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[...](2019) **XXX** draft

ANNEX TO EASA OPINION No 05/2019

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

**amending Commission Delegated Regulation (EU) 2019/945 as regards the introduction
of class C5 and C6 UAS**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Two new CE classes, C5 and C6, are established for UAS to be used in the ‘specific’ category under the conditions determined respectively by standard scenarios STS-01 and STS-02 as defined in the proposed amendment to Implementing Regulation (EU) 2019/947.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The proposed amendment has been consulted by EASA during a focused consultation held in July 2019 with the participation of national aviation authorities, operators and manufacturers of manned and unmanned aviation, and through an EASA Advisory Bodies’ consultation that took place from 25 September till 14 October 2019.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

[Briefly]

COMMISSION DELEGATED REGULATION (EU) .../...

of XXX

amending Commission Delegated Regulation (EU) 2019/945 as regards the introduction of class C5 and C6 UAS

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 ⁽¹⁾, and in particular Article 58 and Article 61 thereof,

Whereas:

- (1) The unmanned aircraft systems ('UAS') whose operation presents a low risk and for which the UAS operator is allowed to submit a declaration based on the standard scenario listed in Appendix 1 to the Annex to Regulation (EU) 2019/947 ⁽²⁾, should not be subject to classic aeronautical compliance procedures. The possibility to establish Community harmonisation legislation as referred to in paragraph 6 of Article 56 of Regulation (EU) 2018/1139 should be used for those UAS. Consequently, it is necessary to set out the requirements that address the risks posed by the operation of those UAS, taking full account of other applicable Union harmonisation legislation.
- (2) These requirements should cover the essential requirements set out in Article 55 of Regulation (EU) 2018/1139, in particular as regards the specific features and functionalities necessary to mitigate risks pertaining to the safety of the flight, privacy and protection of personal data, security or the environment, arising from the operation of these UAS. They lead to the creation of different classes of UAS characterised by different sets of requirements addressing different level of risks.
- (3) When manufacturers place a UAS on the market with the intention of making it available for operations under the rules and conditions applicable to the 'open' category or under an operational declaration and therefore affix a class identification label on it, they should ensure the compliance of the UAS with the requirements of that class.

¹ OJ L 212, 22.8.2018, p. 1.

² Commission Implementing Regulation (EU) 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft (OJ L 152, 11.6.2019, p. 45).

- (4) The European Union Aviation Safety Agency has prepared draft implementing rules and submitted them with Opinion No 05/2019 ⁽³⁾ in accordance with points (b) and (c) of Article 75(2) and with Article 76(1) of Regulation (EU) 2018/1139.
- (5) The measures provided for in this Regulation are in accordance with the opinion of experts established in accordance with Article 128(4) of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

Article 1

- (1) Recital 1 is replaced by the following:

‘(1) The unmanned aircraft systems (‘UAS’) whose operation presents a low risk and that belong to the ‘open’ category of operations or for which the UAS operator is allowed to submit a declaration based on the standard scenarios listed in Appendix 1 to the Annex to Regulation (EU) 2019/947 ⁽⁴⁾, should not be subject to classic aeronautical compliance procedures. The possibility to establish Community harmonisation legislation as referred to in paragraph 6 of Article 56 of Regulation (EU) 2018/1139 should be used for those UAS. Consequently, it is necessary to set out the requirements that address the risks posed by the operation of those UAS, taking full account of other applicable Union harmonisation legislation.’;
- (2) Recital 2 is replaced by the following:

‘(2) These requirements should cover the essential requirements set out in Article 55 of Regulation (EU) 2018/1139, in particular as regards the specific features and functionalities necessary to mitigate risks pertaining to the safety of the flight, privacy and protection of personal data, security or the environment, arising from the operation of these UAS. They lead to the creation of several classes of UAS characterised by different sets of requirements addressing different level of risk.’;
- (3) Recital 3 is replaced by the following:

