities registered in the Solidarity Pool shall be **made** available ~~for support~~ following a request made by a ~~requesting~~ Member ~~States~~**State** to the Commission unless such capabilities are already used to support another request. In the event of competing requests, any decisions to allocate the capabilities shall be taken, in close coordination between the requesting Member States, the Commission and ~~where relevant~~ the Member State that has registered the capabilities**. The final decision on the allocation of such capabilities shall rest with the Member State that has registered them**.

9. When not being ~~used~~**deployed** or needed for planned ~~support, capabilities registered~~ **deployment** under the Solidarity Pool ~~,~~**, registered dual-use capabilities** may be used for

national **or other** purposes by their registering Member States ~~or for commercial purposes by the commercial operator that has been contracted by the registering Member State or the Union~~.

10. Member State's **dual-use transport and logistic** capabilities registered in the Solidarity Pool may **not** be ~~excluded from support~~**deployed** where that Member State is confronted with an exceptional situation requiring the use of those capabilities. ~~Where a~~**In such case, the concerned** Member State ~~invokes such an exceptional situation, it~~ shall inform ~~and provide explanations to~~ the Commission **accordingly**, as early as possible.

11. Member State's capabilities registered in the Solidarity Pool which are deployed for support shall remain under its command and control. Where the registering Member State is confronted with an exceptional situation requiring the use of registered capabilities that have been deployed, it may withdraw them, upon consultation with the ~~Commission and the~~ requesting Member State for which the capabilities were deployed**, and shall inform the Commission as early as possible**.

~~12. Union capabilities shall be hosted in a Member State. The Commission and the Member States shall ensure, where appropriate, an adequate geographical distribution of Union capabilities. The requesting Member State for which Union capabilities are deployed shall be responsible for directing support operations.~~

13. **Dual-use transport and logistic capabilities**~~Capabilities~~ registered under the Solidarity Pool may be pre-positioned **with the agreement of the Member State which registered these capabilities**. When capabilities are pre-positioned, they shall be located in facilities that apply, where relevant, the basic protection measures referred to in Article 34.

~~14. The maintenance and deployment costs of Member States' capabilities shall be borne by the registering Member State unless provided otherwise in the implementing act referred to in paragraph 15.~~

15. ~~Subject to the availability of Union funding, the~~**The** Commission may adopt an implementing act putting into operation the Solidarity Pool~~.~~ **and its platform, pending the availability of Union funding.** That implementing act shall also set out:

    (a) the procedures to be followed to **register and** process requests by Member States for **dual-use transport and logistic** capabilities under the Solidarity Pool**, including the respective roles of EU institutions, bodies and agencies involved**;

    (b) ~~additional specifications under which the costs listed in paragraph 14 may be financed~~**modalities for deployment and maintenance costs of capabilities**;

    (c) additional specifications under which the cost related to the pre-positioning of the **dual-use transport and logistic** capabilities ~~may~~**shall** be financed**;**

    (ca) additional specifications for the secure and cyber-resilient digital platform of the Solidarity Pool;

    (d) additional specifications under which the training, reskilling and upskilling costs of personnel operating the **dual-use transport and logistic** capabilities registered under the Solidarity Pool may be financed;

    (e) any additional rules on the functioning of the Solidarity Pool, **including operational rules,** where necessary;

    This implementing act may **also** set out~~:~~

    ~~(a) the conditions under which the maintenance and deployment costs of member State capabilities are to be allocated;~~

~~(b)~~ the conditions under which a credit-based system may be ~~used~~**established** as a form of non-financial exchange mechanism for **dual-use** capabilities registered in the Solidarity Pool.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 45(4).

Article 36

~~Access to vehicle~~Consultation of registries ~~for potential use in military transport~~

1. Member States shall ensure that their services responsible for carrying out military transport operations ~~have access to~~**are able to consult relevant data in** their respective national road vehicle registers, with a view to identify dual-use road transport vehicles.

2. Member States~~, in cooperation~~ **through their competent authority,** with **the assistance of** the European Union Agency for Railways, shall ensure that their services responsible for carrying out military transport operations ~~have access to~~**are able to consult relevant data in** their respective national railway vehicle registers and ~~to~~ the European Vehicle Register referred to in Article 47(5) of Directive (EU) 2016/797, with a view to identify dual-use railway vehicles.

