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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2016/879

of 2 June 2016

establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, detailed arrangements relating to the declaration of conformity when placing refrigeration, air conditioning and heat pump equipment charged with hydrofluorocarbons on the market and its verification by an independent auditor

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006 ⁽¹⁾, and in particular Article 14(4) thereof,

Whereas:

- (1) Article 14(2) of Regulation (EU) No 517/2014 allows placing on the market of refrigeration, air conditioning and heat pump equipment charged with hydrofluorocarbons, if the hydrofluorocarbons contained in the equipment are accounted for within the quota system referred to in Chapter IV of that Regulation. When placing pre-charged equipment on the market, manufacturers and importers of the equipment are to document compliance with that requirement and to draw up a declaration of conformity in that respect.
- (2) In drawing up the declarations of conformity and documentation, it is necessary to provide for the different options reflecting the different ways of ensuring compliance available to manufacturer and importers. These options refer to placing on the market equipment charged with hydrofluorocarbons subject to an authorisation pursuant to Article 18(2) of Regulation (EU) No 517/2014, equipment charged with hydrofluorocarbons that have previously been placed on the market as bulk and subsequently re-exported and charged into the equipment outside the Union and equipment charged with hydrofluorocarbons in the Union. Different type of documents are required from importers and manufacturers reflecting the different type of activities carried out by these undertakings.
- (3) To ensure that declarations of conformity based on authorisations pursuant to Article 18(2) of Regulation (EU) No 517/2014 are credible, it is important to ensure that such authorisations can be traced. In this respect, these authorisations should be duly registered in the registry established pursuant to Article 17 of that Regulation.
- (4) To provide guidance for the third party verification of the declaration of conformity and underlying documentation required by Article 14(2) of Regulation (EU) No 517/2014, the scope of this verification, as well as the modalities for the submission of the verification documents should be determined.
- (5) For reasons of consistency, it is necessary that the relevant provisions laid down in this Regulation and the relevant provisions laid down in Regulation (EU) No 517/2014 apply from the same dates.

⁽¹⁾ OJ L 150, 20.5.2014, p. 195.

- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 24 of Regulation (EU) No 517/2014,

HAS ADOPTED THIS REGULATION:

Article 1

Declaration of conformity

1. Importers and manufacturers of refrigeration, air conditioning and heat pump equipment charged with hydrofluorocarbons ('equipment') shall draw up the declaration of conformity referred to in Article 14 of Regulation (EU) No 517/2014 using the template set out in Annex I to this Regulation. The declaration of conformity shall be signed by a legal representative of the manufacturer or importer of equipment.
2. In case of imports of equipment referred to in Article 1, the importer shall ensure that a copy of the declaration of conformity is available to the customs authorities at the time the customs declaration related to the release for free circulation in the Union is submitted.
3. A declaration of conformity may only refer to an authorisation referred to in Article 18 of Regulation (EU) No 517/2014 if the authorisation is duly registered in the registry established pursuant to Article 17 of that Regulation.

Article 2

Documentation

1. For any placing on the market, manufacturers of equipment charged with hydrofluorocarbons in the Union shall keep the following documentation referred to in Article 14 of Regulation (EU) No 517/2014:
 - (a) the declaration of conformity;
 - (b) a list identifying the equipment, and the type and total quantity in kilograms per type of hydrofluorocarbons contained in the equipment; this list is not required if the manufacturer can prove that the hydrofluorocarbons contained in the equipment were previously placed on the market prior to the charging;
 - (c) where the hydrofluorocarbons were supplied by another undertaking in the Union, the delivery note or invoice for the corresponding hydrofluorocarbons previously placed on the market in the Union;
 - (d) where hydrofluorocarbons contained in the equipment are imported and released for free circulation in the Union by the manufacturer of equipment prior to charging the equipment, the relevant customs documents showing that the quantity of hydrofluorocarbons contained in the equipment has been released for free circulation in the Union;
 - (e) where hydrofluorocarbons contained in the equipment are imported by the manufacturer, but are not released for free circulation in the Union prior to charging the equipment, proof that the relevant customs procedures for the release for free circulation of the relevant quantities of hydrofluorocarbons are complied with when that equipment is placed on the market;
 - (f) where the hydrofluorocarbons contained in the equipment are produced by the manufacturer of equipment and charged in its equipment in the Union, a document showing the quantity of the hydrofluorocarbons contained in the equipment.
2. Importers of equipment shall keep the following documentation referred to in Article 14 of Regulation (EU) No 517/2014 for any equipment covered by one customs declaration for release for free circulation in the Union:
 - (a) the declaration of conformity;
 - (b) a list identifying the equipment released for free circulation providing the following information:
 - (i) the model information;

- (ii) the number of units per model;
 - (iii) the identification of the type of hydrofluorocarbons contained in each model;
 - (iv) the quantity of hydrofluorocarbons in each unit rounded to the nearest gram;
 - (v) the total quantity of hydrofluorocarbons in kilograms and in tonnes of CO₂ equivalent;
- (c) the customs declaration related to the release for free circulation of the equipment in the Union;
- (d) where the hydrofluorocarbons contained in the equipment have been placed on the market in the Union, subsequently exported and charged into the equipment outside the Union, a delivery note or invoice, as well as a declaration by the undertaking that placed the hydrofluorocarbons on the market, stating that the quantity of hydrofluorocarbons has been or will be reported as placed on the market in the Union and that it has not been and will not be reported as direct supply for export in the meaning of Article 15(2)(c) of Regulation (EU) No 517/2014 pursuant to Article 19 of Regulation (EU) No 517/2014 and Section 5C of the Annex to Commission Implementing Regulation (EU) No 1191/2014 ⁽¹⁾.

Article 3

Verification

1. The independent auditor referred to in the second subparagraph of Article 14(2) of Regulation (EU) No 517/2014 shall verify the following documentation and declaration(s) of conformity of the importer of the equipment:
- (a) consistency of the declaration(s) of conformity and the related documents with the reports submitted pursuant to Article 19 of Regulation (EU) No 517/2014 and Sections 11, 12 and 13 of the Annex to Implementing Regulation (EU) No 1191/2014;
 - (b) the accuracy and completeness of the information contained in the declarations of conformity and the related documents on the basis of the undertaking's records of relevant transactions;
 - (c) where an importer of equipment refers to an authorisation issued in accordance with Article 18(2) of Regulation (EU) No 517/2014, the availability of sufficient authorisations by comparing data in the registry referred to in Article 17 of Regulation (EU) No 517/2014 with documents evidencing the placing on the market;
 - (d) where the hydrofluorocarbons contained in the equipment have been placed on the market in the Union, subsequently exported and charged into the equipment outside the Union, the existence of a declaration by the undertaking placing the hydrofluorocarbons on the market in accordance with Article 2(2)(d), covering the relevant quantities.
2. The independent auditor shall issue a verification document containing its findings following the verification in accordance with paragraph 1. This shall include a statement on the level of accuracy of the relevant documentation and declarations.

Article 4

Submission of verification documents

The importer of equipment shall submit the verification document referred to in Article 3(2) of this Regulation using the reporting tool made available pursuant to Article 1 of Implementing Regulation (EU) No 1191/2014 by 31 March every year for the preceding calendar year and indicate in the tool the auditor's findings about the level of accuracy of the relevant documentation and declarations.

⁽¹⁾ Commission Implementing Regulation (EU) No 1191/2014 of 30 October 2014 determining the format and means for submitting the report referred to in Article 19 of Regulation (EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases (OJ L 318, 5.11.2014, p. 5).

*Article 5***Entry into force and application**

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

However, Articles 1 and 2 shall apply from 1 January 2017 and Articles 3 and 4 shall apply from 1 January 2018.

