

Stage 01: Modification

0495:

Introduction of a Change Board for the UNC

At what stage is this document in the process?



The proposal seeks to change how recommendations are reached on modifications to the UNC by introducing a more inclusive change board.



The Proposer recommends that this modification should be

- assessed by a Workgroup



High Impact:



Medium Impact:

Gas Transporters, Gas Shippers and the Gas Transporters' agent.



Low Impact:

0495

Modification

04 April 2014

Version 1.0

Page 1 of 15

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Contents

1	Summary	3
2	Why Change?	6
3	Solution	6
4	Relevant Objectives	8
5	Implementation	8
6	Legal Text	9
7	Recommendation	9
8	Appendix 1	10

About this document:

This modification will be presented by the proposer to the panel on 17th April 2014.

The panel will consider the proposer's recommendation and agree whether this modification should be:

- Referred to a workgroup for assessment.



Any questions?

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0495

Modification

04 April 2014

Version 1.0

Page 2 of 15

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1 Summary

Is this a Self-Governance Modification?

The proposer doesn't believe the modification should be subject to self-governance as the changes proposed would have a material impact on the Modification Rules.

Is this a Fast Track Self-Governance Modification?

The proposer doesn't believe the modification should be subject to Fast Track Self Governance as this is not a house-keeping modification.

Why Change?

Decisions on whether to recommend implementation of any modifications is subject to the decision making of a small subset of industry participants who may not have participated in the development of those proposals and may not fully understand the basis on which solutions have been developed and there is no obligation on the part of those making the recommendations to take account of the views of those who have participated in the development of those proposals.

Neither is there a requirement for panel members to represent the views of the parties who have elected them onto the UNC Panel, nor does the process ensure a balanced representation in terms of large or small shippers or niche shippers now or in the near future with new arrangements between small and large Transporters - the Independent Gas Transporters. The Panel members are not accountable to those who have voted them onto the Panel until they seek re-election, and there is no assurance in selecting members for the Panel that they will act in an independent manner for the interests of the industry rather than for the parties they represent. This voting process may not necessarily deliver the optimum balance of skills and experience for an effective Panel.

The introduction of a Change Board will allow a more inclusive process in concluding how recommendations for modifications should be determined. It will prevent the use of a block or tactical voting by any group of panel members by ensuring that all those who are interested in the outcome of the modification have a say in determining whether a modification should be recommended for implementation or otherwise.

Solution

A change board will be constituted that will ensure that all parties will have the ability to vote on whether to recommend the implementation of a modification or not and indicate their views on implementation dates. All code signatories will have the ability to vote on modifications either by casting their votes at a change board meeting or potentially by lodging a proxy with the change board chair. Votes will then be calculated after the voting period has closed and voting results published by the UNC Panel as the formal recommendation to be made to the Authority.

The modification panel will be reduced to 6 voting representatives – 3 Transporter representatives: a Large Gas Transporter (GDN), a Small Gas Transporter (iGT), the Transmission System Operator (NTS), an LSP shipper, a mixed LSP/SSP portfolio shipper and a SSP shipper. The Panel will be chaired by the UNC Panel Chair who will hold a casting vote. Ofgem, a Consumer Representative, an Independent Supplier Representative and a Terminal Operator Representative will be non-voting members.

0495
Modification

04 April 2014

Version 1.0

Page 3 of 15

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The role of the Panel will be:

1. To make recommendations on the progression of modifications when first presentation to the Panel.
2. To make recommendations for matters to be included in the modification workgroup terms of reference.
3. To make determinations on Modification Self Governance and Fast Track Status.
4. To receive reports on the outcome of Change Board voting and publish the results as the formal recommendation to the Authority.
5. To hear appeals of the Change Board.
6. Establishing sub-committees and working groups, and delegating powers, functions and responsibilities to any such sub-committees and working groups.
7. To request Legal Text for modifications determined to be suitable to be issued to consultation without further development.

The workgroup should consider how the Panel might introduce virtual/on-line voting solutions for change determination.

This proposal will require an understanding of how votes will be calculated, the frequency of voting, the reporting of results and management of an appeals process for the Change Board. Appendix 1 includes a strawman set of business rules for how this may operate, which is provided for further development in the workgroup.