3. Member States shall ensure that their services responsible for carrying out military transport operations ~~have access to~~**are able to consult relevant data in** their respective national aircraft and shipping registers, with a view to identify dual-use aircraft and vessels.

~~4. The Commission shall equally be granted access to the registries specified under paragraphs 1 to 3, with a view to identify dual-use vehicles, vessels or aircraft.~~

Article 37

Identification of railway vehicles for potential use in military transport

1. The Commission may adopt implementing acts in order to:

(~~e~~**a**) identify categories of railway vehicles most suitable for use as part of a military transport;

(~~d~~**b**) where available, and after consulting the European Union Agency for Railways **and national safety authorities**, establish technical specifications on which the identification pursuant to point (a) may be based, and if necessary, establish any appropriate technical parameters and related compliance testing methods;

(~~e~~**c**) for railway vehicles already authorised pursuant to Article 21 of Directive (EU) 2016/797 or put in operation under the Union or national legal framework previously applicable before the authorisation framework set out by that Directive, determine whether and under what conditions:

(1) railway undertakings and vehicle keepers are to identify if the vehicles for which they are responsible fall into a category under point (a), and if so, determine the full relevant technical characteristics of those vehicles;

(2) manufacturers of railway equipment are to identify if vehicles they manufacture fall into a category under point (a), and if so, determine the full relevant technical characteristics of those vehicles.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 45(4).

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2. If the Commission adopts the implementing act referred to in paragraph 1, for every registered railway vehicle, the vehicle keeper shall include the identification as a vehicle that can be used as part of a military transport and any relevant parameters established under paragraph 1, point (b) in the respective vehicle's technical documentation. Vehicle keepers, in collaboration with the registration entities, shall be responsible for recording those parameters in the European Vehicle Register referred to in Article 47(5) of Directive (EU) 2016/797.

Article 38

Establishment of a temporary control or right of use framework for military transport

1. By ~~[~~*~~1 year~~*~~]~~**2 years** following the entry into force of this Regulation, each Member State shall have in place a framework allowing it to issue, as a last resort, binding orders to obtain the temporary control or right of use over an infrastructure, asset or equipment located on its territory which is necessary for the execution of military transport operations, in cases where no alternative solution can be achieved through mutual agreement or under an existing contract within the required timeframe. Where a Member State has an existing framework enabling such temporary control or right of use, it shall ensure that the existing framework complies with the requirements set out in paragraphs 2 and 3.

The decision to use this framework remains the sole responsibility of Member States.

2. Member States shall ensure that their framework referred to in paragraph 1 ~~complies with the following minimum requirements:~~

~~(a)~~ allows for the temporary control or right of use over an infrastructure, asset or equipment to support the military transport operations of another Member State, upon request from that Member State, and lays down a procedure for submitting **and approving or rejecting** such request~~;~~**.**

~~(b) entails a compensation mechanism to compensate owners, operators and managers of the infrastructure, assets or equipment concerned for expenses incurred and damages suffered;~~

~~(c) includes transparent and non-discriminatory rules and procedures related to such temporary control and right of use, and that measures taken pursuant to such rules and procedures are in place.~~

3. Member States shall ensure that any measures adopted under their framework referred to in paragraph 1 are strictly necessary and proportionate.

Article 39

Framework ~~contracts~~agreements with dual-use transport service providers

1. **In accordance with Directive 2009/81/EC and Directive 2014/24/EC,** Member States may conclude framework ~~contracts~~**agreements** with dual-use transport service providers for ensuring the availability of transport capabilities for military transport operations, including the rapid deployment of personnel, equipment, and supplies.

2. The framework ~~contracts~~**agreements** referred to in paragraph 1 that are concluded, renewed or substantially modified after the entry into force of this Regulation shall:

   (a) be designed to allow other Member States to join as contracting parties **upon the agreement of the national authorities that concluded the framework agreement**, and shall provide for the possibility to be amended to accommodate additional

participants without compromising the primary objective of supporting military transport;

(b) entail an obligation for the transport service providers to disclose any potential double-booking of transport capability to all ~~participating~~**concerned** Member States, prior to accepting conflicting orders**, in accordance with Article 50**.