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

Done at Brussels, 2 June 2016.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

Declaration of conformity with Article 14 of Regulation (EU) No 517/2014 of the European Parliament and of the Council ⁽¹⁾

We [insert the name of company, the VAT identification number and for importers of equipment insert the F-gas Portal Registration ID], declare under our sole responsibility that when placing on the market pre-charged equipment, which we import to or manufacture in the Union, the hydrofluorocarbons contained in that equipment are accounted for within the quota system referred to in Chapter IV of Regulation (EU) No 517/2014 as:

[please tick the relevant option(s); coverage by the quota system is achieved by one or more of the options below]

- ☐ A. we hold authorisation(s) issued in accordance with Article 18(2) of Regulation (EU) No 517/2014 and registered in the registry referred to in Article 17 of that Regulation, at the time of release for free circulation to use the quota of a producer or importer of hydrofluorocarbons subject to Article 15 of Regulation (EU) No 517/2014 that cover(s) the quantity of hydrofluorocarbons contained in the equipment.
- ☐ B. [for importers of equipment only] the hydrofluorocarbons contained in the equipment have been placed on the market in the Union, subsequently exported and charged into the equipment outside the Union, and the undertaking that placed the hydrofluorocarbons on the market made a declaration stating that the quantity of hydrofluorocarbons has been or will be reported as placed on the market in the Union and that it has not been and will not be reported as direct supply for export in the meaning of Article 15(2)(c) of Regulation (EU) No 517/2014 pursuant to Article 19 of Regulation (EU) No 517/2014 and Section 5C of the Annex to Commission Implementing Regulation (EU) No 1191/2014 ⁽²⁾.
- ☐ C. [for equipment manufactured in the Union only] the hydrofluorocarbons charged into the equipment were placed on the market by a producer or importer of hydrofluorocarbons subject to Article 15 of Regulation (EU) No 517/2014.

[name and position of legal representative]

[signature of legal representative]

[date]

⁽¹⁾ Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006 (OJ L 150, 20.5.2014, p. 195).

⁽²⁾ Commission Implementing Regulation (EU) No 1191/2014 of 30 October 2014 determining the format and means for submitting the report referred to in Article 19 of Regulation (EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases (OJ L 318, 5.11.2014, p. 5).

COMMISSION IMPLEMENTING REGULATION (EU) 2016/880**of 2 June 2016****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

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

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

Whereas:

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 2 June 2016.

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

Director-General for Agriculture and Rural Development

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

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

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MA	127,1
	TR	66,0
	ZZ	96,6
0707 00 05	TR	99,6
	ZZ	99,6
0709 93 10	TR	149,1
	ZZ	149,1
0805 50 10	AR	171,0
	MA	160,2
	TR	75,0
	ZA	188,7
	ZZ	148,7
0808 10 80	AR	112,0
	BR	103,6
	CL	135,6
	CN	112,1
	NZ	156,1
	PE	111,0
	US	192,9
	ZA	112,7
	ZZ	129,5
0809 10 00	TR	260,5
	ZZ	260,5
0809 29 00	TR	572,4
	US	828,7
	ZZ	700,6

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

DIRECTIVES

COUNCIL DIRECTIVE (EU) 2016/881

of 25 May 2016

amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 113 and 115 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) In recent years, the challenge posed by tax fraud and tax evasion has increased considerably and has become a major focus of concern within the Union and at global level. The automatic exchange of information constitutes an important tool in this regard: in its Communication of 6 December 2012 setting out an Action Plan to strengthen the fight against tax fraud and tax evasion, the Commission highlighted the need to promote vigorously the automatic exchange of information as the future European and international standard for transparency and exchange of information in tax matters. In its conclusions of 22 May 2013, the European Council requested the extension of automatic information exchange at both Union and global level with a view to combating tax fraud, tax evasion and aggressive tax planning.
- (2) As multinational enterprise groups (MNE Groups) are active in different countries, they have the possibility of engaging in aggressive tax-planning practices that are not available for domestic companies. When MNE Groups do so, purely domestic companies, normally small and medium-sized enterprises (SMEs), may be particularly affected, as their tax burden is higher than that of MNE Groups. On the other hand, all Member States may suffer revenue losses and there is the risk of competition to attract MNE Groups by offering them further tax benefits.
- (3) Member States' tax authorities need comprehensive and relevant information on MNE Groups regarding their structure, transfer-pricing policy and internal transactions in and outside the Union. That information will enable the tax authorities to react to harmful tax practices by making changes in legislation or by undertaking adequate risk assessments and tax audits, and to identify whether companies have engaged in practices that have the effect of artificially shifting substantial amounts of income into tax-advantaged environments.
- (4) Increased transparency towards tax authorities could have the effect of giving MNE Groups an incentive to abandon certain practices and pay their fair share of tax in the country where profits are made. Enhancing transparency for MNE Groups is therefore an essential part of tackling base erosion and profit shifting.

⁽¹⁾ Opinion of the European Parliament of 12 May 2016 (not yet published in the Official Journal).

⁽²⁾ Opinion of the European Economic and Social Committee of 28 April 2016 (not yet published in the Official Journal).

- (5) The Resolution of the Council and of the representatives of the governments of the Member States on a code of conduct on transfer pricing documentation for associated enterprises in the European Union (EU TPD) ⁽¹⁾ already sets out a way for MNE Groups in the Union to provide tax authorities with information on global business operations and transfer-pricing policies ('the masterfile') and information on the concrete transactions of the local entity ('the local file'). However, the EU TPD does not at present provide for any mechanism for the provision of a country-by-country report.
- (6) In the country-by-country report, MNE Groups should provide annually and for each tax jurisdiction in which they do business the amount of revenue, profit before income tax and income tax paid and accrued. MNE Groups should also report the number of their employees, stated capital, accumulated earnings and tangible assets in each tax jurisdiction. Finally, MNE Groups should identify each entity within the group doing business in a particular tax jurisdiction and provide an indication of the business activities in which each entity engages.
- (7) In order to enhance the efficient use of public resources and reduce the administrative burden for MNE Groups, the reporting obligation should only apply to MNE Groups with annual consolidated group revenue exceeding a certain amount. This Directive should ensure that the same information is collected and made available to tax administrations in a timely manner throughout the Union.
- (8) To ensure the proper functioning of the internal market, the Union has to provide for fair competition between Union MNE Groups and non-Union MNE Groups for which one or several of their entities are located in the Union. Both of them should therefore be subject to the reporting obligation. However, in order to ensure a smooth transition, Member States should be able to defer by one year the reporting obligation for Constituent Entities resident in a Member State which are not the Ultimate Parent Entities of MNE Groups or their Surrogate Parent Entities.
- (9) Member States should lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and ensure that those penalties are implemented. While the choice of penalties remains within the discretion of the Member States, the penalties provided for should be effective, proportionate and dissuasive.
- (10) To ensure the proper functioning of the internal market, it is necessary to ensure that Member States adopt coordinated rules on transparency obligations of MNE Groups.
- (11) As regards exchange of information between Member States, Council Directive 2011/16/EU ⁽²⁾ already provides for the mandatory automatic exchange of information in a number of fields
- (12) The mandatory automatic exchange of country-by-country reports between Member States should in each case include the communication of a defined set of basic information that would be accessible to those Member States in which, on the basis of the information in the country-by-country report, one or more entities of the MNE Group are either resident for tax purposes or subject to tax with respect to the business carried out through a permanent establishment of an MNE Group.
- (13) In order to minimise costs and administrative burdens both for tax administrations and for MNE Groups, it is necessary to provide rules that are in line with the international developments and contribute positively to their implementation. On 19 July 2013 the Organisation for Economic Development and Cooperation (OECD) published its Action Plan on Base Erosion and Profit Shifting ('BEPS Action Plan'), which is a major initiative to modify existing international tax rules. On 5 October 2015 the OECD presented its final reports, which were endorsed by the G20 Finance Ministers. During the meeting of 15 and 16 November 2015, the OECD package was also endorsed by the G20 leaders.
- (14) The work on Action 13 of the BEPS Action Plan resulted in a set of standards for providing information for MNE Groups, including the masterfile, the local file and the country-by-country report. It is therefore appropriate to take into account the OECD standards when establishing the rules on the country-by-country report.

