

Official Journal of the European Union

L 260



English edition

Legislation

Volume 61

17 October 2018

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⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2018/1549

of 11 October 2018

on the signing, on behalf of the Union, of the Arrangement between the European Union, of the one part, and the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the participation by those States in the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 74, points (a) and (b) of Article 77(2), point (e) of Article 78(2), point (c) of Article 79(2), point (d) of Article 82(1), Article 85(1), point (a) of Article 87(2) and Article 88(2), in conjunction with Article 218(5), thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Regulation (EU) No 1077/2011 of the European Parliament and of the Council ⁽¹⁾ established the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (the 'Agency').
- (2) Regulation (EU) No 1077/2011 provides that under the relevant provisions of their association agreements, arrangements are to be made in order to specify, inter alia, the nature and extent of, and the detailed rules for, the participation of countries associated with the implementation, application and development of the Schengen *acquis* and Eurodac-related measures in the work of the Agency, including provisions on financial contributions, staff and voting rights.
- (3) On 24 July 2012, the Council authorised the Commission to open negotiations with the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein for an arrangement on the modalities of their participation in the Agency. The negotiations were successfully concluded by the initialling of the Arrangement between the European Union, of the one part, and the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the participation by those States in the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (the 'Arrangement') on 15 June 2018.
- (4) The text of the Arrangement, which is the result of the negotiations, contains the specifications needed to make the participation of the countries associated with the implementation, application and development of the Schengen *acquis* and Eurodac-related measures in the work of the Agency a reality.
- (5) As specified in recital 33 of Regulation (EU) No 1077/2011, the United Kingdom is taking part in and is bound by that Regulation. Ireland requested to take part in Regulation (EU) No 1077/2011 following its adoption, in accordance with Protocol No 19 on the Schengen *acquis* integrated into the framework of the European Union, annexed to the Treaty on European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU), and with Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of

⁽¹⁾ Regulation (EU) No 1077/2011 of the European Parliament and of the Council 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p. 1).

freedom, security and justice, annexed to the TEU and to the TFEU. The United Kingdom and Ireland should therefore give effect to Article 37 of Regulation (EU) No 1077/2011 by taking part in this Decision. The United Kingdom and Ireland are therefore taking part in this Decision.

- (6) As specified in recital 32 of Regulation (EU) No 1077/2011, Denmark is not taking part in and is not bound by that Regulation. Denmark is therefore not taking part in this Decision. Given that this Decision, insofar as it relates to the Schengen Information System (SIS II) established by Regulation (EC) No 1987/2006 of the European Parliament and of the Council ⁽¹⁾ and by Council Decision 2007/533/JHA ⁽²⁾, the Visa Information System (VIS) established by Council Decision 2004/512/EC ⁽³⁾ and the Entry/Exit System (EES) established by Regulation (EU) 2017/2226 of the European Parliament and of the Council ⁽⁴⁾, builds upon the Schengen *acquis*, Denmark shall in accordance with Article 4 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, decide within a period of six months after the Council has decided on this Decision whether it will implement it in its national law. In accordance with Article 3 of the Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and Eurodac for the comparison of fingerprints for the effective application of the Dublin Convention ⁽⁵⁾, Denmark is to notify the Commission whether it will implement the content of this Decision, insofar as it relates to Eurodac and DubliNet.
- (7) The Arrangement should be signed on behalf of the Union, subject to its conclusion at a later date,

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union of the Arrangement between the European Union, of the one part, and the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the participation by those States in the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice is hereby authorised, subject to the conclusion of the said Arrangement ⁽⁶⁾.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Arrangement on behalf of the Union.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Luxembourg, 11 October 2018.

For the Council
The President
J. MOSER

⁽¹⁾ Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 381, 28.12.2006, p. 4).

⁽²⁾ Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 205, 7.8.2007, p. 63).

⁽³⁾ Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS) (OJ L 213, 15.6.2004, p. 5).

⁽⁴⁾ Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (OJ L 327, 9.12.2017, p. 20).

⁽⁵⁾ OJ L 66, 8.3.2006, p. 38.

⁽⁶⁾ The text of the Arrangement will be published together with the decision on its conclusion.

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2018/1550

of 16 October 2018

concerning the renewal of the authorisation of benzoic acid as a feed additive for weaned piglets and pigs for fattening and repealing Regulations (EC) No 1730/2006 and (EC) No 1138/2007 (holder of authorisation DSM Nutritional Products Ltd)

(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 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting and renewing such authorisation.
- (2) Benzoic acid was authorised for 10 years as a feed additive for weaned piglets by Commission Regulation (EC) No 1730/2006 ⁽²⁾, and for pigs for fattening by Commission Regulation (EC) No 1138/2007 ⁽³⁾.
- (3) In accordance with Article 14 of Regulation (EC) No 1831/2003, an application was submitted by the holder of those authorisations for the renewal of the authorisation of benzoic acid as a feed additive, both for weaned piglets and for pigs for fattening, requesting that additive to be classified in the additive category 'zootechnical additives'. Those applications were accompanied by the particulars and documents required under Article 14(2) of Regulation (EC) No 1831/2003.
- (4) The European Food Safety Authority ('the Authority') concluded in its opinion of 28 November 2017 ⁽⁴⁾ that the applicant has provided data demonstrating that the additive complies with the conditions of authorisation. The assessment of benzoic acid shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the authorisation of that additive should be renewed as specified in the Annex to this Regulation.
- (5) As a consequence of the renewal of the authorisation of benzoic acid as a feed additive under the conditions laid down in the Annex to this Regulation, Regulations (EC) No 1730/2006 and (EC) No 1138/2007 should be repealed.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

The authorisation of the additive specified in the Annex, belonging to the additive category 'zootechnical additives' and to the functional group 'other zootechnical additives', is renewed subject to the conditions laid down in that Annex.

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ Commission Regulation (EC) No 1730/2006 of 23 November 2006 concerning the authorisation of benzoic acid (VevoVital) as a feed additive (OJ L 325, 24.11.2006, p. 9).