Changes to the modification rules will be required to enable the workgroup to request Legal Text for any modification proposals before the workgroup agrees to issue modifications to consultation.

Relevant Objectives

Relevant Objective F – Promotion of efficiency in the administration of the network code. It will allow the Joint Office to consider the introduction of a virtual change board or to use on-line solutions which will not require a physical meeting each month to make determinations on modifications. The future role of the Mod Panel will be greatly reduced and may enable other non-physical meeting options to be introduced for the residual role of the Panel. Removing the need for a monthly physical meeting will remove costs for all parties – there will be reduced travel costs for fewer panel attendees, a reduction in the support costs of the meeting (accommodation etc), and improvements in the carbon footprint of all participants as a consequence of the use of virtual and/or on-line solutions rather than the requirement to attend a physical meeting held in London.

It will also facilitate progression of changes to consultation more quickly as it will remove the step of taking the DMR to Panel for them to conclude a modification should be issued to consultation.

Implementation

No implementation timescales are proposed as these are to be developed in the Workgroup. It would be helpful to align the appointment of an Independent Panel chair with the creation of the Change Board and reduced Panel workload to ensure the selection of an appropriate candidate with a clear understanding of the future responsibilities.

0495

Modification

04 April 2014

Version 1.0

Page 4 of 15

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0495

Modification

04 April 2014

Version 1.0

Page 5 of 15

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2 Why Change?

Decisions on whether to recommend implementation of any modifications is subject to the decision making of a small subset of industry participants who may not have participated in the development of those proposals and may not fully understand the basis on which solutions have been developed and there is no obligation on the part of those making the recommendations to take account of the views of those who have participated in the development of those proposals.

Neither is there a requirement for panel members to represent the views of the parties who have elected them onto the UNC Panel, nor does the process ensure a balanced representation in terms of large or small shippers or niche shippers now or in the near future with new arrangements between small and large Transporters - the Independent Gas Transporters. The Panel members are not accountable to those who have voted them onto the Panel until they seek re-election, and there is no assurance in selecting members for the Panel that they will act in an independent manner for the interests of the industry rather than for the parties they represent. This voting process may not necessarily deliver the optimum balance of skills and experience for an effective Panel.

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3 Solution

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The modification panel will be reduced to 6 voting representatives – 3 Transporter representatives: a Large Gas Transporter (GDN), a Small Gas Transporter (iGT), the Transmission System Operator (NTS), an LSP shipper, a mixed LSP/SSP portfolio shipper and a SSP shipper. The Panel will be chaired by the UNC Panel Chair who will hold a casting vote. Ofgem, a Consumer Representative, an Independent Supplier Representative and a Terminal Operator Representative will be non-voting members.

The role of the Panel will be:

1. To make recommendations on the progression of modifications when first presentation to the Panel.
2. To make recommendations for matters to be included in the modification workgroup terms of reference.
3. To make determinations on Modification Self Governance and Fast Track Status.
4. To receive reports on the outcome of Change Board voting and publish the results as the formal recommendation to the Authority.
5. To hear appeals of the Change Board.

0495

Modification

04 April 2014

Version 1.0

Page 6 of 15

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6. Establishing sub-committees and working groups, and delegating powers, functions and responsibilities to any such sub-committees and working groups.
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Appendix 1 – attached.

User Pays
Classification of the modification as User Pays, or not, and the justification for such classification.
No User Pays service would be created or amended by implementation of this modification and it is not, therefore, classified as a User Pays Modification.
Identification of Users of the service, the proposed split of the recovery between Gas Transporters and Users for User Pays costs and the justification for such view.
<i>n/a</i>
Proposed charge(s) for application of User Pays charges to Shippers.
<i>n/a</i>
Proposed charge for inclusion in the Agency Charging Statement (ACS) – to be completed upon receipt of a cost estimate from Xoserve.
<i>n/a</i>

4 Relevant Objectives

Impact of the modification on the Relevant Objectives:	
Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	None
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.	None
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	Positive
g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None

Relevant Objective F – Promotion of efficiency in the administration of the network code. It will allow the Joint Office to consider the introduction of a virtual change board or to use on-line solutions which will not require a physical meeting each month to make determinations on modifications. The future role of the Mod Panel will be greatly reduced and may enable other non-physical meeting options to be introduced for the residual role of the Panel. Removing the need for a monthly physical meeting will remove costs for all parties – there will be reduced travel costs for fewer panel attendees, a reduction in the support costs of the meeting (accommodation etc), and improvements in the carbon footprint of all participants as a consequence of the use of virtual and/or on-line solutions rather than the requirement to attend a physical meeting held in London.