3. Member States and the transport service providers referred to in paragraph 2, point (b), shall implement procedures to resolve transport capability allocation disputes, ensuring that military transport priorities are met without undue delay.

Chapter V
Horizontal provisions

Article 40

National Coordinator for ~~Cross-Border~~ Military Transport

1. By ~~[six months~~**one year** following the entry into force of this Regulation~~]~~**,** each Member State shall designate a National Coordinator for ~~Cross-Border~~ Military Transport**, an entity** with permanent availability, to ensure coordination and effective communication on cross-border military transport.

2. Member States shall ensure that their respective National Coordinator for ~~Cross-Border~~ Military Transport:

(a) receives and sends military transport permission requests and notifications as referred to in ~~Article 8(3) and Article 20(2);~~**Articles 8 and 20, as well as notifications to revoke and suspend military transport permissions as referred to in Articles 5 and 6;**

(aa) coordinates traffic arrangements and receiving-nation support;

(ab) issues certificates for civilian operators and for military transport operations during the period of activation of EMMERS as referred to in Articles 8a and 20a;

(b) has the necessary expertise and resources to be able to provide advice and support ~~for all~~**to military transport operators regarding** customs formalities**, in support and in coordination with the competent customs authorities**;

(c) receives and replies to requests for priority access submitted during a period of activation of ~~EMERS~~**EMMERS** and facilitates the necessary procedures, in accordance with Article 21;

(d) ~~is able to coordinate~~**ensures coordination with** all relevant **actors, at** national, regional~~,~~ and local level ~~actors~~**,** involved in military transport operations, in order to ensure the smooth execution of cross-border military transport operations, in particular during the activation of ~~EMERS, and coordinate the Military Transport Readiness Check referred to in Article 42.~~**EMMERS;**

(da) decides on deconflictions and priorisations between national and requesting Member State's military transport operations on its territory, in coordination with the National Coordinators for Military Transport of the requesting Member States;

(db) facilitates the coordination between infrastructure managers in case of transit through several Member States, as referred to in Article 7;

(dc) informs the Commission, the EEAS and the other potentially affected Member States of any incidents in relation to SDI, as referred to in Article 34;

(dd) registers the dual-use capabilities in the Solidarity Pool and coordinates with the Commission and other Member States in accordance with Article 35;

(de) coordinates the Military Transport Readiness Check referred to in Article 42;

(df) collaborate with the Commission for the conduct of the stress tests referred to in Article 43.

2a. A network of National Coordinators for Military Transport shall be established, in order to communicate, plan and organise scheduled and ongoing cross-border military transport operations, as well as to share best practices.

Article 41

Military Mobility Transport Group

1. The Military Mobility Transport Group is established to assist and provide advice and recommendations to the Commission and to facilitate cooperation and exchange of information among Member States on issues relating to this Regulation **and to ensure exchange and coordination with other relevant organisations and bodies, including EEAS and EDA**.

2. The specific tasks of the Military Mobility Transport Group shall be the following:

(a) to promote discussions and dialogue ~~–~~between Member States with a view to facilitating the granting of military transport permissions and traffic arrangements, in particular among Member States situated along the same military mobility corridors;

(b) to facilitate the use of pre-planned traffic arrangements and pre-defined routes for the purpose of military transport operations;

(ba) to provide advice to the Commission prior to the activation of EMMERS, in accordance with Article 19(2), first sub-paragraph;

(c) to advise on ~~basic and enhanced~~**the identification of a set of** protection measures **for owners, operators and managers of SDI, with a view to the preparation of non-binding guidelines by the Commission, as** referred to in Article 34~~(4) and Article 24, respectively~~;

(d) to ~~facilitate the identification and pre-positioning of~~ **advise the Commission for the adoption of non-binding guidelines on the** key **dual-use** transport and logistic capabilities **required** for the Solidarity Pool ~~to address the Union's gaps in this area, where a Solidarity Pool is operationalised~~**,** in accordance with Article 35;