‘(3) When manufacturers place a UAS on the market with the intention of making it available for operations under the conditions of the ‘open’ category or under an operational declaration and therefore affix a class identification label on it, they should ensure compliance of the UAS with the requirements of that class. Equally, when manufacturers place on the market an accessories kit transforming a class C3 UAS into a C5, they should ensure compliance of the UAS fitted with the accessories kit with all the requirements of class C5’;
- (4) Recital 10 is replaced by the following:

‘(10) Decision No 768/2008/EC ⁽⁵⁾ of the European Parliament and of the Council sets out common principles and horizontal provisions intended to apply to marketing of products that are subject to relevant sectorial legislation. In order to ensure consistency with other sectorial product legislation, the provisions on the marketing

³ <https://www.easa.europa.eu/document-library/opinions>

⁴ Commission Implementing Regulation (EU) 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft (OJ L 152, 11.6.2019, p. 45).

⁵ Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC (OJ L 218, 13.8.2008, p. 82).

of a UAS and a class C5 accessories kit bearing a class identification label should be aligned with the framework established by Decision No 768/2008/EC.’;

(5) Recital 13 is replaced by the following:

‘(13) Member States should take the necessary steps to ensure that UAS and class C5 accessories kit bearing class identification labels are made available on the market and put into service only where they do not compromise the health and safety of persons, domestic animals or property, when normally used.’;

(6) Recital 14 is replaced by the following:

‘(14) In order to provide citizens with a high level of environmental protection, it is necessary to limit the noise emissions to the greatest possible extent. Sound power limitations applicable to UAS intended to be operated in the ‘open’ category might be reviewed once more information on the impact of the noise produced by these UA becomes available.’;

(7) Recital 16 is replaced by the following:

‘(16) In order to ensure a high level of protection of public interest, such as health and safety, and to guarantee fair competition on the Union market, economic operators should be responsible for the compliance of each UAS and class C5 accessories kit placed on the market with a class identification label with the requirements laid down in this Regulation, in relation to their respective roles in the supply and distribution chain. Therefore, it is necessary to provide a clear and proportionate distribution of obligations, which corresponds to the role of each economic operator in the supply and distribution chain.’;

(8) Recital 17 is replaced by the following:

‘(17) In order to facilitate communication between economic operators, national market surveillance authorities and consumers, economic operators supplying or distributing UAS and class C5 accessories kit bearing class identification labels should provide a website address in addition to the postal address.’;

(9) Recital 18 is replaced by the following:

‘(18) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure of a UAS placed on the market with a class identification label. Conformity assessment should therefore remain solely the obligation of the manufacturer.’;

(10) Recital 19 is replaced by the following:

‘(19) This Regulation should apply to any UAS and class C5 accessories kit bearing a class identification label that is new to the Union market, whether a new UAS made by a manufacturer established in the Union or a new or second-hand UAS imported from a third country.’;

(11) Recital 20 is replaced by the following:

‘(20) It is necessary to ensure that UAS from third countries that enter the Union market comply with the requirements of this Regulation if they bear class identification labels. In particular, it should be ensured that manufacturers carry out appropriate conformity assessment procedures. Provision should therefore be made for importers to make sure that the UAS they place on the market comply with the requirements of this Regulation and that they do not place on the market UAS which

do not comply with these requirements or present a risk. Provision should also be made for importers to make sure that the conformity assessment procedures have been carried out and that the CE marking and technical documentation drawn up by the manufacturers is available for inspection by the competent national authorities.’;

(12) Recital 21 is replaced by the following:

‘(21) The distributor who makes a UAS and class C5 accessories kit bearing a class identification label available on the market should act with due care to ensure that its handling of the product does not adversely affect its compliance. Both importers and distributors are expected to act with due care in relation to the requirements applicable when placing or making products available on the market.’;

(13) Recital 22 is replaced by the following:

‘(22) When placing on the market a UAS and class C5 accessories kit bearing a class identification label, every importer should indicate on the UAS their name, registered trade name or registered trademark and the address at which they can be contacted. Exceptions should be provided for cases where the size of the UAS does not allow this. This includes cases where importers would have to open the packaging to put their name and address on the UAS.’;

(14) Recital 23 is replaced by the following:

‘(23) Any economic operator that either places a UAS and class C5 accessories kit bearing a class identification label on the market under their own name or trademark, or modifies a UAS and class C5 accessories kit bearing a class identification label in such a way that compliance with the applicable requirements may be affected, should be considered to be the manufacturer and should assume the obligations of the manufacturer.’;

(15) Recital 24 is replaced by the following:

‘(24) Distributors and importers, being close to the market place, should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all the necessary information relating to UAS and class C5 accessories kit bearing class identification labels.’;

(16) Recital 25 is replaced by the following:

‘(25) Ensuring the traceability of a UAS and class C5 accessories kit placed on the market with a class identification label throughout the whole supply chain helps to make market surveillance simpler and more efficient. An efficient traceability system facilitates the market surveillance authorities’ task of tracing economic operators who make non-compliant UAS available on the market.’;

(17) Recital 26 is replaced by the following:

‘(26) This Regulation should be limited to the setting out of the essential requirements. In order to facilitate the assessment of conformity of each UAS bearing a class identification label with those requirements, it is necessary to provide for a presumption of conformity for products, which are in conformity with harmonised standards that are adopted in accordance with Regulation (EU) No

1025/2012⁽⁶⁾ of the European Parliament and of the Council for the purpose of setting out detailed technical specifications of those requirements.’;

(18) Recital 27 is replaced by the following:

‘(27) The essential requirements applicable to a UAS and class C5 accessories kit bearing a class identification label should be worded precisely enough to create legally binding obligations. They should be formulated so as to make it possible to assess conformity with them even in the absence of harmonised standards or where the manufacturer chooses not to apply a harmonised standard.’;

(19) Recital 28 is replaced by the following:

‘(28) Regulation (EU) No 1025/2012 provides for a procedure for objections to harmonised standards where those standards do not entirely satisfy the requirements of the harmonisation legislation applicable to a UAS and class C5 accessories kit placed on the market with a class identification label under this Regulation. This procedure should apply where appropriate in relation to standards which reference have been published in the Official Journal as providing presumption of conformity with the requirements laid down in this Regulation.’;

(20) Recital 29 is replaced by the following:

‘(29) To enable economic operators to demonstrate and the competent authorities to ensure that each UAS and class C5 accessories kit made available on the market with a class identification label complies with the essential requirements of its class, it is necessary to provide for conformity assessment procedures. Decision No 768/2008/EC sets out modules for conformity assessment procedures, which include procedures from the least to the most stringent, in proportion to the level of risk involved and the level of safety required. In order to ensure inter-sectorial coherence and to avoid ad hoc variants of conformity assessment, conformity assessment procedures should be chosen from among those modules.’;

(21) Recital 30 is replaced by the following:

‘(30) Market surveillance authorities and UAS operators should have easy access to the EU declaration of conformity. In order to fulfil this requirement, manufacturers should ensure that each UAS and class C5 accessories kit placed on the market with a class identification label is accompanied either by a copy of the EU declaration of conformity or by the internet address at which the EU declaration of conformity can be accessed.’;

(22) Recital 31 is replaced by the following:

‘(31) To ensure effective access to information for market surveillance purposes, the information required to identify all the applicable Union acts for a UAS and class C5 accessories kit placed on the market with a class identification label should be available in a single EU declaration of conformity. In order to reduce the administrative burden on economic operators, it should be possible for that single EU declaration of conformity to be a dossier made up of relevant individual declarations of conformity.’;

⁶ Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).