It will also facilitate progression of changes to consultation more quickly as it will remove the step of taking the DMR to Panel for them to conclude a modification should be issued to consultation.

5 Implementation

No implementation timescales are proposed as these are to be developed in the Workgroup. It would be helpful to align the appointment of an Independent Panel chair with the creation of the Change Board and reduced Panel workload to ensure the selection of an appropriate candidate with a clear understanding of the future responsibilities.

0495

Modification

04 April 2014

Version 1.0

Page 8 of 15

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6 Legal Text

To be provided.

7 Recommendation

The Proposer invites the Panel to:

- Determine that this modification should not be subject to self-governance; and
- Should progress to Workgroup assessment.

0495

Modification

04 April 2014

Version 1.0

Page 9 of 15

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8 Appendix 1

Change Board

1. Voting

- 1.1. The purpose of this Clause 1 is to make provision for the Parties to vote as to whether any Modification Proposal should be accepted or rejected (the Voting Procedure).
- 1.2. Each Change Proposal shall be put to a vote of the Parties in accordance with the Voting Procedure.
- 1.3. Groups – Transporter Parties and Shipper Parties. The Parties shall cast their votes on a corporate group basis, so that all of the Parties in each such Party Category that fall within a single Group shall collectively have only one vote.

2. The Voting Procedure

- 2.1. The Panel shall procure the design, establishment and maintenance of a system by which:
 - 2.1.1. the Change Report on each Modification Proposal is sent to all Parties, specifying the time period within which votes must be cast;
 - 2.1.2. each Group within each Party Category that is eligible to vote may cast one (and not more than one) vote on each of the questions comprising each vote and whether to accept or reject the proposed implementation date);
 - 2.1.3. each Group that votes is given the opportunity (but is not obliged) to comment on the reasons for its vote;
 - 2.1.4. the vote of each Group is cast by means of a standard form;
 - 2.1.5. the vote of each Group is cast in such a way as to permit its authentication as the valid and properly authorised vote of that Group;
 - 2.1.6. the vote of each Group may be transmitted in such a manner as (so far as is reasonably practicable) ensures that it is secure and will not be interfered with; and
 - 2.1.7. the votes of all of the Groups are received and collated for the purposes of Clause 8.
- 2.2. The Panel shall ensure that all Parties are informed of the means by which they may have access to and use the system established under Clause 2.1 for the purposes of the Voting Procedure, and of any changes made to that system from time to time which are likely to affect the way in which it may be accessed and used.

3. The Vote

- 3.1. In respect of each Modification Proposal and the Change Report relating to that proposal, the Groups within the Party Categories specified in that Change Report as eligible to vote shall be entitled to cast a vote to accept or to reject either or both of:
 - 3.1.1. the proposed variation set out in that proposal; and
 - 3.1.2. the proposed implementation date set out in that proposal,
 - 3.1.3. by means of the system established under Clause 2.1.
- 3.2. Each Group which casts a vote on whether to accept or reject the proposed Modification in respect of a Modification Proposal shall:
 - 3.2.1. vote on the basis of its judgment, made by it in good faith, as to whether or not, if the proposed variation were made, agreement would better facilitate the Relevant Objectives than if that variation were not made; and where it wishes to do so, provide a statement in accordance with the

0495

Modification

04 April 2014

Version 1.0

Page 10 of 15

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system established under Clause 2.1 of the reasons, by reference to the Relevant Objectives, for its vote.