⁽³⁾ Commission Regulation (EC) No 1138/2007 of 1 October 2007 concerning the authorisation of a new use of benzoic acid (VevoVital) as a feed additive (OJ L 256, 2.10.2007, p. 8).

⁽⁴⁾ EFSA Journal 2017;15(12):5093.

Article 2

Regulations (EC) No 1730/2006 and (EC) No 1138/2007 are repealed.

Article 3

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, 16 October 2018.

For the Commission

The President

Jean-Claude JUNCKER

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Minimum content	Maximum content	Other provisions	End of period of authorisation
					mg of active substance/kg of complete feedingstuff with a moisture content of 12 %			
Category of zootechnical additives. Functional group: other zootechnical additives (improvement of zootechnical parameters: weight gain or feed gain ratio)								
4d210	DSM Nutritional Products Ltd	Benzoic acid	<i>Additive composition</i> Benzoic acid (≥ 99,9 %) <i>Characterisation of the active substance</i> Benzenecarboxylic acid, phenylcarboxylic acid, C ₇ H ₆ O ₂ CAS number 65-85-0 Maximum level of the impurities: Phthalic acid: ≤ 100 mg/kg Biphenyl: ≤ 100 mg/kg <i>Analytical method</i> ⁽¹⁾ For the quantification of benzoic acid in the feed additive: — titration with sodium hydroxide (European Pharmacopoeia monograph 0066) For the quantification of the benzoic acid in the premixtures and feedingstuffs: — reversed phase liquid chromatography with UV detection (RP-HPLC/UV) – method based on ISO9231:2008 <i>Additive composition</i> Benzoic acid (≥ 99,9 %)	Piglets (weaned)	—	5 000	1. In the directions for use of the additive and premixtures, the storage conditions and stability to heat treatment shall be indicated. 2. Recommended minimum dose: 5 000 mg/kg of complete feed. 3. The additive shall not be used with other sources of benzoic acid or benzoates. 4. The directions of use shall be indicated: 'Complementary feedingstuffs containing benzoic acid shall not be fed to weaned piglets or pig for fattening as such. Complementary feedingstuffs shall be thoroughly mixed with other feed materials of the daily ration'. 5. For use in weaned piglets up to 35 kg of body weight. 6. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks concerning their use. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including eyes and skin protection	5 November 2028

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Minimum content	Maximum content	Other provisions	End of period of authorisation
					mg of active substance/kg of complete feedingstuff with a moisture content of 12 %			
			<i>Characterisation of the active substance</i> Benzenecarboxylic acid, phenylcarboxylic acid, C ₇ H ₆ O ₂ CAS number 65-85-0 Maximum level of the impurities: Phthalic acid: ≤ 100 mg/kg Biphenyl: ≤ 100 mg/kg <i>Analytical method</i> ⁽¹⁾ For the quantification of benzoic acid in the feed additive: — titration with sodium hydroxide (European Pharmacopoeia monograph 0066 For the quantification of the benzoic acid in the premixtures and feedingstuffs: — reversed phase liquid chromatography with UV detection (RP-HPLC/UV) – method based on ISO9231:2008					
Category of zootechnical additives. Functional group: other zootechnical additives (urinary pH decrease)								
4d210	DSM Nutritional Products Ltd	Benzoic acid	<i>Additive composition</i> Benzoic acid (≥ 99,9 %) <i>Characterisation of the active substance</i> Benzenecarboxylic acid, phenylcarboxylic acid, C ₇ H ₆ O ₂	Pigs for fattening	5 000	10 000	1. In the directions for use of the additive and premixtures, the storage conditions and stability to heat treatment shall be indicated. 2. The additive shall not be used with other sources of benzoic acid or benzoates.	5 November 2028

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Minimum content	Maximum content	Other provisions	End of period of authorisation
					mg of active substance/kg of complete feedingstuff with a moisture content of 12 %			
			CAS number 65-85-0 Maximum level of the impurities: Phthalic acid: ≤ 100 mg/kg Biphenyl: ≤ 100 mg/kg <i>Analytical method</i> ⁽¹⁾ For the quantification of benzoic acid in the feed additive: — titration with sodium hydroxide (European Pharmacopoeia monograph 0066) For the quantification of the benzoic acid in the premixtures and feedingstuffs: — reversed phase liquid chromatography with UV detection (RP-HPLC/UV) – method based on ISO9231:2008				3. The directions of use shall be indicated: ‘Complementary feedingstuffs containing benzoic acid shall not be fed to weaned piglets or pig for fattening as such. Complementary feedingstuffs shall be thoroughly mixed with other feed materials of the daily ration’. 4. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks concerning their use. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including eyes and skin protection.	

⁽¹⁾ Details of the analytical methods are available at the following address of the Reference Laboratory: <https://ec.europa.eu/jrc/en/eurl/feed-additives/evaluation-reports>

COMMISSION IMPLEMENTING REGULATION (EU) 2018/1551**of 16 October 2018****invalidating invoices issued by two exporting producers in breach of the undertaking repealed by
Implementing Regulation (EU) 2017/1570**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union ('the Treaty'),

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic anti-dumping Regulation'), and in particular Article 8 thereof,

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ⁽²⁾ ('the basic anti-subsidy Regulation'), and in particular Article 13 thereof,

Having regard to Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China ⁽³⁾, and in particular Article 3 thereof,

Having regard to Commission Implementing Regulation (EU) 2017/367 of 1 March 2017 imposing a definitive anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council and terminating the partial interim review investigation pursuant to Article 11(3) of Regulation (EU) 2016/1036 ⁽⁴⁾ ('the expiry review anti-dumping Regulation'),

Having regard to Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China ⁽⁵⁾, and in particular Article 2 thereof,

Having regard to Commission Implementing Regulation (EU) 2017/366 of 1 March 2017 imposing definitive countervailing duties on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China following an expiry review pursuant to Article 18(2) of Regulation (EU) 2016/1037 of the European Parliament and of the Council and terminating the partial interim review investigation pursuant to Article 19(3) of Regulation (EU) 2016/1037 ⁽⁶⁾ ('the expiry review anti-subsidy Regulation'),