- (23) Recital 32 is replaced by the following:
- ‘(32) The CE marking indicating the conformity of a product is the visible consequence of a whole process of conformity assessment in the broad sense. The general principles governing the CE marking are set out in Regulation (EC) No 765/2008 ⁽⁷⁾ of the European Parliament and of the Council. The rules governing the affixing of the CE marking to a UAS and class C5 accessories kit bearing a class identification label should be laid out in this Regulation.’;
- (24) Recital 33 is replaced by the following:
- ‘(33) Some UAS classes covered by this Regulation require the intervention of conformity assessment bodies. Member States should notify the Commission of these.’;
- (25) Recital 34 is replaced by the following:
- ‘(34) It is necessary to ensure a uniformly high level of performance of bodies performing conformity assessments of UAS and class C5 accessories kit bearing class identification labels throughout the Union, and that all such bodies perform their functions at the same level and under conditions of fair competition. Therefore, obligatory requirements should be set for conformity assessment bodies wishing to be notified in order to provide conformity assessment services.’;
- (26) Recital 35 is replaced by the following:
- ‘(35) If a conformity assessment body demonstrates the conformity of a UAS and class C5 accessories kit bearing a class identification label with the criteria laid down in harmonised standards, it should be presumed to comply with the corresponding requirements set out in this Regulation.’;
- (27) Recital 39 is replaced by the following:
- ‘(39) Conformity assessment bodies frequently subcontract parts of their activities linked to the assessment of conformity or have recourse to a subsidiary. In order to safeguard the level of protection required for the UAS and class C5 accessories kit bearing class identification labels to be placed on the Union market, it is essential that conformity assessment subcontractors and subsidiaries fulfil the same requirements as notified bodies do in relation to the performance of conformity assessment tasks. Therefore, it is important that the assessment of the competence and performance of bodies to be notified, and the monitoring of bodies already notified, also cover activities carried out by subcontractors and subsidiaries.’;
- (28) Recital 44 is replaced by the following:
- ‘(44) Manufacturers should take all appropriate measures to ensure that UAS and class C5 accessories kit bearing a class identification label may be placed on the market only if, when properly stored and used for their intended purpose or under conditions, which can be reasonably foreseen, it does not endanger people’s health or safety. UAS and class C5 accessories kit bearing a class identification label should be considered as non-compliant with the essential requirements set out in this Regulation only under conditions of use which can be reasonably foreseen, that is when such use could result from lawful and readily predictable human behaviour.’;

⁷ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

- (29) Recital 45 is replaced by the following:
- ‘(45) In order to ensure legal certainty, it is necessary to clarify that the rules on Union market surveillance and control of products entering the Union market provided for in Regulation (EC) No 765/2008, including the provisions regarding the exchange of information through the Rapid Alert System (RAPEX), apply to each UAS and class C5 accessories kit placed on the market with a class identification label. This Regulation should not prevent Member States from choosing the competent authorities to carry out those tasks. In order to ensure a smooth transition as regards the implementation of this Regulation, appropriate transitional measures should be provided.’;
- (30) Recital 47 is replaced by the following:
- ‘(47) Each UAS placed on the market with a class identification label should comply with the certification requirements for UAS operated in the ‘specific’ or ‘certified’ categories of operations, as applicable, if the UAS is used outside the ‘open’ category of operations or the standard scenarios defined in Appendix 1 to the Annex to Regulation (EU) 2019/947.’;
- (31) Paragraph 2 of Article 1 is replaced by the following.
- ‘2 It also establishes rules on making UAS and class C5 accessories kit bearing class identification labels and with remote identification add-ons available on the market and on their free movement in the Union.’;
- (32) Paragraphs 1 and 2 of Article 2 are replaced by the following.
- ‘1. Chapter II of this Regulation applies to the following products:
- (a) UAS intended to be operated under the rules and conditions applicable to the ‘open’ category of UAS operations or under operational declarations in the ‘specific’ category of UAS operations pursuant to Regulation (EU) 2019/947, except privately built UAS, and bearing a class identification label as set out in Parts 1 to 5, 16 and 17 of the Annex to this Regulation indicating to which of the seven UAS classes referred to in Implementing Regulation (EU) 2019/947 it belongs;
- (b) remote identification add-ons as set out in Part 6 of the Annex to this Regulation.
2. Chapter III of this Regulation applies to UAS operated under the rules and conditions applicable to the ‘certified’ and ‘specific’ categories of UAS operations pursuant to Regulation (EU) 2019/947 except when conducted under a declaration.’;