(da) to identify specific dual-use capabilities registered in the Solidarity Pool that are urgently needed to support certain Member States during the period of activation of EMMERS, as referred to in Article 25;

(e) to ~~facilitate~~**exchange views on needs related to** joint procurement by Member States of transport and logistic capabilities for military transport;

(f) to review the Military Transport Readiness Checks results and stress tests results carried out in accordance with Articles 42 and 43 and to issue recommendations on their basis, **including lessons learned and best practices,** where appropriate;

(g) to ~~advise on~~**assess** the ~~technical specifications and modules for~~**functioning of** the Military Mobility Digital Information System, ~~where~~**once it is** established in

accordance with Article 14~~, taking due account of applicable Union customs legislation:~~**.**

~~(h) to be consulted on the list of strategic dual-use infrastructure referred to in Article 33(3).~~

3. The Military Mobility Transport Group shall be composed of representatives of the **Member States, the** Commission, the ~~EEAS, including the European Union Military Staff,~~ **High Representative and** the European Defence Agency ~~and the Member States.~~**.** Each Member State's representatives shall ~~be able to represent their respective governments' position~~ **ensure appropriate cross-governmental representation**. Where relevant for customs formalities, Member States' customs authorities and the European Union Customs Authority shall also be invited to participate. The ~~Commission shall chair the~~ Military Mobility Transport Group ~~and ensure its~~**shall be chaired by a representative of the Member State holding the rotating presidency of the Council. The** secretariat **of the Military Mobility Transport Group shall be ensured by the Commission. Only Member States shall have voting rights**.

4. The Military Mobility Transport Group may invite, where relevant, in accordance with its rules of procedure and with due respect to the security and defence interests of the Union and its Member States, **other organisations and bodies, including NATO, as well as** Ukraine, Moldova and countries of European Economic Area**,** to attend meetings as observers.

5. The Commission shall ensure transparency by providing members of the Military Mobility Transport Group equal access to information.

6. The Military Mobility Transport Group shall meet regularly, and whenever the situation so requires, upon request from the Commission or a Member State. It shall adopt its rules of procedure **at its first meeting,** on the basis of a proposal submitted by the Commission.

7. The Military Mobility Transport Group may issue opinions, advice and recommendations upon the request of the Commission or on its own initiative. The Military Mobility Transport Group shall endeavour to find solutions which command the widest possible support.

Article 42

Military Transport Readiness Check

1. **Following the appointement of the National Coordinator for Military Transport,** Member States shall conduct a Military Transport Readiness Check **at least** once a year to assess their preparedness to execute military transports. The Military Transport Readiness Check shall be comprised of information on all of the following:

   (a) the necessary measures taken at national level to ensure the implementation of ~~EMERS~~**EMMERS**;

   (b) the measures taken at national level to ensure the whole-of-government approach when dealing with military transport;

   (c) whether measures and necessary traffic arrangements for planned ~~cross-border~~ military transport operations have been taken;

   (d) whether ~~Host-Nation-Support~~**receiving-nation-support** measures to accommodate for planned cross-border military transport on their territory have been taken;

   (e) whether **procedures for** military transport ~~permission requests have been submitted to and received by other Member States~~**permissions are complied with** in accordance with Articles 5 and 6;

(f) where a Solidarity Pool is operationalised in accordance with Article 35, whether support requests from the Solidarity Pool have been submitted.

2. The National Coordinator for ~~Cross-Border~~ Military Transport of each Member State shall ~~share~~**coordinate** the ~~results of their~~ Military Transport Readiness ~~Check~~ **Checks and share their results** with the Military Mobility Transport Group~~.~~ **and the network of National Coordinators for Military Transport.**

Article 43

Stress tests

1. ~~The~~**Upon agreement by the concerned Member States, the** Commission may conduct stress tests, in collaboration with ~~Member States~~**them, through the National Coordinators for Military Transport,** and **with** relevant Union bodies, **including EEAS and EDA,** to test and evaluate the Union's preparedness to facilitate military transport. **Where appropriate, other relevant organisations and bodies may be invited to participate.** Such tests shall:

(a) prepare for the activation of ~~EMERS~~**EMMERS**;

(b) test the effectiveness of the whole-of-government approach in implementing this Regulation's objectives, including the coordination and cooperation among relevant bodies, authorities and stakeholders;

(c) test the implementation of the provisions of this Regulation in a specific geographical area, such as a specific military mobility corridor, in border regions of a Member State with a third country, or in a specific sectorial area, including customs.