⁽¹⁾ Resolution of the Council and of the representatives of the governments of the Member States, meeting within the Council, of 27 June 2006 on a code of conduct on transfer pricing documentation for associated enterprises in the European Union (EU TPD) (OJ C 176, 28.7.2006, p. 1).

⁽²⁾ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

- (15) In a situation where a Constituent Entity cannot obtain or acquire all the information required in order to fulfil the reporting requirement under this Directive, Member States could consider this as an indication of the need to assess high-level transfer-pricing risks and other base-erosion and profit-shifting risks related to that MNE Group.
- (16) Where a Member State determines that another Member State has persistently failed to automatically provide country-by-country reports, it should endeavour to consult that Member State.
- (17) Union action in the area of country-by-country reporting should continue to take particular account of future developments at OECD level. In implementing this Directive, Member States should use the 2015 Final Report on Action 13 of the OECD/G20 Base Erosion and Profit Shifting Project, developed by the OECD, as a source of illustration or interpretation for this Directive and in order to ensure consistency of application across Member States.
- (18) It is necessary to specify linguistic requirements for the exchange of information between Member States on the country-by-country report. It is also necessary to adopt the practical arrangements necessary for the upgrading of the common communication network defined in point 13 of Article 3 of Directive 2011/16/EU ('the CCN network'). In order to ensure uniform conditions for the implementation of Articles 20(6) and 21(6) of Directive 2011/16/EU, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁾.
- (19) In order to enhance the efficient use of resources, facilitate the exchange of information and avoid the need for each Member State to make similar adjustments to its systems, the exchange of information should be made through the CCN network. The practical arrangements necessary for the upgrading of the system should be adopted by the Commission in accordance with the procedure referred to in Article 26(2) of Directive 2011/16/EU.
- (20) The scope of the mandatory exchange of information should therefore be extended to include the automatic exchange of information on the country-by-country report.
- (21) Member States' yearly report to the Commission under Article 23 of Directive 2011/16/EU, should detail the extent of local filing under Article 8aa of that Directive and Point 1 of Section II of Annex III thereto and a list of any jurisdictions where Ultimate Parent Entities of Union-based Constituent Entities are resident, but full reports have not been filed or exchanged.
- (22) The information exchanged under this Directive does not lead to the disclosure of a commercial, industrial or professional secret, a commercial process or information the disclosure of which would be contrary to public policy.
- (23) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.
- (24) Since the objective of this Directive, namely efficient administrative cooperation between Member States under conditions compatible with the proper functioning of the internal market, cannot be sufficiently achieved by the Member States and can therefore, by reason of the uniformity and effectiveness required, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (25) Directive 2011/16/EU should therefore be amended accordingly,

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2011/16/EU is amended as follows:

(1) point 9 of Article 3 is replaced by the following:

‘9. “automatic exchange” means,

- (a) for the purposes of Article 8(1) and Articles 8a and 8aa, the systematic communication of predefined information to another Member State, without prior request, at pre-established regular intervals. For the purposes of Article 8(1), reference to available information relates to information in the tax files of the Member State communicating the information, which is retrievable in accordance with the procedures for gathering and processing information in that Member State;
- (b) for the purposes of Article 8(3a), the systematic communication of predefined information on residents in other Member States to the relevant Member State of residence, without prior request, at pre-established regular intervals;
- (c) for the purposes of provisions of this Directive other than Article 8(1) and (3a) and Articles 8a and 8aa, the systematic communication of predefined information provided in points (a) and (b) of this point.

In the context of Articles 8(3a), 8(7a) and 21(2) and Article 25(2) and (3), any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex I. In the context of Article 8aa and Annex III, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex III.’;

(2) in Chapter II, Section II the following Article is inserted:

‘Article 8aa

Scope and conditions of mandatory automatic exchange of information on the country-by-country report

1. Each Member State shall take the necessary measures to require the Ultimate Parent Entity of an MNE Group that is resident for tax purposes in its territory, or any other Reporting Entity in accordance with Section II of Annex III, to file a country-by-country report with respect to its Reporting Fiscal Year within 12 months of the last day of the Reporting Fiscal Year of the MNE Group in accordance with Section II of Annex III.

2. The competent authority of a Member State where the country-by-country report was received pursuant to paragraph 1 shall, by means of automatic exchange and within the deadline laid down in paragraph 4, communicate the country-by-country report to any other Member State in which, on the basis of the information in the country-by-country report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes or subject to tax with respect to the business carried out through a permanent establishment.

3. The country-by-country report shall contain the following information with respect to the MNE Group:

- (a) aggregate information relating to the amount of revenue, profit (loss) before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees, and tangible assets other than cash or cash equivalents with regard to each jurisdiction in which the MNE Group operates;
- (b) an identification of each Constituent Entity of the MNE Group setting out the jurisdiction of tax residence of that Constituent Entity and, where different from that jurisdiction of tax residence, the jurisdiction under the laws of which that Constituent Entity is organised, and the nature of the main business activity or activities of that Constituent Entity.

4. The communication shall take place within 15 months of the last day of the Fiscal Year of the MNE Group to which the country-by-country report relates. The first country-by-country report shall be communicated for the Fiscal Year of the MNE Group commencing on or after 1 January 2016, which shall take place within 18 months of the last day of that Fiscal Year.’;

(3) in Article 16, the following paragraph is added:

‘6. Notwithstanding paragraphs 1 to 4 of this Article, information communicated between Member States pursuant to Article 8aa shall be used for the purposes of assessing high-level transfer-pricing risks and other risks related to base erosion and profit shifting, including assessing the risk of non-compliance by members of the MNE Group with applicable transfer-pricing rules, and where appropriate for economic and statistical analysis. Transfer-pricing adjustments by the tax authorities of the receiving Member State shall not be based on the information exchanged pursuant to Article 8aa. Notwithstanding the above, there is no prohibition on using the information communicated between Member States pursuant to Article 8aa as a basis for making further enquiries into the MNE Group’s transfer-pricing arrangements or into other tax matters in the course of a tax audit, and, as a result, appropriate adjustments to the taxable income of a Constituent Entity may be made.’;

(4) in Article 20, the following paragraph is added:

‘6. The automatic exchange of information on the country-by-country report pursuant to Article 8aa shall be carried out using the standard form provided in Tables 1, 2 and 3 of Section III of Annex III. The Commission shall, by means of implementing acts, adopt the linguistic arrangements for that exchange by 31 December 2016. They shall not preclude Member States from communicating information referred to in Article 8aa in any of the official and working languages of the Union. However, those linguistic arrangements may provide that the key elements of such information also be sent in another official language of the Union. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2).’;

(5) in Article 21, the following paragraph is added:

‘6. Information communicated pursuant to Article 8aa(2) shall be provided by electronic means using the CCN network. The Commission shall, by means of implementing acts, adopt the necessary practical arrangements for the upgrading of the CCN network. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2).’;

(6) in Article 23, paragraph 3 is replaced by the following:

‘3. Member States shall communicate to the Commission a yearly assessment of the effectiveness of the automatic exchange of information referred to in Articles 8, 8a and 8aa as well as the practical results achieved. The Commission shall, by means of implementing acts, adopt the form of and the conditions of communication for that yearly assessment. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2).’;

(7) the following Article is inserted:

‘Article 25a

Penalties

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive concerning Article 8aa, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.’;

(8) Article 26 is replaced by the following:

‘Article 26

Committee procedure

1. The Commission shall be assisted by the Committee on administrative cooperation for taxation. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council (*).

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

(*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).’;

(9) Annex III, the text of which is set out in the Annex to this Directive, is added.

Article 2

1. Member States shall adopt and publish, by 4 June 2017, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those measures from 5 June 2017.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 25 May 2016.