4. If no Group in a Party Category Votes

4.1. Where, in respect of a Modification Proposal and a Party Category that is specified in the relevant Change Report as being eligible to vote, no Group in that Party Category casts a vote, such Party Category shall, for the purposes of Clause 5, be treated as if it were not eligible to vote.

5. The Change Decision

5.1. The purpose of this Clause 5 is to determine whether or not a Modification Proposal is to be accepted and the proposed variation to this network code is made accordingly. The process shall be applied independently to the vote concerning the proposed variation and to the vote concerning the proposed implementation date, to determine in each case whether the proposal is accepted or rejected.

5.2. In the case of a Modification Proposal a vote by the Parties to accept or reject that proposal shall have the status of a recommendation to the Authority to determine that the proposal is to be accepted or rejected, and shall not by itself have the effect of an acceptance or rejection of the proposal.

5.3. In the case of a Self-Governance or Fast Track Proposal a vote which meets the criteria set out in this Clause 5 shall be effective to determine the acceptance or the rejection of the proposal.

6. Declaration by the Secretariat

6.1. The Secretariat shall be responsible, in respect of each Modification Proposal, for:

6.2. monitoring the votes which are received and collated in accordance with Clause 2.1;

6.3. calculating whether the votes, are sufficient to meet the thresholds set out in Clauses 6.5 and 6.6;

6.4. having made those calculations, declaring whether:

6.4.1. in the case of a Modification Proposal, Votes of the Groups in that Party Category which voted to accept the proposal is more than 50%; and in all other cases, be deemed to recommend to the Authority that the proposal should be rejected; and

6.4.2. in the case of a Modification Proposal that relates to a Self-Governance or Fast Track Modification Proposal, the proposal is accepted or rejected where the number of Groups in that Party Category which voted to accept the proposal is greater than 65% of the total number of Groups in that Party Category which voted;

6.5. Publishing, on the Website, which Groups voted and how each such Group voted.

7. Notice by the Secretariat

7.1. The Secretariat shall, as soon as is reasonably practicable after making a declaration under Clause 6.5. give notice of that declaration to:

7.1.1. each Party;

7.1.2. National Transmission System Operator;

7.1.3. any person or body that is entitled to raise Modification Proposals; and

7.1.4. the Authority,

7.2. and shall ensure that the Change Register is updated so as to indicate the declaration made in relation to the Modification Proposal.

8. The Change Decision – Modification Proposals

8.1. Where the Authority receives notice from the Secretariat of a declaration made under Clause 7.1.4 in respect of a Modification Proposal, the Authority shall

0495

Modification

04 April 2014

Version 1.0

Page 11 of 15

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determine whether that proposal shall be accepted or rejected having regard to:

- 8.1.1. its principal objective and statutory duties under sections 4A to 4B of the Gas Act; and
- 8.1.2. whether in its opinion the proposed variation, if it were made, would better facilitate the achievement of the Gas Transporters' Relevant Objectives than if that variation were not made.

8.2. In making a determination under Clause 8.1, the Authority:

- 8.2.1. may follow such procedure as it considers appropriate;
- 8.2.2. may have regard to such matters, and to any representations by such Parties, as it considers appropriate; and
- 8.2.3. shall in any event have regard to the recommendation made by the Parties by virtue of the Voting Procedure.

8.3. Where the Authority is to make a determination under Clause 8.1, the Secretariat shall provide the Authority with a copy of the relevant Change Report (with the notice referred to in Clause 7) and shall, at the Authority's request, provide any other existing documents or information in respect of the Modification Proposal in question.

8.4. Where the Authority determines that it cannot properly form an opinion on whether to accept or reject a Change Proposal, the Authority may direct the Panel to revise and resubmit the Change Report, in which case:

8.5. the vote under Clause 1 in respect of such Modification Proposal shall be null and void;

8.6. the Panel shall give effect to any direction of the Authority as to how the Modification Proposal should be treated, including where necessary sending the Modification Proposal back to the relevant Working Group (or establishing a Working Group) to further consider the Modification Proposal and any matters identified by the Authority in such direction;

8.7. once the Panel is satisfied that the issues identified by the Authority have been addressed, the Panel shall resubmit the Modification Proposal to the Voting Procedure.