2. Member States may request the Commission to conduct the stress tests referred to in paragraph 1.

3. The Commission shall communicate the results of the stress tests conducted pursuant to this Article to participating Member States and the Military Mobility Transport Group. **Those results shall constitute classified information.**

~~4. The Commission may also participate in stress tests or exercises, at the request of a Member State or based on any relevant invitation, with the objective to test and evaluate the Union's preparedness to facilitate military transport.~~

~~*Article 44*~~

~~**Exercise of the delegation**~~

~~1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.~~

~~2. The power to adopt delegated acts referred to in Articles 5 and 8 shall be conferred on the Commission for an indeterminate period of time from [DATE OF ENTRY INTO FORCE].~~

~~3. The delegation of power referred to in Articles 5 and 8 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.~~

~~4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.~~

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~~5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.~~

~~6. A delegated act adopted pursuant to Articles 5 and 8 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.~~

Article 45

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. The European External Action Service shall be invited to assist in the committee.

3. The European Defence Agency, the European Union Agency for Railways, the European Union Aviation Safety Agency, the European Maritime Safety Agency, the Network Manager (defined in point (49) of Article 2 of Regulation (EU) 2024/2803~~)~~**), the European Union Customs Authority** and the European Network and Information Security Agency ~~shall~~**may, where appropriate,** be invited to provide their views and expertise to the committee as observers.

4. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

4a. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.

Chapter VI
Amendments to other Union acts

Article 46

Amendment to Regulation (EU) 2016/796

Regulation (EU) 2016/796 is amended as follows:

1. In paragraph 3 of Article 1, the following point is added: '(d) preparedness of the Union rail system**, including to facilitate military transport, as** provided for in Regulation (EU) 202X/XXX'.

2. In Article 2, the last sentence is replaced by 'In pursuing those objectives, the Agency shall take full account of the process of enlargement of the Union and of the specific constraints relating to rail links with third countries and assist in ensuring the resilience and ~~security responsiveness~~**preparedness** of the Union rail system.

3. In paragraph 1 of Article 19, the following point is added: '(m) ~~The agency shall~~**Upon consultation of the national safety authorities and, where necessary, relevant stakeholders,** assist the Commission in establishing military mobility technical specifications for the identification of **railway** vehicles **most** suitable for use as part of a military transport pursuant to Article 37 of Regulation (EU) 202X/XXX'**.**

3a. In Article 20, the following subparagraph is added: 'In case of a vehicle authorised by the Agency, it shall register the vehicle in the European vehicle register in accordance with Article 22 of Directive (EU) 2016/797'.

4. In Article 20, the following subparagraph is added: '**In case of a vehicle authorised by the**~~The~~ Agency**, it** shall assign a European vehicle number (EVN) in accordance with Article 46(1) of Directive (EU) 2016/797'.

5. In paragraph 2 of Article 80, the following point is added: '(e) the registration of vehicles in the European vehicle register pursuant to Article 22 of Directive (EU) 2016/797'.

Article 47

Amendments to Directive (EU) 2016/797

Directive (EU) 2016/797 is amended as follows:

1. in Article 21, the following paragraph is added:

'~~18~~**8a**. In cases where the area of use is limited to one or more networks within a Member State, ~~Member States~~**national safety authorities** may agree with the Agency to delegate their ~~power~~**tasks** to authorise railway vehicles that **potentially** can be used for military ~~transports as defined~~**transport** in **accordance with** Article 37 of Regulation (EU) 202X/XXXX to the Agency. The details of such delegation shall be agreed in cooperation agreements pursuant to Article 76 of Regulation (EU) 2016/796, and the Agency shall share the ~~delegations~~**delegation** it has received from **a** Member State via the one-stop-shop established under Article 12 of Regulation (EU) 2016/796.';

2. in Article 22, paragraph 3 is replaced by the following:

'3. When the area of use of the vehicle covers the territory of more than one Member State, it shall be registered either **by a competent authority** in one of the Member States concerned or by the Agency.';

3. in Article 46, paragraph 1 is replaced by the following:

'1. Upon registration in accordance with Article 22, each vehicle shall be assigned a European vehicle number (EVN) by the competent authority~~.~~ **or the Agency.** Each vehicle shall be marked with an assigned EVN.'.