For the Council

The President

J.R.V.A. DIJSSELBLOEM

ANNEX

‘ANNEX III

FILING RULES FOR GROUPS OF MULTINATIONAL ENTERPRISES

SECTION I

DEFINED TERMS

1. The term “Group” means a collection of enterprises related through ownership or control such that it is either required to prepare Consolidated Financial Statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange.
2. The term “Enterprise” means any form of conducting business by any person referred to in points (b), (c) and (d) of Article 3, point 11.
3. The term “MNE Group” means any Group that includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction, and is not an Excluded MNE Group.
4. The term “Excluded MNE Group” means, with respect to any Fiscal Year of the Group, a Group having total consolidated group revenue of less than EUR 750 000 000 or an amount in local currency approximately equivalent to EUR 750 000 000 as of January 2015 during the Fiscal Year immediately preceding the Reporting Fiscal Year as reflected in its Consolidated Financial Statements for such preceding Fiscal Year.
5. The term “Constituent Entity” means any of the following:
 - (a) any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange;
 - (b) any such business unit that is excluded from the MNE Group's Consolidated Financial Statements solely on size or materiality grounds;
 - (c) any permanent establishment of any separate business unit of the MNE Group included in (a) or (b) provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes.
6. The term “Reporting Entity” means the Constituent Entity that is required to file a country-by-country report conforming to the requirements in Article 8aa(3) in its jurisdiction of tax residence on behalf of the MNE Group. The Reporting Entity may be the Ultimate Parent Entity, the Surrogate Parent Entity, or any entity described in point 1 of Section II.
7. The term “Ultimate Parent Entity” means a Constituent Entity of an MNE Group that meets the following criteria:
 - (a) it owns directly or indirectly a sufficient interest in one or more other Constituent Entities of such MNE Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence;
 - (b) there is no other Constituent Entity of such MNE Group that owns directly or indirectly an interest described in point (a) in the first mentioned Constituent Entity.
8. The term “Surrogate Parent Entity” means one Constituent Entity of the MNE Group that has been appointed by such MNE Group, as a sole substitute for the Ultimate Parent Entity, to file the country-by-country report in that Constituent Entity's jurisdiction of tax residence, on behalf of such MNE Group, when one or more of the conditions set out in point (b) of the first paragraph of point 1 of Section II apply.

9. The term “Fiscal Year” means an annual accounting period with respect to which the Ultimate Parent Entity of the MNE Group prepares its financial statements.
10. The term “Reporting Fiscal Year” means that Fiscal Year the financial and operational results of which are reflected in the country-by-country report referred to in Article 8aa(3).
11. The term “Qualifying Competent Authority Agreement” means an agreement that is between authorised representatives of an EU Member State and a non-Union jurisdiction that are parties to an International Agreement and that requires the automatic exchange of country-by-country reports between the party jurisdictions.
12. The term “International Agreement” means the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, any bilateral or multilateral tax convention, or any tax information exchange agreement to which the Member State is a party, and that by its terms provides legal authority for the exchange of tax information between jurisdictions, including automatic exchange of such information.
13. The term “Consolidated Financial Statements” means the financial statements of an MNE Group in which the assets, liabilities, income, expenses and cash flows of the Ultimate Parent Entity and the Constituent Entities are presented as those of a single economic entity.
14. The term “Systemic Failure” with respect to a jurisdiction means either that a jurisdiction has a Qualifying Competent Authority Agreement in effect with a Member State but has suspended automatic exchange (for reasons other than those that are in accordance with the terms of that Agreement), or that a jurisdiction otherwise persistently failed to automatically provide to a Member State country-by-country reports in its possession of MNE Groups that have Constituent Entities in that Member State.

SECTION II

GENERAL REPORTING REQUIREMENTS

1. A Constituent Entity resident in a Member State which is not the Ultimate Parent Entity of an MNE Group shall file a country-by-country report with respect to the Reporting Fiscal Year of an MNE Group of which it is a Constituent Entity, if the following criteria are satisfied:
 - (a) the entity is resident for tax purposes in a Member State;
 - (b) one of the following conditions applies:
 - (i) the Ultimate Parent Entity of the MNE Group is not obligated to file a country-by-country report in its jurisdiction of tax residence;
 - (ii) the jurisdiction in which the Ultimate Parent Entity is resident for tax purposes has a current International Agreement to which the Member State is a party but does not have a Qualifying Competent Authority Agreement in effect to which the Member State is a party by the time specified in Article 8aa(1) for filing the country-by-country report for the Reporting Fiscal Year;
 - (iii) there has been a Systemic Failure of the jurisdiction of tax residence of the Ultimate Parent Entity that has been notified by the Member State to the Constituent Entity resident for tax purposes in the Member State.

Without prejudice to the obligation of the Ultimate Parent Entity referred to in Article 8aa(1) or its Surrogate Parent Entity to file the first country-by-country report for the Fiscal Year of the MNE Group commencing on or after 1 January 2016, Member States may decide that the obligation for Constituent Entities set out in point 1 of this Section shall apply for country-by-country reports with respect to the Reporting Fiscal Years commencing on or after 1 January 2017 onwards.

A Constituent Entity resident in a Member State as defined in the first paragraph of this point shall request its Ultimate Parent Entity to provide it with all information required to enable it to meet its obligations to file a country-by-country report, in accordance with Article 8aa(3). If despite that, that Constituent Entity has not obtained or acquired all the required information to report for the MNE Group, this Constituent Entity shall file a country-by-country report containing all information in its possession, obtained or acquired, and notify the Member State of its residence that the Ultimate Parent Entity has refused to make the necessary information available. This shall be without prejudice to the right of the Member State concerned to apply penalties provided for in its national legislation and this Member State shall inform all Member States of this refusal.

Where there are more than one Constituent Entities of the same MNE Group that are resident for tax purposes in the Union and one or more of the conditions set out in point (b) of the first paragraph apply, the MNE Group may designate one of such Constituent Entities to file the country-by-country report conforming to the requirements of Article 8aa(3) with respect to any Reporting Fiscal Year within the deadline specified in Article 8aa(1) and to notify the Member State that the filing is intended to satisfy the filing requirement of all the Constituent Entities of such MNE Group that are resident for tax purposes in the Union. That Member State shall, pursuant to Article 8aa(2), communicate the country-by-country report received to any other Member State in which, on the basis of the information in the country-by-country report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes or are subject to tax with respect to the business carried out through a permanent establishment.

Where a Constituent Entity cannot obtain or acquire all the information required to file a country-by-country report, in line with Article 8aa(3), then such Constituent Entity shall not be eligible to be designated to be the Reporting Entity for the MNE Group in accordance with the fourth paragraph of this point. This rule shall be without prejudice to the obligation of the Constituent Entity to notify the Member State of its residence that the Ultimate Parent Entity has refused to make the necessary information available.

2. By derogation from point 1, when one or more of the conditions set out in point (b) of the first paragraph of point 1 apply, an entity described in point 1 shall not be required to file a country-by-country report with respect to any Reporting Fiscal Year if the MNE Group of which it is a Constituent Entity has made available a country-by-country report in accordance with Article 8aa(3) with respect to such Fiscal Year through a Surrogate Parent Entity that files that country-by-country report with the tax authority of its jurisdiction of tax residence on or before the date specified in Article 8aa(1) and that, in case the Surrogate Parent Entity is tax resident in a jurisdiction outside the Union, satisfies the following conditions:
 - (a) the jurisdiction of tax residence of the Surrogate Parent Entity requires filing of country-by-country reports conforming to the requirements of Article 8aa(3);
 - (b) the jurisdiction of tax residence of the Surrogate Parent Entity has a Qualifying Competent Authority Agreement in effect to which the Member State is a party by the time specified in Article 8aa(1) for filing the country-by-country report for the Reporting Fiscal Year;
 - (c) the jurisdiction of tax residence of the Surrogate Parent Entity has not notified the Member State of a Systemic Failure;
 - (d) the jurisdiction of tax residence of the Surrogate Parent Entity has been notified no later than the last day of the Reporting Fiscal Year of such MNE Group by the Constituent Entity resident for tax purposes in its jurisdiction that it is the Surrogate Parent Entity;
 - (e) a notification has been provided to the Member State in accordance with point 4.
3. Member States shall request that any Constituent Entity of an MNE Group that is resident for tax purposes in that Member State notifies the Member State whether it is the Ultimate Parent Entity or the Surrogate Parent Entity or the Constituent Entity designated under point 1, no later than the last day of the Reporting Fiscal Year of such MNE Group. Member States may extend that deadline to the last day for filing of a tax return of that Constituent Entity for the preceding fiscal year.
4. Member States shall request that where a Constituent Entity of an MNE Group, that is resident for tax purposes in that Member State, is not the Ultimate Parent Entity nor the Surrogate Parent Entity nor the Constituent Entity designated under point 1, it shall notify the Member State of the identity and tax residence of the Reporting Entity, no later than the last day of the Reporting Fiscal Year of such MNE Group. Member States may extend that deadline to the last day for filing of a tax return of that Constituent Entity for the preceding fiscal year.
5. The country-by-country report shall specify the currency of the amounts referred to in that report.