Having regard to Commission Implementing Regulation (EU) 2017/1570 of 15 September 2017 amending Implementing Regulation (EU) 2017/366 and Implementing Regulation (EU) 2017/367 imposing definitive countervailing and anti-dumping duties on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China and repealing Implementing Decision 2013/707/EU confirming the acceptance of an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China for the period of application of definitive measures ⁽⁷⁾ ('the repeal Regulation'),

Having regard to Notices 2018/C 310/06 and 2018/C 310/07 ⁽⁸⁾ ('the expiry Notices'),

Informing the Member States,

⁽¹⁾ OJ L 176, 30.6.2016, p. 21 as amended by Regulation (EU) 2017/2321 of the European Parliament and of the Council (OJ L 338, 19.12.2017, p. 1) and Regulation (EU) 2018/82 of the European Parliament and of the Council (OJ L 143, 7.6.2018, p. 1).

⁽²⁾ OJ L 176, 30.6.2016, p. 55 as amended by Regulation (EU) 2017/2321.

⁽³⁾ OJ L 325, 5.12.2013, p. 1.

⁽⁴⁾ OJ L 56, 3.3.2017, p. 131.

⁽⁵⁾ OJ L 325, 5.12.2013, p. 66.

⁽⁶⁾ OJ L 56, 3.3.2017, p. 1.

⁽⁷⁾ OJ L 238, 16.9.2017, p. 22.

⁽⁸⁾ OJ C 310/06, 3.9.2018, p. 4.

Whereas:

A. UNDERTAKING AND OTHER MEASURES

- (1) By Implementing Regulation (EU) No 1238/2013, the Council imposed a definitive anti-dumping duty on imports into the Union of modules and cells originating in or consigned from the People's Republic of China ('the PRC') ('the product concerned'). By Implementing Regulation (EU) No 1239/2013, the Council also imposed a definitive countervailing duty on imports into the Union of the product concerned.
- (2) The China Chamber of Commerce for Import and Export of Machinery and Electronic Products ('the CCCME') submitted, on behalf of a group of exporting producers, a price undertaking to the Commission. By Decision 2013/423/EU ⁽¹⁾, the Commission accepted that price undertaking with regard to the provisional anti-dumping duty. Following the notification of an amended version of the price undertaking by a group of exporting producers together with the CCCME, the Commission confirmed by Implementing Decision 2013/707/EU ⁽²⁾ the acceptance of the price undertaking as amended for the period of application of anti-dumping and countervailing definitive measures ('the undertaking'). The undertaking was accepted for the following exporting producers, *inter alia*:
 - (a) Jiangsu Sinski PV, Co. Ltd covered by the TARIC additional code: B838 ('Sinski PV');
 - (b) Zhejiang Koly Energy Co. Ltd covered by the TARIC additional code: B908 ('Koly Energy').
- (3) The Commission also adopted a Decision clarifying the implementation of the undertaking ⁽³⁾ and 15 regulations withdrawing the acceptance of the undertaking for several exporting producers ⁽⁴⁾.
- (4) By Implementing Regulations (EU) 2016/185 ⁽⁵⁾ and 2016/184 ⁽⁶⁾, the Commission extended the definitive anti-dumping and countervailing duties on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the PRC to imports of crystalline silicon photovoltaic modules and key components (i.e. cells) consigned from Malaysia and Taiwan with the exception of a number of genuine producers.
- (5) By the expiry review anti-dumping Regulation, the Commission extended the definitive anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the PRC following an expiry review and terminating the partial interim review investigation pursuant to respectively, Article 11(2) and Article 11(3) of the basic anti-dumping Regulation.
- (6) By the expiry review anti-subsidy Regulation, the Commission extended a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the PRC following an expiry review and terminating the partial interim review investigation pursuant to respectively, Article 18(2) and Article 19(3) of the basic anti-subsidy Regulation (the expiry review anti-dumping Regulation and the expiry review anti-subsidy Regulation are hereinafter collectively referred as 'the expiry review Regulations').
- (7) By the repeal Regulation the Commission repealed the undertaking.
- (8) By the expiry Notices the Commission gave notice that the anti-dumping duty and the anti-subsidy duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the PRC expired on 3 September 2018.

⁽¹⁾ OJ L 209, 3.8.2013, p. 26.

⁽²⁾ OJ L 325, 5.12.2013, p. 214.

⁽³⁾ OJ L 270, 11.9.2014, p. 6.

⁽⁴⁾ Commission Implementing Regulations (EU) 2015/866 (OJ L 139, 5.6.2015, p. 30), (EU) 2015/1403 (OJ L 218, 19.8.2015, p. 1), (EU) 2015/2018 (OJ L 295, 12.11.2015, p. 23), (EU) 2016/115 (OJ L 23, 29.1.2016, p. 47), (EU) 2016/1045 (OJ L 170, 29.6.2016, p. 5), (EU) 2016/1382 (OJ L 222, 17.8.2016, p. 10), (EU) 2016/1402 (OJ L 228, 23.8.2016, p. 16), (EU) 2016/1998 (OJ L 308, 16.11.2016, p. 8), (EU) 2016/2146 (OJ L 333, 8.12.2016, p. 4), (EU) 2017/454 (OJ L 71, 16.3.2017, p. 5), (EU) 2017/941 (OJ L 142, 2.6.2017, p. 43), (EU) 2017/1408 (OJ L 201, 2.8.2017, p. 3), (EU) 2017/1497 (OJ L 218, 24.8.2017, p. 10), (EU) 2017/1524 (OJ L 230, 6.9.2017, p. 11), (EU) 2017/1589 (OJ L 241, 20.9.2017, p. 21) withdrawing the acceptance of the undertaking for several exporting producers.

⁽⁵⁾ OJ L 37, 12.2.2016, p. 26.

⁽⁶⁾ OJ L 37, 12.2.2016, p. 56.