- (33) The title of Chapter II is replaced by the following:

‘UAS intended to be operated in the ‘open’ category or in the ‘specific’ category under operational declarations and with remote identification add-ons’;

- (34) The following point (38) is added to Article 2:

‘(38) ‘control unit’ (‘CU’) means the equipment or system of equipment to control unmanned aircraft remotely as defined in point 32 of Article 3 of Regulation (EU) 2018/1139, with the exception of any infrastructure supporting the C2 link service, which supports the control or the monitoring of the unmanned aircraft, or both, during any phase of flight;’;

- (35) The following point (39) is added to Article 2:
'(39) 'C2 link service' means a communication service between the unmanned aircraft and the CU provided by a third party;';
- (36) Article 4 is replaced by the following:
'1. The products referred to in paragraph 1 of Article 2 shall meet the requirements set out in Parts 1 to 6, 16 and 17 of the Annex.
2. UAS that are not toys within the meaning of Directive 2009/48/EC shall comply with the relevant health and safety requirements set out in Directive 2006/42/EC only in relation to risks other than those linked to the safety of the UA flight.
3. Any updates of software of the products that have already been made available on the market may be made only if such updates do not affect the compliance of the product.';
- (37) The following paragraph 3 is inserted to Article 5:
'3. Paragraphs 1 to 4 of Article 4 of Regulation (EU) 2019/1020 of the European Parliament and of the Council shall apply as from 16 July 2021.';
- (38) Paragraph 1 of Article 6 is replaced by the following:
'1. When placing their product on the Union market, manufacturers shall ensure that it has been designed and manufactured in compliance with the requirements set out in Parts 1 to 6, 16 and 17 of the Annex.';
- (39) Paragraph 2 of Article 6 is replaced by the following:
'2. Manufacturers shall draw up the technical documentation provided for in Article 17 and carry out the relevant conformity assessment procedure referred to in Article 13 or have it outsourced.
Where compliance of the product with the requirements set out in Parts 1 to 6, 16 and 17 of the Annex has been demonstrated by that conformity assessment procedure, manufacturers shall draw up an EU declaration of conformity and affix the CE marking.';
- (40) Paragraph 5 of Article 6 is replaced by the following:
'5. Manufacturers of UAS shall ensure that the UA bears a type within the meaning of Decision 768/2008/EC and a unique serial number allowing for its identification, and if applicable, compliant with the requirements defined in the corresponding Parts 2 to 4, 16 and 17 of the Annex. Manufacturers of remote identification add-ons shall ensure that the remote identification add-on bears a type and a unique serial number allowing for their identification and compliant with the requirements defined in Part 6 of the Annex. In both cases, manufacturers shall ensure that a unique serial number is also affixed to the EU declaration of conformity or to the simplified EU declaration of conformity referred to in Article 14.';
- (41) Paragraph 7 of Article 6 is replaced by the following:
'7. Manufacturers shall ensure that the product is accompanied by the manual and information notice required by Parts 1 to 6, 16 and 17 of the Annex in a language which can be easily understood by consumers and other end users, as determined by the Member State concerned. Such manual and information notice, as well as any labelling, shall be clear, understandable and legible.';

(42) Paragraph 2 of Article 8 is replaced by the following:

- ‘2. Before placing a product on the Union market, importers shall ensure that:
- (a) the appropriate conformity assessment procedure referred to in Article 13 has been carried out by the manufacturer;
 - (b) the manufacturer has drawn up the technical documentation referred to in Article 17;
 - (c) the product bears the CE marking and, when required, the UA class identification label and the indication of the sound power level;
 - (d) the product is accompanied by the documents referred to in paragraph 7 and 8 of Article 6;
 - (e) the manufacturer has complied with the requirements set out in paragraphs 5 and 6 of Article 6.