8.8. Where the Authority, acting in accordance with Clauses 8.1, determines that a Modification Proposal shall be accepted or rejected, it shall direct the Transporter Parties accordingly and that proposal shall be so accepted or rejected for the purposes of this Clause 8.

8.9. Any direction as referred to in Clause 8 will be effectively given if communicated by the Authority to the Panel (which may be care of the Secretariat). Where any such direction or notification is, nevertheless, communicated to the Transporter Parties, those Parties shall, as soon as practicable following receipt of such direction or notification, forward a copy to the Panel (care of the Secretariat).

8.10. The Secretariat shall, as soon as is reasonably practicable after the receipt, pursuant to Clause 8, by the Panel of a determination by the Authority, as referred to in Clause 8.1), notify the following persons whether the Modification Proposal has been accepted or rejected:

- 8.10.1. each Party;
- 8.10.2. the Gas Transmission System Operator; and
- 8.10.3. any person or body that is entitled to raise Modification Proposals; and
- 8.10.4. and shall ensure that the Change Register is updated so as to indicate the determination made in relation to the Modification Proposal.

8.11. Where any Modification Proposal is accepted by virtue of Clause 8.1, the Panel shall ensure that the proposal is subject to Implementation in accordance with Clause 11.

0495
Modification

9. The Change Decision – Self Governance & Fast Track Modifications

04 April 2014

9.1. The Panel shall, in the case of any Self-Governance or Fast Track Modification Proposal that is accepted in accordance with Clause 8.1, ensure that the proposal is subject to Implementation in accordance with Clause 11.

Version 1.0
Page 12 of 15

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10. Appeal of Self Governance & Fast Track Modifications

- 10.1. Any of the following persons who are aggrieved by the acceptance or rejection of a Modification Proposal by virtue of Clause 8.10 or Clause 9.1 may appeal such acceptance or rejection to the Authority. Those persons are:
- 10.1.1. a Party;
 - 10.1.2. the National Transmission System Operator; and
 - 10.1.3. any person or body that is entitled to raise Modification Proposals;
- 10.2. Such appeal may only be made within 15 Working Days after the Secretariat notifies the aggrieved Party of the acceptance or rejection of the proposal in accordance with Clause 7.1. Such appeal must:
- 10.2.1. be made in writing;
 - 10.2.2. state why the Party believes (having regard to the criteria set out in Clause 10.7) that the acceptance or rejection of the Modification Proposal by virtue of should be quashed; and
 - 10.2.3. be copied to the Secretariat and to the Panel.
- 10.3. Where an appeal is validly made in accordance with Clause 10.2 and such appeal is in respect of an accepted Modification proposal, then such acceptance shall be suspended pending the Authority's decision pursuant to Clause 10.4
- 10.4. If the Authority, following receipt of valid appeal under Clause 10.2 (and after having consulted with any persons and had regard to any information that it thinks fit), determines that:
- 10.4.1. the person making the appeal is likely to be unfairly prejudiced by the acceptance or rejection of the Modification Proposal; or
 - 10.4.2. where the Change Proposal was accepted, such acceptance may not better facilitate the achievement of at least one of the Gas Transporters' Relevant Objectives than if it was rejected; or
 - 10.4.3. where the Change Proposal was rejected, acceptance of the Change Proposal may have better facilitated the achievement of at least one of the Gas Transporters' Relevant Objectives,
 - 10.4.4. and that the appeal is not brought for reasons that are trivial or vexatious, and nor does the appeal have no reasonable prospect of success, then Clause 10.5. shall apply. Where the Authority determines that the requirements of this Clause 10.2 are not met, then any suspension of an accepted Modification Proposal pursuant to Clause 10.3 shall cease, and Clause 11 shall apply.
- 10.5. Where this Clause applies in respect of a Modification Proposal in accordance with Clause 10.4 (but not otherwise), then:
- 10.5.1. the Panel shall give effect to any interim direction of the Authority pending the decision of the Authority for the purposes of Clause 10.4, which interim direction may include a direction to implement the Change Proposal pending such decision of the Authority; and
 - 10.5.2. determine that the appeal is dismissed, in which case the acceptance or rejection of the Modification Proposal in accordance with Clause 8.1 shall stand (and any suspension of an accepted Modification Proposal pursuant to Clause 10.6 shall cease); or
 - 10.5.3. the appeal is successful, in which case the Authority may determine that:
 - 10.5.4. the acceptance under Clause 8.1 shall be quashed (and the Modification Proposal deemed rejected) or the rejection under Clause 8.1 shall be quashed (and the Modification Proposal deemed accepted); or
 - 10.5.5. the Modification Proposal shall be sent back to the Panel for reconsideration, and once the Panel is satisfied that the issues identified by the Authority have been addressed, the Panel shall resubmit the Modification Proposal to the Voting Procedure.