B. TERMS OF THE UNDERTAKING

- (9) Under the terms of the undertaking, the exporting producers agreed, inter alia, not to sell the product concerned to the first independent customer in the Union below a certain minimum import price ('the MIP'). The MIP was subject to a quarterly adjustment mechanism by reference to international spot prices of modules including Chinese prices as reported by the Bloomberg database.
- (10) The exporting producers also agreed to sell the product concerned only by means of direct sales. For the purpose of the undertaking, a direct sale was defined as a sale either to the first independent customer in the Union or via a related party in the Union listed in the undertaking. Indirect sales to the Union by companies other than those listed in the undertaking constituted a breach of the undertaking.
- (11) The undertaking also clarified, in a non-exhaustive list, what constituted a breach of the undertaking. That list included, in particular, issuing undertaking invoices for solar panels produced by a non-undertaking company in order to benefit from the exemption of anti-dumping and countervailing duties ('the company channelling').
- (12) The undertaking also obliged the exporting producers to provide the Commission on a quarterly basis with detailed information on all their export sales to and re-sales in the Union ('the quarterly reports'). This implied that the data submitted in these quarterly reports must be complete and correct and that the reported transactions fully complied with the terms of the undertaking. Reporting of re-sales in the Union was a particular obligation when the product concerned was sold to the first independent customer through a related importer. Only these reports enabled the Commission to monitor whether the re-sale price of the related importer to the first independent customer was in accordance with the MIP.
- (13) The exporting producers were liable for the breach of any of their related parties, whether or not listed in the undertaking.
- (14) The exporting producers also undertook to consult the Commission regarding any difficulties or questions, technical or otherwise, which might arise during the implementation of the undertaking.

C. REPEAL OF THE UNDERTAKING

- (15) The undertaking was initially accepted from more than 120 companies/company groups. In the meantime, the Commission withdrew its acceptance of the undertaking for 19 companies. Seventeen of these were found to have breached the undertaking while the remaining two companies had business models that made it impracticable to monitor their compliance with the undertaking. In addition, 16 other Chinese companies voluntarily withdrew from the undertaking.
- (16) By the repeal Regulation, the Commission repealed the undertaking and introduced a variable duty under the form of a minimum import price ('the variable duty MIP') that replaced the undertaking. The variable duty MIP means that eligible imports with a declared value at, or above, the MIP would not be subject to duties and customs authorities will levy duties immediately if the product is imported at a price below the MIP.
- (17) Given that the variable duty MIP replaced the undertaking, the Commission found it appropriate, as per the findings listed in recitals (50) to (53) of the repeal Regulation, that the variable duty MIP would only apply to those companies that had not breached the undertaking in the past, irrespective of whether such a breach had already been found to have occurred, or whether such a breach would be found to have occurred in future investigations by the Commission. Accordingly, for all exporting producers which breached the undertaking while it was still in place the uncapped *ad valorem* duties should apply.
- (18) At the time of entry into force of the repeal Regulation on 1 October 2017, the Commission continued to conduct investigations concerning the compliance with the undertaking, and considered appropriate to open new investigations for goods that were released for free circulation while the undertaking was still in place. For those investigations, a customs debt will be incurred at the time of acceptance of the declaration for release into free circulation: (a) whenever it is established, in respect of imports invoiced by companies subject to the undertaking, that one or more of the conditions of the undertaking was not fulfilled; or (b) when the Commission finds that the undertaking was breached in a regulation or decision which refers to particular transactions and declares the relevant undertaking invoices as invalid.

D. MONITORING OF THE EXPORTING PRODUCERS

- (19) The Commission received evidence from customs authorities of two Member States on the basis of Articles 8(9) and 14(7) of the basic anti-dumping Regulation and Articles 13(9) and 24(7) of the basic anti-subsidy Regulation regarding compliance of Sinski PV and Koly Energy with the undertaking. The Commission also assessed publicly available information regarding the corporate structure of Koly Energy.
- (20) The findings listed in recitals (21) to (24) below address the allegations received from the customs authorities for Sinski PV and Koly Energy regarding an alleged breach of the undertaking while it was still in force.

E. GROUNDS TO INVALIDATE UNDERTAKING INVOICES**(a) Sinski PV**

- (21) The evidence received from customs authorities suggests that Sinski PV sold solar panels to at least one customer in the Union systematically below the MIP, thus breaching the provisions of the undertaking as described in recital (9) above.
- (22) Further evidence also shows that Sinski PV engaged with three other companies to issue undertaking invoices for solar products manufactured by non-undertaking companies as per purchase orders placed by a customer of Sinski PV in the Union. This practice (company channelling) constitutes a breach specifically listed in the undertaking as described in recital (11) above.

(b) Koly Energy

- (23) Based on the evidence received from customs authorities and corroborated by publicly available sources, Koly Energy sold solar panels to an allegedly unrelated importer in the Union for which it issued undertaking invoices. The transactions to this importer amounted in value to more than 50 % of Koly Energy's total sales to the Union. Based on the information available to the Commission, the importer involved in these transactions was related to Koly Energy in the sense of Article 127(1) of Commission Implementing Regulation (EU) 2015/2447 ⁽¹⁾ ('Union Customs Code Implementing Act'). Koly Energy has never reported a related importer in the Union. As this importer is not listed as a related party in the undertaking, Koly Energy breached the terms of the undertaking as described in recital (10) above.
- (24) Related importers have reporting obligations similar to their Chinese mother companies in order to enable the Commission to assess whether the net sales price to the first unrelated customer in the Union is at, or above, the MIP. None of the re-sales by the related importer was reported to the Commission. Consequently, Koly Energy also breached the terms of the undertaking as described in recitals (12) and (13) above.

F. RELEVANT UNDERTAKING INVOICES

- (25) The sales transactions made by Sinski PV below the MIP to the identified customer and/or involving company channelling were linked to the following undertaking invoices:

Number of Commercial invoice accompanying goods subject to an undertaking	Date
SPVF15014	24.7.2015
SPVF15015	28.7.2015
SPVF15020	26.8.2015
SPVF15021	28.8.2015
SPVF15022	1.9.2015
SPVF15034	4.11.2015

⁽¹⁾ OJ L 343, 29.12.2015, p. 558.