Where an importer considers or has reasons to believe that a product is not in conformity with the requirements set out in Parts 1 to 6, 16 and 17 of the Annex, they shall not place the product on the market until it has been brought into conformity. Furthermore, where the product presents a risk for the health and safety of consumers and third parties, the importer shall inform the manufacturer and the competent national authorities to that effect.’;

(43) Paragraph 4 of Article 8 is replaced by the following:

‘4. Importers shall ensure that the product is accompanied by the manual and information notice required by Parts 1 to 6, 16 and 17 of the Annex in a language which can be easily understood by consumers and other end users, as determined by the Member State concerned. That manual and information notice, as well as any labelling, shall be clear, understandable and legible.’;

(44) Paragraph 2 of Article 9 is replaced by the following:

‘2. Before making a product available on the market, distributors shall verify that the product bears the CE marking and, when applicable, the UA class identification label and the indication of the sound power level, is accompanied by the documents referred to in paragraphs 7 and 8 of Article 6 and that the manufacturer and the importer have complied with the requirements set out in paragraphs 5 and 6 of Article 6 and in paragraph 3 of Article 8.

Distributors shall ensure that the product is accompanied by the manual and information notice required by Parts 1 to 6, 16 and 17 of the Annex in a language which can be easily understood by consumers and other end users, as determined by the Member State concerned. That manual and information notice, as well as any labelling, shall be clear, understandable and legible.

Where a distributor considers or has reason to believe that a product is not in conformity with the requirements set out in Article 4, they shall not make the product available on the market until it has been brought into conformity. Furthermore, where the product presents a risk, the distributor shall inform the manufacturer or the importer to that effect, as well as the competent market surveillance authorities.’;

(45) Article 12 is replaced by the following:

‘A product which is in conformity with harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in Parts 1 to 6, 16 and 17 of the Annex.’;

(46) Paragraph 1 of Article 13 is replaced by the following:

‘1. The manufacturer shall perform a conformity assessment of the product using one of the following procedures with a view to establishing its compliance with the requirements set out in Parts 1 to 6, 16 and 17 of the Annex. The conformity assessment shall take into account all intended and foreseeable operating conditions.’;

(47) Paragraph 1 of Article 14 is replaced by the following:

‘1. The EU declaration of conformity referred to in paragraph 8 of Article 6 shall state that compliance of the product with the requirements set out in Parts 1 to 6, 16 and 17 of the Annex has been demonstrated and, for UAS, identify its class.’;

(48) Paragraph 2 of Article 16 is replaced by the following:

‘2. The UA class identification label shall be affixed visibly, legibly and indelibly to the UA or, when relevant, the class C5 accessories, and its packaging and shall be at least 5 mm high. The affixing to a product of markings, signs or inscriptions which are likely to mislead third parties regarding the meaning or form of the class identification label shall be prohibited.’;

(49) Paragraph 1 of Article 17 is replaced by the following:

‘1. The technical documentation shall contain all relevant data and details of the means used by the manufacturer to ensure that the product complies with the requirements set out in Parts 1 to 6, 16 and 17 of the Annex. It shall, at least, contain the elements set out in Part 10 of the Annex.’;

(50) Paragraph 4 of Article 17 is replaced by the following:

‘4. Where the technical documentation does not comply with paragraphs 1, 2 or 3 of this Article, the market surveillance authority may ask the manufacturer or the importer to have a test performed by a body acceptable to the market surveillance authority at the expense of the manufacturer or the importer within a specified period in order to verify compliance of the product with the requirements set out in Parts 1 to 6, 16 and 17 of the Annex which applies to it.’;

(51) Paragraph 3 of Article 30 is replaced by the following:

‘3. Where a notified body finds that the requirements set out in Parts 1 to 6, 16 and 17 of the Annex or in corresponding harmonised standards or other technical specifications have not been met by a manufacturer, it shall require the manufacturer to take appropriate corrective measures and shall not issue an EU-type examination certificate or a quality system approval.’;

(52) Paragraph 1 of Article 36 is replaced by the following:

‘1. Where the market surveillance authorities of one Member State have sufficient reason to believe that a product presents a risk to the health or safety of persons or to other aspects of public interest protection covered by this Chapter, they shall carry out an evaluation in relation to the product concerned, covering all applicable

requirements laid down in this Chapter. The relevant economic operators shall cooperate as necessary with the market surveillance authorities for that purpose.