3a. in Article 47, the following paragraph is added:

'8. The Agency shall establish strict security and access control protocols for the technical data of military vehicles identified in accordance with Article 37 of Regulation (EU) 202X/XXX, in accordance with Article 78 of Regulation (EU) 2016/796'.

Article 48

Amendments to Regulation (EU) 2024/2803

Regulation (EU) 2024/2803 is amended as follows:

1. in Article 9(1), the following subparagraph is inserted after the first subparagraph:

'By way of derogation [from the first subparagraph], air navigation service providers may, until 31 December 2030, avail themselves of the ~~communication~~**air traffic management and air navigation** services of other service providers that are not certified or that did not declare their capability in accordance with Article 41 of Regulation (EU) 2018/1139, on the condition that those providers provided ~~communication~~**air traffic management and air navigation** services in the Union prior to the entry into force of this Regulation.';

2. in Article 11(6), the following subparagraphs are added:

'By way of derogation from this paragraph, a provider of ~~communication~~**air traffic management and air navigation** services that has been providing such services in the Union prior to the entry into force of this Regulation may, until 31 December 2030, be selected to provide the same services in the Union even if it does not comply with the condition set out in point (a).

By way of derogation from this paragraph, a provider of ~~communication~~**air traffic management and air navigation** services that has been providing such services in the Union prior to the entry into force of this Regulation may, until 31 December 2033, be selected to provide the same services in the Union even if it does not comply with the conditions set out in points (b) and (c).'.

Article 49

Amendments to Regulation (EU) 2018/1139

Regulation (EU) 2018/1139 is amended as follows:

1. in Article 3, the following point is added:

'(35) 'regulatory sandbox' means a temporary and controlled framework, established by a Member State or the Agency, to enable the design, development, testing, and demonstration of innovative, including dual-use, products and services, in a real-world environment, subject to predefined conditions and timelines, with the aim of fostering innovation and military ~~mobility~~**transport**, and under the supervision of a **national** competent authority **or the Agency**.';

2. in Article 71, paragraph 1 is replaced by the following:

'1. Member States may grant exemptions to any natural or legal person subject to this Regulation from the requirements applicable to that person pursuant to Chapter III, other than the essential requirements laid down in that Chapter, or to the delegated or implementing acts adopted on basis of that Chapter, in the following circumstances:

(a) in the event of urgent unforeseeable circumstances affecting those persons or urgent operational needs of those persons;

(b) when those requirements prevent the certification, use or operation of innovative technologies, products, equipment, systems, components, operational concepts**, services** or business models.'.

The exemptions referred to in the first subparagraph may be granted where all of the following conditions have been met:

(a) it is not possible to adequately address those circumstances or needs in compliance with the applicable requirements;

(b) safety, environmental protection and compliance with the applicable essential requirements are ensured, where necessary through the application of mitigation measures;

(c) the Member State has mitigated any possible distortion of market conditions as a consequence of the granting of the exemption as far as possible; and

(d) the exemption is limited in scope and duration to the extent strictly necessary and it is applied in a non-discriminatory manner.

In such a case, the Member State concerned shall immediately notify the Commission, the Agency and the other Member States, through the repository established under

Article 74, of the exemption granted, its duration, the reason for granting it and, where applicable, the necessary mitigation measures applied.';

3. in Article 74(1), second subparagraph, the following point is added:

'(s) notifications of decisions by Members States or by the Agency regarding the establishment, the suspension, and the termination of regulatory sandboxes pursuant to Article 86a, and the corresponding joint report.';

4. in Article 75(2) the following point is added:

' (k) cooperate with national ~~military~~**competent** authorities**, including military**, relevant Union and international bodies to enable dual-use air transport solutions as well as their safe integration into civil air traffic.';

5. the following new Article 86a is inserted:

'Article 86a

Regulatory sandboxes

1. Regulatory sandboxes may be established by a Member State or the Agency, **where relevant after the approval of the affected Member States,** at their own initiative or upon request from ~~an organisation~~**a legal or natural person**, to contribute to the following objectives:

(a) promoting innovation and competitiveness in the aviation sector;

(aa) facilitating military transport;

(b) enabling the timely and safe introduction of innovations into the Union aviation market;

(c) improving legal certainty and facilitating compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof and, where relevant, other applicable Union and national law; supporting evidence-based regulatory learning and the development of performance-based requirements.