Number of Commercial invoice accompanying goods subject to an undertaking	Date
SPVF15039	4.12.2015
SPVF15040	8.12.2015
SPVF15042	11.12.2015
SPVF15043	17.12.2015
SPVF15044	17.12.2015
SPVF15046	25.12.2015
SPVF15047	25.12.2015
SPVF15048	25.12.2015
SPVF15049	28.12.2015
SPVF15050	28.12.2015
SPVF15051	30.12.2015
SPVF15052	30.12.2015
SPVF16001	7.1.2016
SPVF16002	7.1.2016
SL-SS20170323-1	1.4.2017
SPVF16019	23.3.2016
SPVF16020	6.4.2016
SPVF16021	10.4.2016
SPVF16022	30.4.2016

(26) The indirect sales transactions made by Koly Energy were linked to the following undertaking invoices:

Number of Commercial invoice accompanying goods subject to an undertaking	Date
KL150328	28.3.2015
KL150424	24.4.2015
KL150428001	28.4.2015
KL150428002	28.4.2015
KL150516	16.5.2015
KL150608	8.6.2015
KL150616	16.6.2015
KL150706	6.7.2015
KL150708002	8.7.2015
KL150816	16.8.2015
KL150827	27.8.2015

Number of Commercial invoice accompanying goods subject to an undertaking	Date
KL150920	20.9.2015
KL151018	18.10.2015
KL151108	8.11.2015
KL151113	13.11.2015
KL151125	25.11.2015
KL151230	30.12.2015
KL160123	23.1.2016
KL160511	11.5.2016
KL160517	17.5.2016
KL160523	23.5.2016
KL160610	10.6.2016
KL160714	14.7.2016
KL160726	26.7.2016
KL160816	16.8.2016
KL160825	25.8.2016
KL160922	22.9.2016
KL161013	13.10.2016
KL161027001	27.10.2016
KL161027002	27.10.2016
KL161030	30.10.2016
KL161106	6.11.2016
KL161108002	8.11.2016
KL161114	14.11.2016
KL161125	25.11.2016
KL161209	9.12.2016
KL161210	10.12.2016
KL161212	12.12.2016
KL161215	15.12.2016
KL161230001	30.12.2016
KL161230002	31.12.2016
KL170109001	9.1.2017
KL170109002	13.1.2017
KL170115	15.1.2017
KL170116001	16.1.2017

Number of Commercial invoice accompanying goods subject to an undertaking	Date
KL170116002	18.1.2017
KL170120	20.1.2017
KL170121001	21.1.2017
KL170121002	21.1.2017
KL170323001	23.3.2017
KL170323002	25.3.2017
KL170408	8.4.2017
KL170412	12.4.2017
KL170510	10.5.2017
KL170511	11.5.2017
KL170518002	18.5.2017
KL170614002	14.6.2017
KL170621	21.6.2017
KL170712	12.7.2017
KL170731001	31.7.2017
KL170812	12.8.2017
KL170814	14.8.2017
KL170822002	22.8.2017
KL170918001	18.9.2017
KL170918002	18.9.2017
KL170919	19.9.2017
KL170930002	30.9.2017

G. WRITTEN SUBMISSIONS AND HEARINGS

- (27) Interested parties were informed of the findings, in particular the intention to invalidate the undertaking invoices. Interested parties were granted the opportunity to be heard and to comment pursuant to Article 8(9) of the basic anti-dumping Regulation and Article 13(9) of the basic anti-subsidy Regulation.
- (28) One importer and one Chinese exporting producer made written submissions.
- (29) The Commission considered the comments submitted by the interested parties and addressed them below.
- (30) Koly Energy and its allegedly related importer in the Union contested the affiliation relationship between them and denied being part of a common holding group.
- (31) Koly Energy submitted that it is 100 % owned by two Chinese persons that have no stake in either the importer in the Union or in any holding group. It further submitted that it maintained a close business relationship with the holding group because it was Koly Energy's biggest customer. It denied, however, the existence of any ties between the importer and itself and denied being controlled by the same holding party.
- (32) The Commission considered that, in the absence of evidence to the contrary, the representation of Koly Energy as seller in a purchase and delivery contract of solar modules by a commercial operations manager of the holding

group to which the importer also belongs constituted an acknowledgement, towards third parties, of an affiliation relationship between Koly Energy, the importer and that holding group in the sense of Article 127(1) of Implementing Regulation (EU) 2015/2447 ('Union Customs Code Implementing Act'). This conclusion was further strengthened as the same contract showed both Koly Energy and the importer's signatures on behalf of the seller (Koly Energy). The identification of an email address of the holding group as contact data of Koly Energy (the seller) for communication purposes as regards that contract further confirmed this view. Moreover, that contract included a clause in which the name and mailing address of the importer was mentioned as the contact person of the seller (Koly Energy). Although Koly Energy claimed that this contract was signed without its authorisation and therefore reserved its right to hold the importer responsible, no evidence to that effect was ever presented to the Commission. Other cross references between Koly Energy, the importer and the holding group in other public documents and sources such as websites and a short term bonds' issuance contract led the Commission to the conclusion that Koly Energy and the importer in the Union were related parties. The submission was, therefore, rejected.

- (33) Koly Energy also claimed that the importer in the Union used Koly Energy's logo, trademark and domain name unilaterally and without consent. The Commission considered that, in the absence of evidence to the contrary, the public and widespread use of Koly Energy's commercial signs (trademark, logo, email address) by the importer in its usual business activities attested to an affiliation relationship between the two companies through the banner of a common holding group. This conclusion was further stressed by the use of the holding group's logo in Koly Energy's own website, and the joint display of Koly Energy and the holding group logos in a 2016 international commodity fair. The claim was, therefore, dismissed.
- (34) The importer of Koly Energy in the Union submitted non-substantiated comments outside the extensions granted to comment and presented no evidence regarding its ownership.