0495

Modification

04 April 2014

Version 1.0

Page 13 of 15

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- 10.6. Where the Authority's decision for the purposes of Clause 10.4 quashes the acceptance or rejection of a Modification Proposal under Clause and 6.4.2, then the Modification Proposal shall be treated as if it were not Self Governance or Fast Track Status. Accordingly, the vote shall be reassessed in accordance with Clause 6.4.1 to determine the Parties recommendation to the Authority, and the decision shall be treated as a direction under Clause 8.1

11. Implementation

- 11.1. The purpose of this Clause 11 is to provide that, where a Modification Proposal has been accepted in accordance with Clause 8.1, the Panel shall make arrangements by which this Agreement will be varied in accordance with the variation so accepted (Implementation).

11.2. Implementation Date

- 11.2.1. Where, in respect of any Modification Proposal, the proposed variation to this Agreement is accepted in accordance with Clause 8 but the proposed implementation date is rejected:

- 11.2.2. the Change Proposal will be re-submitted to the Assessment Process and Voting Procedure but so that only the newly proposed implementation date (and not the proposed variation to the Agreement) is assessed and voted upon; and

- 11.2.3. the provisions of this Clause 11 shall not apply to the Modification Proposal until the proposed implementation date is also accepted in accordance with Clause 8.

- 11.2.4. Where, in respect of any Modification Proposal, the proposed variation to this Agreement is rejected in accordance with Clause 8 but the proposed implementation date is accepted, the Change Proposal as a whole shall be deemed to have been rejected in accordance with Clause 8.

11.3. Implementation

- 11.3.1. The Panel shall, at the next Panel meeting after a Modification Proposal has been accepted:

- 11.3.2. determine what actions are required in order to ensure that the accepted variation may be made by the accepted implementation date; and

- 11.3.3. Set a timetable for the completion of each of those actions which is required to ensure that the accepted variation may be made by the accepted implementation date.

- 11.3.4. It shall be the duty of the Panel to ensure that actions which are required to secure that an accepted variation may be made by the accepted implementation date are taken so as to secure that the variation is made by that date.

- 11.3.5. It shall be the duty of each Party to co-operate with the Panel to the extent required to ensure that such variation may be made by such date.

11.4. Subsequent Amendment to Implementation Date

- 11.4.1. Where, having regard to representations received from the Secretariat or from any Party, the Panel considers that it is not reasonably practicable to vary this Agreement by the relevant implementation date:

- 11.4.2. the Panel may request the Authority to direct that a new later implementation date be substituted for the first such date; and

- 11.4.3. where the Authority makes such a direction following a request by the Panel, the implementation date directed by the Authority shall have effect in substitution for the first such date, and the duties of the Panel and of each Party under this Clause 11 shall be defined by relation to that later date.

- 11.4.4. Where, having received representations from any Party as to the appropriateness of the relevant implementation date, the Authority (having first consulted with the Panel) considers that the implementation date should be amended so as to be either a later or an earlier date:

0495

Modification

04 April 2014

Version 1.0

Page 14 of 15

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11.4.5. the Authority may direct that a new implementation date be substituted for the first such date; and

11.4.6. where the Authority makes such a direction following representations from any Party, the implementation date directed by the Authority shall have effect in substitution for the first such date, and the duties of the Panel and of each Party under this Clause 11 shall be defined by relation to the date so directed.

0495

Modification

04 April 2014

Version 1.0

Page 15 of 15

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