Where, in the course of the evaluation referred to in the first subparagraph, the market surveillance authorities find that the product does not comply with the requirements laid down in this Chapter, they shall, without delay, require the relevant economic operator to take all appropriate corrective actions to bring the product into compliance with those requirements, to withdraw the product from the market, or to recall it within a reasonable period, commensurate with the nature of the risk, as they may prescribe.

The market surveillance authorities shall inform the relevant notified body accordingly.

Article 21 of Regulation (EC) No 765/2008 shall apply to the measures referred to in the second subparagraph of this paragraph.’;

(53) The title of Chapter III is replaced by the following:

‘Requirements for UAS operated in the ‘certified’ the ‘specific’ categories except when conducted under a declaration’;

(54) Article 40 is replaced by the following:

‘Article 40

Requirements for UAS operated in the ‘certified’ and ‘specific’ categories except when conducted under a declaration.

1. The design, production and maintenance of UAS shall be certified if the UAS meets any of the following conditions:
 - (a) it has a characteristic dimension of 3 m or more, and is designed to be operated over assemblies of people;
 - (b) it is designed for transporting people;
 - (c) it is designed for the purpose of transporting dangerous goods and requiring a high level of robustness to mitigate the risks for third parties in case of accident;
 - (d) it is used in the ‘specific’ category of operations defined in Article 5 of Regulation (EU) 2019/947 and the operational authorisation issued by the competent authority, following a risk assessment provided for in Article 11 of Regulation (EU) 2019/947, considers that the risk of the operation cannot be adequately mitigated without the certification of the UAS.
2. A UAS subject to certification shall comply with the applicable requirements set out in Commission Regulation (EU) No 748/2012, Commission Regulation (EU) 2015/640 and Commission Regulation (EU) No 1321/2014.
3. Unless it needs to be certified in accordance with paragraph 1, a UAS used in the ‘specific’ category shall feature the technical capabilities set out in the operational authorisation issued by the competent authority or as defined by the Light UAS

Operator Certificate (LUC) pursuant to Part C of the Annex to Implementing Regulation (EU) 2019/947.

4. All UAS not subject to registration according to Article 16 of the Implementing Regulation (EU) 2019/947 shall have a unique serial number compliant with standard ANSI/CTA-2063-A *Small Unmanned Aerial Systems Serial Numbers*;
5. Each UA intended to be operated in the ‘specific’ category and at a height below the height defined in paragraphs (1) and (2) of point (f) of point SERA.5005 of Regulation (EU) 923/2012 ⁽⁸⁾ shall be equipped with a remote identification system that allows, in real time during the whole duration of the flight, the periodic transmission of at least the following data, in a way that it can be received by existing mobile devices:
 - (a) the UAS operator registration number;
 - (b) the unique serial number of the UA compliant with Standard ANSI/CTA-2063-A unless the UA is privately built;
 - (c) the time stamp, the geographical position of the UA and its height above the surface or take-off point;
 - (d) the route course measured clockwise from true north and ground speed of the UA; and
 - (e) the geographical position of the remote pilot or, if not available, the take-off point.’;

(55) The Annex to the Regulation is amended according to the Annex to this Regulation.

Article 2

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

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

Done at Brussels,

For the Commission
The President
[...]

⁸ Commission Implementing Regulation (EU) 923/2012 of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010 (OJ L 281, 13.10.2012, p. 1).