H. BREACH OF THE UNDERTAKING AND IMPOSITION OF DEFINITIVE DUTIES

- (35) In accordance with Article 8(9) of the basic anti-dumping Regulation, Article 13(9) of the basic anti-subsidy Regulation and in accordance with the terms of the undertaking, the Commission concluded that Sinski PV and Koly Energy breached the undertaking while it was still in place.
- (36) Therefore, in accordance with Article 3(2)(b) of Implementing Regulation (EU) No 1238/2013, Article 2(2)(b) of Implementing Regulation (EU) 2017/367, Article 2(2)(b) of Implementing Regulation (EU) No 1239/2013 and Article 2(2)(b) of Implementing Regulation (EU) 2017/366 in force at the time of acceptance of the customs declaration for release into free circulation, Sinski PV and Koly Energy' invoices listed in recitals (25) and (26) are declared invalid. The customs debt incurred at the time of acceptance of the declaration for release into free circulation should be recovered by the national customs authorities in accordance with Article 105(3) to Article 105(6) of Regulation (EU) No 952/2013 of the European Parliament and of the Council⁽¹⁾ when this Regulation enters into force. The national customs authorities responsible for the collection of duties will be informed accordingly.
- (37) The Commission also recalls that where the customs authorities of the Member States have indications that the price presented on an undertaking invoice does not correspond to the price actually paid, they should investigate whether the requirement to include any rebates in the undertaking invoices has been violated or the MIP has not been respected. Where customs authorities of the Member States conclude that there has been such a violation or whether the MIP has not been respected, they should collect the duties as a consequence thereof. In order to facilitate the work of the customs authorities of the Member States, on the basis of Article 4(3) of the Treaty, the Commission should share in such situations the confidential text and other information of the undertaking for the sole purpose of national proceedings,

HAS ADOPTED THIS REGULATION:

Article 1

1. The undertaking invoices listed in the Annex are declared invalid.
2. The anti-dumping and countervailing duties due at the time of acceptance of the customs declaration for release into free circulation under Article 3(2)(b) of Implementing Regulation (EU) No 1238/2013, Article 2(2)(b) of Implementing Regulation (EU) 2017/367, Article 2(2)(b) of Implementing Regulation (EU) No 1239/2013 and Article 2(2)(b) of Implementing Regulation (EU) 2017/366 shall be collected.

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

Article 2

1. Where customs authorities of the Member States have indications that the price presented on an undertaking invoice pursuant to Article 3(1)(b) of the Implementing Regulation (EU) No 1238/2013, Article 2(1)(b) of Implementing Regulation (EU) 2017/367, Article 2(1)(b) of Implementing Regulation (EU) No 1239/2013 and Article 2(1)(b) of Implementing Regulation (EU) 2017/366 issued by Jiangsu Sinski PV, Co. Ltd or Zheijang Koly Energy Co. Ltd prior to the entry into force of this regulation does not correspond to the price paid and that therefore those companies may have violated the undertaking, the customs authorities may, if necessary for the purpose of conducting national proceedings, request the Commission to disclose to them a copy of the undertaking and other information in order to verify the applicable minimum import price ('MIP') on the day when the undertaking invoice was issued.

2. Where the verification referred to in paragraph 1 of this Article reveals that discounts and rebates have not been included in the commercial invoice, the duties due as a consequence under Article 3(2)(a) of the Implementing Regulation (EU) No 1238/2013, Article 2(2)(a) of Implementing Regulation (EU) 2017/367, Article 2(2)(a) of Implementing Regulation (EU) No 1239/2013 and Article 2(2)(a) of Implementing Regulation (EU) 2017/366 shall be collected.

3. The information in accordance with paragraph 1 of this Article may only be used for the purpose of enforcement of duties due under Article 3(2)(a) of the Implementing Regulation (EU) No 1238/2013, Article 2(2)(a) of Implementing Regulation (EU) 2017/367, Article 2(2)(a) of Implementing Regulation (EU) No 1239/2013 and Article 2(2)(a) of Implementing Regulation (EU) 2017/366. In this context, customs authorities of the Member States may provide the debtor of those duties with this information for the sole purpose of safeguarding their rights of defence. Such information may under no circumstances be disclosed to third parties.

Article 3

This Regulation shall enter into force on the 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, 16 October 2018.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

List of undertaking invoices issued by Jiangsu Sinski PV, Co. Ltd which are declared invalid:

Number of Commercial invoice accompanying goods subject to an undertaking	Date
SPVF15014	24.7.2015
SPVF15015	28.7.2015
SPVF15020	26.8.2015
SPVF15021	28.8.2015
SPVF15022	1.9.2015
SPVF15034	4.11.2015
SPVF15039	4.12.2015
SPVF15040	8.12.2015
SPVF15042	11.12.2015
SPVF15043	17.12.2015
SPVF15044	17.12.2015
SPVF15046	25.12.2015
SPVF15047	25.12.2015
SPVF15048	25.12.2015
SPVF15049	28.12.2015
SPVF15050	28.12.2015
SPVF15051	30.12.2015
SPVF15052	30.12.2015
SPVF16001	7.1.2016
SPVF16002	7.1.2016
SL-SS20170323-1	1.4.2017
SPVF16019	23.3.2016
SPVF16020	6.4.2016
SPVF16021	10.4.2016
SPVF16022	30.4.2016

List of undertaking invoices issued Zhejiang Koly Energy Co. Ltd which are declared invalid:

Number of Commercial invoice accompanying goods subject to an undertaking	Date
KL150328	28.3.2015
KL150424	24.4.2015
KL150428001	28.4.2015

Number of Commercial invoice accompanying goods subject to an undertaking	Date
KL150428002	28.4.2015
KL150516	16.5.2015
KL150608	8.6.2015
KL150616	16.6.2015
KL150706	6.7.2015
KL150708002	8.7.2015
KL150816	16.8.2015
KL150827	27.8.2015
KL150920	20.9.2015
KL151018	18.10.2015
KL151108	8.11.2015
KL151113	13.11.2015
KL151125	25.11.2015
KL151230	30.12.2015
KL160123	23.1.2016
KL160511	11.5.2016
KL160517	17.5.2016
KL160523	23.5.2016
KL160610	10.6.2016
KL160714	14.7.2016
KL160726	26.7.2016
KL160816	16.8.2016
KL160825	25.8.2016
KL160922	22.9.2016
KL161013	13.10.2016
KL161027001	27.10.2016
KL161027002	27.10.2016
KL161030	30.10.2016
KL161106	6.11.2016
KL161108002	8.11.2016
KL161114	14.11.2016
KL161125	25.11.2016