2. A regulatory sandbox may be established when the following criteria are met:

(a) the technologies, products, equipment, systems, components, operational concepts**, services** or business models to be tested represent a genuine ~~innovation~~**innovative solution** and are expected to deliver consumer or wider societal benefits;

(b) the innovation is sufficiently mature to be tested in a real-world controlled environment, and relevant legislative barriers or gaps have been identified;

(c) safety and environmental protection are ensured, and compliance with applicable essential requirements is achieved, where necessary through the application of mitigation measures~~.~~**; where appropriate, the testing may be accompanied by exemptions granted in accordance with Article 71(1)(b).**

3. A regulatory sandbox shall ~~be subject to clearly~~ set out:

(a) objectives;

(b) scope and duration, which shall be limited to the extent strictly necessary to achieve the proposed objectives;

(c) governance structure, including the roles and responsibilities of all participating authorities and entities, which shall:

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(i) include the designation of a competent authority**, either a national competent authority involved in the sandbox or the Agency,** responsible for the ~~supervisions~~**supervision** and oversight of the sandbox;

(ii) ensure that all Member States and authorities affected by the objectives and scope of the sandbox are adequately involved in its establishment and implementation;

(iii) ensure that the Agency is involved, particularly in the development of the safety case and of the expected regulatory learning;

(d) monitoring and evaluation criteria;

(e) eligibility criteria and admission procedures, which are transparent and non-discriminatory;

(f) reporting obligations, which support an adequate follow-up of activities.

4. An organisation applying for participation in a sandbox shall demonstrate that the technologies, products, equipment, systems, components, operational concepts**, services** or business models to be tested fulfil the criteria in paragraph 2. To ~~do that~~**this end**, the organisation shall:

(a) specify the objectives of the innovative project or solution;

(b) identify the concrete regulatory barriers or gaps to be addressed;

(c) develop a safety case outlining the mitigation measures to be implemented to ensure an adequate level of safety and environmental protection and, as far as possible, compliance with the applicable essential requirements.

5. Upon receiving a request or application from an organisation, the Member State or the Agency shall**, within their respective roles and responsibilities,** assess whether the proposed mitigation measures are appropriate and sufficient to ensure an adequate level of safety and propose any additional measures it considers necessary. It shall also specify the expected regulatory learning from the sandbox.

6. A Member State or the Agency establishing a regulatory sandbox shall immediately notify the other Member States and the Agency of the creation of the sandbox. The notification shall include all the elements referred to in paragraph 3.

7. The establishment of a regulatory sandbox shall not affect the oversight or corrective powers of the competent authorities supervising the sandbox. National competent authorities and the Agency shall have the power to suspend or terminate the testing process or the participation in the sandbox if no effective mitigation is possible. They shall inform the Agency and the Member States of such decisions through the repository established under Article 74.

8. Upon conclusion of the regulatory sandbox, a joint report shall be prepared by the organisation and the relevant Member State or the Agency. The report shall detail the activities carried out, the results achieved ~~and~~**,** the regulatory learning outcomes **and, where appropriate, include recommendations for regulatory adaptation and certification pathways**. Organisations may use that report to support a demonstration of compliance with this Regulation and the delegated and implementing acts adopted on the basis thereof. The Agency shall include that report in the repository established under Article 74.