SECTION III

COUNTRY-BY-COUNTRY REPORT

A. Template for the country-by-country report

Table 1. Overview of allocation of income, taxes and business activities by tax jurisdiction

[illegible]

Table 2 List of all the Constituent Entities of the MNE Group included in each aggregation per tax jurisdiction

Name of the MNE Group: Fiscal Year concerned:														
Tax Jurisdic- tion	Constituent Entities Resident in the Tax Jurisdiction	Tax Jurisdiction of Organisa- tion or Incorporation if Different from Tax Jurisdic- tion of Residence	Main Business Activity(ies)											
			Research and Development	Holding or Managing Intellectual Property	Purchasing or Procurement	Manufacturing or Production	Sales, Marketing or Distribution	Administrative, Management or Support Services	Provision of Services to Unrelated Parties	Internal Group Finance	Regulated Financial Services	Insurance	Holding Shares or Other Equity instruments	Dormant Other ⁽¹⁾
	1.													
	2.													
	3.													
	1.													
	2.													
	3.													

(1) Please specify the nature of the activity of the Constituent Entity in the “Additional information”

Table 3: Additional information

Name of the MNE Group: Fiscal Year concerned:														
Please include any further brief information or explanation you consider necessary or that would facilitate the understanding of the compulsory information provided in the country-by-country report														

B. General instructions for filling in the country-by-country report

1. Purpose

The template shall be used for reporting a multinational enterprise's (MNE) Group allocation of income, taxes and business activities on a tax jurisdiction-by-tax jurisdiction basis.

2. Treatment of branches and permanent establishments

The permanent establishment data shall be reported by reference to the tax jurisdiction in which it is situated and not by reference to the tax jurisdiction of residence of the business unit of which the permanent establishment is a part. Residence tax jurisdiction reporting for the business unit of which the permanent establishment is a part shall exclude financial data related to the permanent establishment.

3. Period covered by the annual template

The template shall cover the Fiscal Year of the reporting MNE. For Constituent Entities, at the discretion of the reporting MNE, the template shall reflect on a consistent basis either of the following information:

- (a) information for the Fiscal Year of the relevant Constituent Entities ending on the same date as the Fiscal Year of the reporting MNE, or ending within the 12 month period preceding such date;
- (b) information for all the relevant Constituent Entities reported for the Fiscal Year of the reporting MNE.

4. Source of data

The reporting MNE shall consistently use the same sources of data from year to year in completing the template. The reporting MNE may choose to use data from its consolidation reporting packages, from separate entity statutory financial statements, regulatory financial statements, or internal management accounts. It is not necessary to reconcile the revenue, profit and tax reporting in the template to the Consolidated Financial Statements. If statutory financial statements are used as the basis for reporting, all amounts shall be translated to the stated functional currency of the reporting MNE at the average exchange rate for the year stated in the "Additional information" section of the template. Adjustments need not be made, however, for differences in accounting principles applied from tax jurisdiction to tax jurisdiction.

The reporting MNE shall provide a brief description of the sources of data used in preparing the template in the "Additional information" section of the template. If a change is made in the source of data used from year to year, the reporting MNE shall explain the reasons for the change and its consequences in the "Additional information" section of the template.

C. Specific instructions for filling in the country-by-country report

1. Overview of allocation of income, taxes and business activities by tax jurisdiction (Table 1)

1.1. Tax jurisdiction

In the first column of the template, the reporting MNE shall list all of the tax jurisdictions in which Constituent Entities of the MNE Group are resident for tax purposes. A tax jurisdiction is defined as a State as well as a non-State jurisdiction which has fiscal autonomy. A separate line shall be included for all Constituent Entities in the MNE Group deemed by the reporting MNE not to be resident in any tax jurisdiction for tax purposes. Where a Constituent Entity is resident in more than one tax jurisdiction, the applicable tax treaty tie breaker shall be applied to determine the tax jurisdiction of residence. Where no applicable tax treaty exists, the Constituent Entity shall be reported in the tax jurisdiction of the Constituent Entity's place of effective management. The place of effective management shall be determined with internationally agreed standards.

1.2. Revenues

In the three columns of the template under the heading “Revenues”, the reporting MNE shall report the following information:

- (a) the sum of revenues of all the Constituent Entities of the MNE Group in the relevant tax jurisdiction generated from transactions with associated enterprises;
- (b) the sum of revenues of all the Constituent Entities of the MNE Group in the relevant tax jurisdiction generated from transactions with independent parties;
- (c) the total of the sums referred to in points (a) and (b).

Revenues shall include revenues from sales of inventory and properties, services, royalties, interest, premiums and any other amounts. Revenues shall exclude payments received from other Constituent Entities that are treated as dividends in the payer's tax jurisdiction.

1.3. Profit (loss) before income tax

In the fifth column of the template, the reporting MNE shall report the sum of the profit (loss) before income tax for all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The profit (loss) before income tax shall include all extraordinary income and expense items.

1.4. Income tax paid (on cash basis)

In the sixth column of the template, the reporting MNE shall report the total amount of income tax actually paid during the relevant Fiscal Year by all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. Taxes paid shall include cash taxes paid by the Constituent Entity to the residence tax jurisdiction and to all other tax jurisdictions. Taxes paid shall include withholding taxes paid by other entities (associated enterprises and independent enterprises) with respect to payments to the Constituent Entity. Thus, if company A resident in tax jurisdiction A earns interest in tax jurisdiction B, the tax withheld in tax jurisdiction B shall be reported by company A.

1.5. Income tax accrued (current year)

In the seventh column of the template, the reporting MNE shall report the sum of the accrued current tax expense recorded on taxable profits or losses of the year of reporting of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The current tax expense shall reflect only operations in the current year and shall not include deferred taxes or provisions for uncertain tax liabilities.

1.6. Stated capital

In the eighth column of the template, the reporting MNE shall report the sum of the stated capital of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. With regard to permanent establishments, the stated capital shall be reported by the legal entity of which it is a permanent establishment unless there is a defined capital requirement in the permanent establishment tax jurisdiction for regulatory purposes.

1.7. Accumulated earnings

In the ninth column of the template, the reporting MNE shall report the sum of the total accumulated earnings of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction as of the end of the year. With regard to permanent establishments, accumulated earnings shall be reported by the legal entity of which it is a permanent establishment.

1.8. Number of employees

In the tenth column of the template, the reporting MNE shall report the total number of employees on a full-time equivalent (FTE) basis of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The number of employees may be reported as of the year-end, on the basis of average employment levels for the year, or on any other basis consistently applied across tax jurisdictions and from year to year. For this purpose, independent contractors participating in the ordinary operating activities of the Constituent Entity may be reported as employees. Reasonable rounding or approximation of the number of employees is permissible, providing that such rounding or approximation does not materially distort the relative distribution of employees across the various tax jurisdictions. Consistent approaches shall be applied from year to year and across entities.