Number of Commercial invoice accompanying goods subject to an undertaking	Date
KL161209	9.12.2016
KL161210	10.12.2016
KL161212	12.12.2016
KL161215	15.12.2016
KL161230001	30.12.2016
KL161230002	31.12.2016
KL170109001	9.1.2017
KL170109002	13.1.2017
KL170115	15.1.2017
KL170116001	16.1.2017
KL170116002	18.1.2017
KL170120	20.1.2017
KL170121001	21.1.2017
KL170121002	21.1.2017
KL170323001	23.3.2017
KL170323002	25.3.2017
KL170408	8.4.2017
KL170412	12.4.2017
KL170510	10.5.2017
KL170511	11.5.2017
KL170518002	18.5.2017
KL170614002	14.6.2017
KL170621	21.6.2017
KL170712	12.7.2017
KL170731001	31.7.2017
KL170812	12.8.2017
KL170814	14.8.2017
KL170822002	22.8.2017
KL170918001	18.9.2017
KL170918002	18.9.2017
KL170919	19.9.2017
KL170930002	30.9.2017

DECISIONS

COUNCIL DECISION (EU) 2018/1552

of 28 September 2018

on the position to be taken, on behalf of the European Union, within the Cooperation Council established by the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part, with regard to the adoption of the EU-Azerbaijan Partnership Priorities

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 37 thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 207 and 209, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) The Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part ⁽¹⁾ ('the Agreement') was signed on 22 April 1996 and entered into force on 1 July 1999.
- (2) Pursuant to Article 81 of the Agreement, the Cooperation Council established by the Agreement may make appropriate recommendations for the purpose of attaining the objectives of the Agreement.
- (3) The Cooperation Council will adopt the Recommendation on the EU-Azerbaijan Partnership Priorities by written procedure.
- (4) It is appropriate to establish the position to be taken on the Union's behalf within the Cooperation Council with regard to the adoption of the EU-Azerbaijan Partnership Priorities,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Cooperation Council established by the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part, with regard to the adoption of the EU-Azerbaijan Partnership Priorities, shall be based on the draft Recommendation of the Cooperation Council attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 28 September 2018.

For the Council
The President
M. SCHRAMBÖCK

⁽¹⁾ OJ L 246, 17.9.1999, p. 3.

DRAFT

RECOMMENDATION No 1/2018 OF THE EU-AZERBAIJAN COOPERATION COUNCIL
of ...
on the EU-Azerbaijan Partnership Priorities

THE EU-AZERBAIJAN COOPERATION COUNCIL,

Having regard to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part, ⁽¹⁾ and in particular Article 81 thereof,

Whereas:

- (1) The Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part (the 'Agreement') was signed on 22 April 1996 and entered into force on 1 July 1999.
- (2) In accordance with Article 81 of the Agreement, the Cooperation Council may make appropriate recommendations for the purpose of attaining the objectives of the Agreement.
- (3) In accordance with Article 98 of the Agreement, the Parties to the Agreement are to take any general or specific measures required to fulfil their obligations under the Agreement and are to see to it that the objectives set out in the Agreement are attained.
- (4) The review of the European Neighbourhood Policy proposed a new phase of engagement with partners, allowing a greater sense of ownership by both sides.
- (5) The European Union and Azerbaijan wish to consolidate their partnership by agreeing on a set of priorities for the period 2018-2020 with the aim of supporting and strengthening the resilience and stability of Azerbaijan.
- (6) The Parties to the Agreement have therefore agreed on the text of the EU-Azerbaijan Partnership Priorities, which will support the implementation of the Agreement, focusing cooperation on commonly identified shared interests,

HAS ADOPTED THE FOLLOWING RECOMMENDATION:

Article 1

The Cooperation Council recommends that the Parties to the Agreement implement the EU-Azerbaijan Partnership Priorities, as set out in the Annex ^(*).

Article 2

This Recommendation shall take effect on the day of its adoption.

Done at Brussels,

For the Cooperation Council

The European Union

The Republic of Azerbaijan

⁽¹⁾ OJEU L 246, 17.9.1999, p. 3.

^(*) ST 11898/18.

COMMISSION IMPLEMENTING DECISION (EU) 2018/1553**of 15 October 2018****on conditions for the recognition of electronic phytosanitary certificates issued by the national plant protection organisations of third countries***(notified under document C(2018) 5370)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community ⁽¹⁾, and in particular Article 13(1) thereof,

Whereas:

- (1) Directive 2000/29/EC provides that plants, plant products or other objects listed in Part B of Annex V thereto that come from a third country and that are brought into the customs territory of the Union are to be accompanied by the respective original of the required official phytosanitary certificate from the moment of their entry into the Union. The Annex to the International Plant Protection Convention ('IPPC') sets out the model phytosanitary certificate required.
- (2) Directive 2000/29/EC provides that electronic phytosanitary certificates may be recognised where specific conditions established by the Commission are met.
- (3) The Traces system, established by Commission Decision 2004/292/EC ⁽²⁾ in accordance with Council Directive 90/425/EEC ⁽³⁾, is the Commission's web-based tool for the certification of sanitary and phytosanitary requirements regarding intra-Union trade in animals, semen and embryo, food, feed and plants and for the importation of animals, semen and embryo, food, feed and plants into the Union. It enables the entire certification process to be performed electronically and facilitates the exchange of information between the relevant trading parties and control authorities.
- (4) The Traces system allows for copies of paper-based phytosanitary certificates issued by the national plant protection organisations of third countries to be uploaded. Member States' national certification systems may provide similar functionalities.
- (5) The United Nations Centre for Trade Facilitation and Electronic Business ('UN/CEFACT') has developed technical standards for simplifying transaction processes and thus contributing to the growth of global commerce. Those standards are relevant to the implementation of paperless trade facilities and describe the data formats for information exchange. The eXtensible Markup Language ('XML') is a universally accepted standard message format for organising and describing data in documents such as phytosanitary certificates.
- (6) Compliance with UN/CEFACT standards and the use of XML format should therefore constitute the pre-requisite for recognising electronic phytosanitary certificates in the Union.
- (7) Regulation (EU) No 910/2014 of the European Parliament and of the Council ⁽⁴⁾ lays down rules for trust services and establishes a legal framework for electronic signatures, electronic seals, electronic time stamps, electronic documents, electronic registered delivery services and certificate services for website authentication that are necessary to attribute a certain degree of confidence in electronic identification means.