9. Member States and the Agency shall coordinate their regulatory sandbox activities and exchange best practices.

10. Organisations participating in a regulatory sandbox shall remain liable under applicable Union and national law for any damage inflicted on third parties as a result of the experimentation taking place in the sandbox. ~~However~~**However, except in cases of gross**

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negligence or wilful misconduct, provided that the organisation complies with the sandbox plan, its terms and conditions, and follows the guidance provided by the Member Sate or the Agency in good faith, no administrative fines shall be imposed, and no action shall be taken against existing certificates for infringements of this Regulation and the delegated and implementing acts adopted on the basis thereof.

11. To support the implementation of this Article, the Agency shall, in accordance with Article 115, adopt guidance on the establishment and operation of regulatory sandboxes~~. The guidance shall~~**, including to ensure consistency and harmonisation across Member States. The guidance shall ensure that requirements and procedures applicable to regulatory sandboxes are proportionate to the size, risks and complexity of the innovation concerned, and** include, at a minimum, common principles and procedures on the following issues:

(a) the eligibility and selection criteria for participation in regulatory sandboxes;

(b) the application, participation, monitoring, exiting from, and termination of regulatory sandboxes, including the sandbox plan and the joint report;

(c) the terms and conditions applicable to the participants.';

6. in Article 126(1), first subparagraph, the following point is added:

'(d) the establishment, operation, and oversight of regulatory sandboxes referred to in Article 86a.'.

Chapter VII
Final provisions

Article 49a

Protection of classified information

1. The Commission shall protect classified information in accordance with the security rules set out in the Commission Decision (EU, Euratom) 2015/444. Each Member State shall ensure that it offers a degree of protection of EU classified information equivalent to security rules set out in Council Decision 2013/488/EU or, where applicable, the Agreement between the Member States of the European Union, meeting within the Council, regarding the protection of classified information exchanged in the interests of the European Union.

2. Any EU institution, agency or body that will have access to classified information under this Regulation shall protect it in accordance with its security rules.

3. Information systems handling classified informaiton used for the implementation of this Regulation shall be security accredited by the Commission or a Security Accreditation Board in accordance with the Commission Decision 2015/444.

4. Exchange for classified information under this Regulation with third states or NATO is subject to the relevant security of information agreements that are in force and applicable.

5. Access to classified information under this Regulation by civilian operators shall be in accordance with the provisions on industrial security in the Commission Decision 2015/444.

Article 50

Confidentiality ~~and security rules on the protection~~ of ~~the~~ information ~~received~~

~~6. Information received as a result of the application of this Regulation shall be used only for the purpose for which it was requested.~~

2. Member States and the Commission shall ensure the appropriate protection of trade and business secrets ~~and other sensitive and confidential information~~ acquired and generated in application of this Regulation in accordance with Union and national law.

3. The Commission shall not share any information that it has received under this Regulation in a way that can lead to the identification of an individual economic operator where the sharing of the information would result in potential commercial or reputational damage to that economic operator or in the divulgence of trade secrets.

~~4. Member States and the Commission shall ensure that classified information provided or exchanged under this Regulation is not downgraded or declassified without the prior written consent of the originator of that information.~~

Article 51

Personal data protection

~~1. This Regulation shall be without prejudice to the obligations of Member States relating to their processing of personal data, in particular under Regulation (EU) 2016/679 and Directive 2002/58/EC, or the obligations of the Commission and, where appropriate, other Union institutions, bodies, offices and agencies relating to their processing of personal data, in particular under Regulation (EU) 2018/1725, when fulfilling their responsibilities.~~ **This Regulation shall be without prejudice to Directive 2002/58/EC of the European Parliament and of the Council and Regulations (EU) 2016/679 and (EU) 2018/1725 of the European Parliament and of the Council.**

~~2. The Member States, the Commission and, where appropriate, other Union institutions, bodies, offices and agencies may process personal data where necessary to comply with obligations in this Regulation or where necessary for the exercise of official authority or for tasks in the public interest entrusted to them in this Regulation.~~

Article 52

Evaluation

The Commission shall evaluate and present to the European Parliament and the Council a report on the application of this Regulation by ~~[3~~**three** years after the entry into force of this Regulation~~]~~**, and every five years thereafter.** The evaluation report shall build on consultations of the Member States and key stakeholders.

Article 53

Entry into force

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

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

Done at Brussels,

For the European Parliament
The President
[...]

For the Council
The President
[...]

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