1.9. Tangible assets other than cash and cash equivalents

In the eleventh column of the template, the reporting MNE shall report the sum of the net book values of tangible assets of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. With regard to permanent establishments, assets shall be reported by reference to the tax jurisdiction in which the permanent establishment is situated. Tangible assets for this purpose do not include cash or cash equivalents, intangibles, or financial assets.

2. List of all the Constituent Entities of the MNE Group included in each aggregation per tax jurisdiction (Table 2)

2.1. Constituent Entities resident in the tax jurisdiction

The reporting MNE shall list, on a tax jurisdiction-by-tax jurisdiction basis and by legal entity name, all the Constituent Entities of the MNE Group which are resident for tax purposes in the relevant tax jurisdiction. As stated in point 2 of the general instructions with regard to permanent establishments, however, the permanent establishment shall be listed by reference to the tax jurisdiction in which it is situated. The legal entity of which it is a permanent establishment shall be noted.

2.2. Tax jurisdiction of organisation or incorporation if different from tax jurisdiction of residence

The reporting MNE shall report the name of the tax jurisdiction under whose laws the Constituent Entity of the MNE Group is organised or incorporated if it is different from the tax jurisdiction of residence.

2.3. Main business activity(ies)

The reporting MNE shall determine the nature of the main business activity(ies) carried out by the Constituent Entity in the relevant tax jurisdiction, by ticking one or more of the appropriate boxes.'

COMMISSION DIRECTIVE (EU) 2016/882
of 1 June 2016
amending Directive 2007/59/EC of the European Parliament and of the Council as regards language requirements

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the railway system in the Community ⁽¹⁾, and in particular Article 31 thereof,

Whereas:

- (1) Certain provisions in Annex VI to Directive 2007/59/EC regarding the language requirements of B1 level for train drivers represent an unnecessary high burden in very specific cases where train drivers only reach the border station of a neighbouring Member State, hence impacting on the continuity of cross-border operations.
- (2) Therefore it is necessary to reduce the superfluous linguistic burden in the sections between the borders and the stations situated close to the borders and designated for cross-border operations, by exempting the concerned train drivers from the language requirements of B1 level.
- (3) As prerequisite for the exemption, sufficient arrangements should be in place for ensuring communication between the concerned drivers and the staff of the infrastructure manager in routine, degraded and emergency situations, in order to avoid any negative impact on the safety of the railway system.
- (4) Transitional measures should be provided for train drivers who have obtained or will obtain their licence in accordance with Directive 2007/59/EC before the date of application of national provisions transposing this Directive.
- (5) Directive 2007/59/EC should therefore be amended accordingly.
- (6) The measures provided for in this Directive are in accordance with the opinion of the Committee referred to in Article 32(1) of Directive 2007/59/EC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex VI to Directive 2007/59/EC is amended as set out in the Annex to this Directive.

Article 2

Train drivers who have obtained or will obtain their licence in accordance with Directive 2007/59/EC before 1 July 2016 shall be considered to comply with its requirements.

⁽¹⁾ OJ L 315, 3.12.2007, p. 51.

Article 3

1. Member States shall adopt and publish, by 1 July 2016 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 July 2016.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

3. The obligations for transposition and implementation of this Directive shall not apply to the Republic of Cyprus and the Republic of Malta for as long as no railway system is established within their territories.

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 1 June 2016.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Point 8 of Annex VI to the Directive 2007/59/EC is replaced by the following:

‘8. LANGUAGE TESTS

1. Drivers who have to communicate with the infrastructure manager on critical safety issues must have language skills in at least one of the languages indicated by the infrastructure manager concerned. Their language skills must be such that they can communicate actively and effectively in routine, degraded and emergency situations. They must be able to use the messages and communication method specified in the “Operations and traffic management” TSI.
2. In order to satisfy the requirements provided for in paragraph 1, drivers must be able to understand (both listening and reading) and to communicate (both speaking and writing) according to level B1 of the Common European Framework of Reference for Languages (CEFR) established by the Council of Europe ⁽¹⁾.
3. In case of sections between the borders and the stations situated close to the borders and designated for cross border operations, drivers of trains operated by a railway undertaking may be exempted by the infrastructure manager from the requirements of paragraph 2, provided that the following procedure is applied:
 - (a) the railway undertaking shall request a derogation to the infrastructure manager for the concerned drivers. In order to ensure a fair and equal treatment of the applicants, to each submitted request for derogation the infrastructure manager shall apply the same assessment procedure, which shall be part of the network statement;
 - (b) the infrastructure manager shall grant a derogation if the railway undertaking can demonstrate that it has made sufficient arrangements for ensuring communication between the concerned drivers and the staff of the infrastructure manager in routine, degraded and emergency situations, as provided for in paragraph 1;
 - (c) railway undertakings and infrastructure managers shall ensure that the concerned staff is aware of those rules and arrangements and receive appropriate training through their safety management systems.’

⁽¹⁾ Common European Framework of Reference for Languages: Learning, Teaching, Assessment, 2001 (Cambridge University Press for the English version ISBN 0-521-00531-0). Also available on the Cedefop website: <http://www.cedefop.europa.eu/>

DECISIONS

COMMISSION DECISION (EU, Euratom) 2016/883

of 31 May 2016

on implementing rules for standard security measures, alert states and management of crisis situations in the Commission pursuant to Article 21 of Decision (EU, Euratom) 2015/443 on security in the Commission

THE EUROPEAN COMMISSION,

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

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on security in the Commission ⁽¹⁾, and in particular Article 21 thereof,

Whereas:

- (1) The objective of implementing rules for standard security measures, alert states and management of crisis situations is to provide appropriate levels of protection for physical integrity of persons, premises or other assets commensurate with identified risks, and ensuring efficient and timely delivery of security.
- (2) The security alert state system for the Commission introduced by Commission Decision 2007/65/EC ⁽²⁾ needs to be reviewed and simplified in order to render it more flexible and effective as a response to threats to security.
- (3) The establishment of the European External Action Service (EEAS) as a functionally autonomous body of the Union requires an amendment of the current rules on alert states with regard to the duty of care towards Commission staff. The EEAS is responsible for the security and safety in European Union Delegation premises and the staff working there.
- (4) This Decision is subject to an empowerment decision of the Commission in favour of the Member of the Commission responsible for security matters, in full compliance with the internal rules of procedure as referred to in Article 21 of Decision (EU, Euratom) 2015/443.
- (5) Decision 2007/65/EC should therefore be repealed,

HAS ADOPTED THIS DECISION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Definition

In addition to the definitions set out in Article 1 of (EU, Euratom) 2015/443 the following definition applies:

‘alert state’ means a set of security measures intended to provide a specific level of protection of the physical integrity of persons, premises or other assets in the Commission commensurate with the threats to security.

⁽¹⁾ OJ L 72, 17.3.2015, p. 41.

⁽²⁾ Commission Decision 2007/65/EC of 15 December 2006, establishing the Commission’s standard security measures and alert states and amending its Rules of Procedure as regards operational procedures for management of crisis situations (OJ L 32, 6.2.2007, p. 144).

*Article 2***Subject matter and scope**

1. This Decision sets out alert state measures in compliance with Decision (EU, Euratom) 2015/443 in anticipation of or in response to threats and incidents affecting security in the Commission and measures required for managing crisis situations.
2. A security system comprising standard security measures and three alert states shall apply in the premises of the Commission. The standard security measures and the alert states shall be identified by colour codes: WHITE corresponds to the standard security measures; YELLOW, ORANGE and RED correspond to increased threat levels.
3. This Decision shall apply to all Commission departments and in all premises of the Commission situated inside and outside the European Union subject to responsibilities referred to in Article 4.