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.

⁽²⁾ Commission Decision 2004/292/EC of 30 March 2004 on the introduction of the Traces system and amending Decision 92/486/EEC (OJ L 94, 31.3.2004, p. 63).

⁽³⁾ Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market (OJ L 224, 18.8.1990, p. 29).

⁽⁴⁾ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

- (8) Regulation (EU) No 910/2014 establishes the necessary security requirements which are to be achieved through different technologies. In particular, it lays down the requirements for qualified trust service providers providing qualified electronic signatures and seals and non-qualified trust service providers providing advanced electronic signatures and seals. Both providers are capable of unequivocally identifying the signatory or the creator of the seal.
- (9) In order to maintain an adequate level of security of electronic identification means and electronic certifications, to digitise the certification process in line with the communication of the Commission of 6 May 2015 'A Digital Single Market Strategy for Europe' ⁽¹⁾, and in order to harmonise standards across Member States, it is appropriate that the conditions for the recognition of electronic phytosanitary certificates meet the standards laid down by Regulation (EU) No 910/2014, and in particular the standards set for qualified electronic signature, seal and timestamp and for advanced electronic signature and seal.
- (10) However, in order to allow for a gradual implementation of this Decision and in order to avoid any disruption of trade, it is appropriate to recognise electronic phytosanitary certificates meeting the criteria laid down by Regulation (EU) No 910/2014 for electronic signature and seal for a limited period of time.
- (11) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

Subject matter

This Decision establishes the conditions for the recognition of electronic phytosanitary certificates issued by the national plant protection organisations of third countries.

Article 2

Conditions for the recognition of electronic phytosanitary certificates issued by the national plant protection organisations of third countries

1. A phytosanitary certificate containing the information included in the model phytosanitary certificate set out in the Annex to the International Plant Protection Convention ('IPPC') shall be recognised as an electronic phytosanitary certificate provided that all of the following requirements are met:

- (a) it is issued by the national plant protection organisation of a third country in one of the following systems:
- (i) in the Traces system,
 - (ii) in a Member State's national certification system,
 - (iii) through a third country's electronic certification system capable of sharing data with the Traces system or a Member State's national certification system;
- (b) it is based on the UN/CEFACT standard and uses XML format;
- (c) it is signed by the authorised officer with an advanced or a qualified electronic signature as defined respectively in points (11) and (12) of Article 3 of Regulation (EU) No 910/2014;
- (d) it bears the advanced or qualified electronic seal, as defined respectively in points (26) and (27) of Article 3 of Regulation (EU) No 910/2014, of the issuing national plant protection organisation or the advanced or qualified electronic signature of the legal representative of the issuing national plant protection organisation;
- (e) it uses a qualified electronic time stamp as defined in point (34) of Article 3 of Regulation (EU) No 910/2014.

⁽¹⁾ COM(2015) 192 final.

2. Where the electronic phytosanitary certificate is issued in accordance with point (a)(iii) of paragraph 1, Member States and the Commission shall design their receiving system in such a way that it acknowledges the exchange of data through the advanced or qualified electronic seal of the issuing national plant protection organisation or the advanced or qualified electronic signature of the legal representative of the issuing national plant protection organisation. In this case, the condition referred to in point (c) of paragraph 1 shall not apply.

3. By way of derogation from the requirements of points (c) and (d) of paragraph 1 and for a period of 12 months ending on 15 October 2019, a phytosanitary certificate shall be recognised as an electronic phytosanitary certificate where it is signed by the authorised officer by means of an electronic signature as defined in point (10) of Article 3 of Regulation (EU) No 910/2014 and where it bears the electronic seal of the issuing national plant protection organisation as defined in point (25) of Article 3 of Regulation (EU) No 910/2014 or the electronic signature of the legal representative of the issuing national plant protection organisation.

Article 3

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 15 October 2018.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

CORRIGENDA**Corrigendum to Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007**

(Official Journal of the European Union L 150 of 14 June 2018)

On page 54, Article 54(2), in first sentence:

- for:* ‘The power to adopt delegated acts referred to in Article 2(6), Article 9(11), Article 10(5), Article 12(2), Article 13(3), Article 14(2), Article 15(2), Article 16(2), Article 17(2), Article 18(2), Article 19(2), Article 21(1), Article 22(1), Article 23(2), Article 24(6), Article 30(7), Article 32(4), Article 33(6), Article 34(8), Article 35(9), Article 36(3), Article 38(8), Article 40(11), Article 44(2), Article 46(7), Article 48(4), Article 53(2), (3) and (4), Article 57(3) and Article 58(2) shall be conferred on the Commission for a period of five years from 1 January 2021.’,
- read:* ‘The power to adopt delegated acts referred to in Article 2(6), Article 9(11), Article 10(5), Article 12(2), Article 13(3), Article 14(2), Article 15(2), Article 16(2), Article 17(2), Article 18(2), Article 19(2), Article 21(1), Article 22(1), Article 23(2), Article 24(6), Article 30(7), Article 32(4), Article 33(6), Article 34(8), Article 35(9), Article 36(3), Article 38(8), Article 40(11), Article 44(2), Article 46(7), Article 48(4), Article 53(2), (3) and (4), Article 57(3) and Article 58(2) shall be conferred on the Commission for a period of five years from 17 June 2018.’.
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