*Article 3***Alert state levels**

1. When no particular threat or incident affecting the physical integrity of persons, premises or other assets has been identified in the Commission, standard WHITE security measures shall apply. They shall be used on a daily basis and are designed to ensure an appropriate level of security.
2. When threats are made or an incident affecting the physical integrity of persons, premises or other assets occurs that may have an adverse effect on the Commission or its functioning, the YELLOW alert state shall apply.
3. When threats are made affecting the physical integrity of persons, premises or other assets aimed specifically at the Commission or its functioning, even though no definite target or time of attack has been identified, the ORANGE alert state shall apply.
4. When threats of an imminent attack are made, affecting the physical integrity of persons, premises or other assets, aimed specifically at the Commission or its functioning, the RED alert state shall apply.

*Article 4***Responsibilities**

1. The Member of the Commission responsible for security:
 - (a) shall decide in consultation with other European institutions and other relevant European entities on changing of the alert state level;
 - (b) shall decide upon advice from the Directorate-General for Human Resources and Security which of the specific measures of the alert state are to be implemented in light of the current security situation and which additional measures need to be taken;
 - (c) shall inform the President and the other Members of the Commission of any decision taken pursuant to this article.
2. The Directorate-General for Human Resources and Security:
 - (a) shall be responsible for the implementation of this Decision in Commission premises situated in the Member States of the European Union;
 - (b) shall ensure external liaison as set out in Article 18(2) of (EU, Euratom) 2015/443 in case of threats or incidents affecting physical integrity of persons, premises or other assets in the Commission;

- (c) in case of urgency shall take the decisions set out in paragraph 1(a) and (b). The Directorate-General for Human Resources and Security shall, as soon as possible after having taken those measures, inform the Member of the Commission responsible for security of the measures and the reasons for them;
 - (d) shall continuously monitor threats and risks to security.
3. The Directorate-General for Humanitarian Aid and Civil Protection shall be responsible for the implementation of this Decision in all its offices located in third countries.
4. The Directorate-General for Communication shall be responsible for the implementation of this Decision in the Commission Representations and Regional Representations.
5. The Directorate-General for the Joint Research Centre shall be responsible for the implementation of this Decision in the Commission Joint Research Centre's premises.
6. The above listed Directorates-General may take additional security measures in case of urgency in compliance with the present Decision and (EU, Euratom) 2015/443. The Directorate-General for Human Resources and Security shall be informed of these measures without delay.

Article 5

Measures

1. The Directorate-General for Human Resources and Security shall take and implement security measures in accordance with (EU, Euratom) 2015/443. A non-exhaustive list of measures shall be prepared and implemented by the Directorate-General for Human Resources and Security.
2. The alert state measures shall be in strict compliance with Decision (EU, Euratom) 2015/443. The alert states levels shall be defined in close cooperation with the competent services of other European institutions and other relevant European entities and with Member States hosting Commission premises.
3. The alert state levels shall be expressed in the public areas through a colour-coded signalling system and the colour varies according to the alert state level.
4. Security measures 'WHITE' shall be detailed in a security notice in full compliance with Article 21(2) of (EU, Euratom) 2015/443.

CHAPTER 2

MISCELLANEOUS AND FINAL PROVISIONS

Article 6

Transparency

This Decision shall be brought to the attention of Commission staff and of all individuals to whom it applies.

Article 7

Repeal

Decision 2007/65/EC is repealed.

*Article 8***Entry into force**

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

Done at Brussels, 31 May 2016.

*For the Commission,
On behalf of the President,
Kristalina GEORGIEVA
Vice-President*

COMMISSION IMPLEMENTING DECISION (EU) 2016/884**of 1 June 2016****amending Implementing Decision 2014/88/EU suspending temporarily imports from Bangladesh of foodstuffs containing or consisting of betel leaves ('Piper Betle') as regards its period of application***(notified under document C(2016) 3181)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety ⁽¹⁾, and in particular Article 53(1)(b)(i) thereof,

Whereas:

- (1) Regulation (EC) No 178/2002 lays down the general principles governing food in general, and food safety in particular, at Union and national level. It provides for emergency measures to be taken by the Commission where there is evidence that food imported from a third country is likely to constitute a serious risk to human health.
- (2) Commission Implementing Decision 2014/88/EU ⁽²⁾ prohibited the importation into the Union of foodstuffs containing or consisting of betel leaves from Bangladesh until 31 July 2014. It was adopted following a high number of notifications issued to the Rapid Alert System for Food and Feed (RASFF) due to the presence of a wide range of *salmonella* strains, including *salmonella typhimurium*, found in foodstuffs containing or consisting of betel leaves from Bangladesh. *Salmonella typhimurium* strain is the second most reported serotype in human cases and high prevalences have been found in foodstuffs containing or consisting of betel leaves ('Piper betle', commonly known as 'Paan leaf' or 'Betel quid') from Bangladesh. Since 2011, the United Kingdom has reported several outbreaks of *salmonella* poisoning from betel leaves.
- (3) Since Bangladesh was not able to provide guarantees securing the imports of betel leaves into the Union and despite efforts from the Commission, Commission Implementing Decisions 2014/510/EU ⁽³⁾ and (EU) 2015/1028 ⁽⁴⁾ extended the period of application of the temporary suspension of imports of these products laid down in Implementing Decision 2014/88/EU until 30 June 2015 and 30 June 2016 respectively.
- (4) The revised action plan submitted by Bangladesh in August 2015 was incomplete. There were no guarantees on its effective application and enforcement. The new information submitted by Bangladesh in April 2016 did not further demonstrate the effectiveness of that action plan. The self-imposed export ban on betel leaves introduced by Bangladesh in May 2013 remains in place. However, it has not proved to be fully effective and since its adoption, 26 cases of attempted imports of betel leaves into the Union have been reported in the RASFF. Therefore, the guarantees provided by Bangladesh are insufficient to address the serious risks to human health. The emergency measures established by Implementing Decision 2014/88/EU should therefore remain in place.
- (5) The period of application of Implementing Decision 2014/88/EU should therefore be further extended.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

⁽²⁾ Commission Implementing Decision 2014/88/EU of 13 February 2014 suspending temporarily imports from Bangladesh of foodstuffs containing or consisting of betel leaves ('Piper betle') (OJ L 45, 15.2.2014, p. 34).

⁽³⁾ Commission Implementing Decision 2014/510/EU of 29 July 2014 amending Implementing Decision 2014/88/EU suspending temporarily imports from Bangladesh of foodstuffs containing or consisting of betel leaves ('Piper betle') as regards its period of application (OJ L 228, 31.7.2014, p. 33).

⁽⁴⁾ Commission Implementing Decision (EU) 2015/1028 of 26 June 2015 amending Implementing Decision 2014/88/EU suspending temporarily imports from Bangladesh of foodstuffs containing or consisting of betel leaves ('Piper betle') as regards its period of application (OJ L 163, 30.6.2015, p. 53).

HAS ADOPTED THIS DECISION:

Article 1

Article 4 of Implementing Decision 2014/88/EU is replaced by the following:

'Article 4

This Decision shall apply until 30 June 2018.'

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 1 June 2016.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

CORRIGENDA

Corrigendum to Commission Implementing Regulation (EU) 2016/799 of 18 March 2016 implementing Regulation (EU) No 165/2014 of the European Parliament and of the Council laying down the requirements for the construction, testing, installation, operation and repair of tachographs and their components

(Official Journal of the European Union L 139 of 26 May 2016)

Annex II is inserted as follows:

ANNEX II

APPROVAL MARK AND CERTIFICATE

I. APPROVAL MARK

1. The approval mark shall be made up of:

- (a) a rectangle, within which shall be placed the letter 'e' followed by a distinguishing number or letter for the country which has issued the approval in accordance with the following conventional signs:

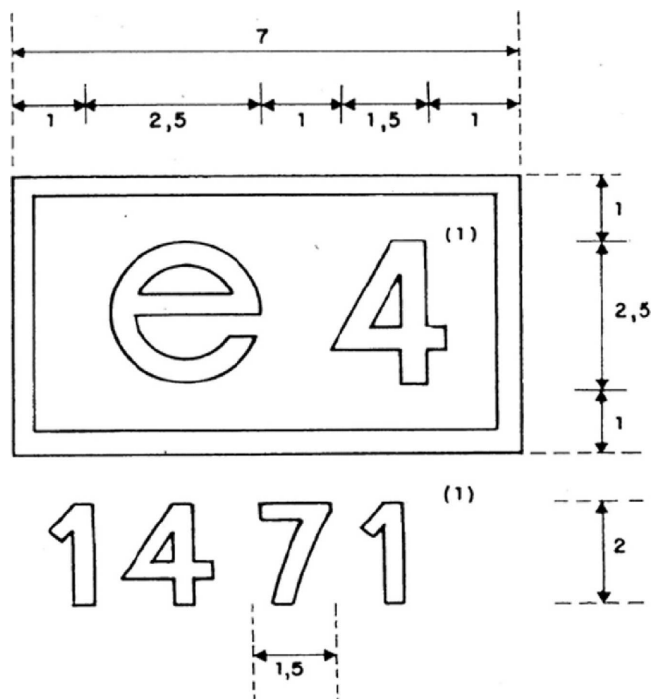
Belgium	6,
Bulgaria	34,
Czech Republic	8,
Denmark	18,
Germany	1,
Estonia	29,
Ireland	24,
Greece	23,
Spain	9,
France	2,
Croatia	25,
Italy	3,
Cyprus	CY,
Latvia	32,
Lithuania	36,
Luxembourg	13,
Hungary	7,
Malta	MT,
Netherlands	4,
Austria	12,
Poland	20,
Portugal	21,
Romania	19,
Slovenia	26,
Slovakia	27,
Finland	17,
Sweden	5,
United Kingdom	11,

and

- (b) an approval number corresponding to the number of the approval certificate drawn up for the prototype of the recording equipment or the record sheet or to the number of a tachograph card, placed at any point within the immediate proximity of that rectangle.

2. The approval mark shall be shown on the descriptive plaque of each set of equipment and on each record sheet and on each tachograph card. It must be indelible and must always remain clearly legible.

3. The dimensions of the approval mark drawn below ⁽¹⁾ are expressed in millimetres, these dimensions being minima. The ratios between the dimensions must be maintained.



⁽¹⁾ These figures are shown for guidance only.

II. APPROVAL CERTIFICATE FOR ANALOGUE TACHOGRAPHS

A Member State which has granted approval shall issue the applicant with an approval certificate, the model of which is given below. When informing other Member States of approvals issued or, if the occasion should arise, withdrawn, a Member State shall use copies of that certificate.

APPROVAL CERTIFICATE

Name of competent administration

Notification concerning ⁽¹⁾:

- approval of a type of recording equipment
- withdrawal of approval of a type of recording equipment
- approval of a model record sheet
- withdrawal of approval of a model record sheet

Approval No:

.....

1. Trade mark or name
2. Name of type or model
3. Name of manufacturer
4. Address of manufacturer
5. Submitted for approval on
6. Tested at
7. Date and number of the test(s)
8. Date of approval
9. Date of withdrawal of approval
10. Type or types of recording equipment in which sheet is designed to be used
11. Place
12. Date
13. Descriptive documents annexed
14. Remarks (including the position of seals if applicable)

(Signature)

⁽¹⁾ Delete items not applicable.

III. APPROVAL CERTIFICATE FOR DIGITAL TACHOGRAPHS

A Member State which has granted approval shall issue the applicant with an approval certificate, the model of which is given below. When informing other Member States of approvals issued or, if the occasion should arise, withdrawn, a Member State shall use copies of that certificate.

APPROVAL CERTIFICATE FOR DIGITAL TACHOGRAPHS

Name of competent administration

Notification concerning ⁽¹⁾:

☐ approval of:

☐ withdrawal of approval of:

☐ recording equipment model

☐ recording equipment component ⁽²⁾

☐ a driver's card

☐ a workshop card

☐ a company card

☐ a controller's card

Approval No:

.....

1. Manufacturing brand or trademark

2. Name of model

3. Name of manufacturer

4. Address of manufacturer

5. Submitted for approval for

6. Laboratory(-ies)

7. Date and number of test report

8. Date of approval

9. Date of withdrawal of approval

10. Model of recording equipment(s) with which the component is designed to be used

11. Place

12. Date

13. Descriptive documents annexed

14. Remarks (including the position of seals if applicable)

(Signature)

⁽¹⁾ Tick the relevant boxes.

⁽²⁾ Specify the component dealt with in the notification.

IV. APPROVAL CERTIFICATE FOR SMART TACHOGRAPHS

A Member State which has granted approval shall issue the applicant with an approval certificate, the model of which is given below. When informing other Member States of approvals issued or, if the occasion should arise, withdrawn, a Member State shall use copies of that certificate.

APPROVAL CERTIFICATE FOR SMART TACHOGRAPHS

Name of competent administration

Notification concerning ⁽¹⁾:

☐ approval of:

☐ withdrawal of approval of:

☐ recording equipment model

☐ recording equipment component ⁽²⁾

☐ a driver's card

☐ a workshop card

☐ a company card

☐ a controller's card

Approval No:

.....

1. Manufacturing brand or trademark

2. Name of model

3. Name of manufacturer

4. Address of manufacturer

5. Submitted for approval for

6. (a) Test laboratory for functional certification

(b) Test laboratory for security certification

(c) Test laboratory for interoperability certification

7. (a) Date and number of functional certificate

(b) Date and number of security certificate

(c) Date and number of interoperability certificate

8. Date of approval

9. Date of withdrawal of approval

10. Model of recording equipment(s) with which the component is designed to be used

11. Place

12. Date

13. Descriptive documents annexed

14. Remarks (including the position of seals if applicable)

(Signature)

⁽¹⁾ Tick the relevant boxes.

⁽²⁾ Specify the component dealt with in the notification.

Corrigendum to Commission Implementing Regulation (EU) 2016/535 of 5 April 2016 amending Annex II to Regulation (EU) No 206/2010 as regards the entry of Singapore in the list of third countries, territories or parts thereof from which the introduction into the Union of fresh meat is authorised

(Official Journal of the European Union L 89 of 6 April 2016)

On page 13, in the Annex, in the model veterinary certificate NZ-TRANSIT-SG, point II.1 'Health attestation', in the last line of point II.1.3:

for: '... requirements of Section I and V respectively of Annex II to Regulation (EC) No 853/2004 ...',

read: '... requirements of Section I and V respectively of Annex III to Regulation (EC) No 853/2004 ...'.

Corrigendum to Commission Implementing Regulation (EU) 2016/876 of 1 June 2016 laying down the allocation coefficient to be applied to the quantities covered by the applications for import licences lodged from 20 May 2016 to 27 May 2016 under the tariff quotas opened by Implementing Regulation (EU) 2015/2081 for certain cereals originating in Ukraine

(Official Journal of the European Union L 145 of 2 June 2016)

On page 22, in recital 3:

for: 'The quantities covered by the applications for import licences lodged from 20 May 2016 to 27 May 2016 at 13.00 (Brussels time) exceed those available for the quota with order number 09.4306.',

read: 'The quantities covered by the applications for import licences lodged from 20 May 2016 from 13.00 to 27 May 2016 at 13.00 (Brussels time) exceed those available for the quota with order number 09.4306.';

on page 22, Article 1(1):

for: '1. The quantities covered by the applications for import licences under the quota with order number 09.4306 and referred to in the Annex to Implementing Regulation (EU) 2015/2081, lodged from 20 May 2016 to 27 May 2016 at 13.00 (Brussels time), shall be multiplied by an allocation coefficient of 49,812221 % for applications lodged under the tariff quota with order number 09.4306.',

read: '1. The quantities covered by the applications for import licences under the quota with order number 09.4306 and referred to in the Annex to Implementing Regulation (EU) 2015/2081, lodged from 20 May 2016 from 13.00 to 27 May 2016 at 13.00 (Brussels time), shall be multiplied by an allocation coefficient of 49,812221 % for applications lodged under the tariff quota with order number 09.4306.'.

