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II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2019/334

of 19 December 2018

amending Delegated Regulation (EU) 2015/2446 as regards the time-limits for lodging entry summary declarations and pre-departure declarations in case of transport by sea from and to the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Articles 131(b) and 265(a) thereof,

Whereas:

- (1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. The Treaties will cease to apply to the United Kingdom from the date of entry into force of a withdrawal agreement or failing that, two years after that notification, i.e. from 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.
- (2) Once the United Kingdom has become a third country and in the absence of a withdrawal agreement, goods arriving in the customs territory of the Union from the United Kingdom will be subject to the obligation to lodge an entry summary declaration and goods leaving the customs territory of the Union for a destination in the United Kingdom will be subject to the obligation to lodge a pre-departure declaration. Those declarations are to be lodged within a time-limit that provides for sufficient time for Member States' customs administrations to carry out proper risk analysis for security and safety purposes prior to the arrival of the goods and prior to the departure of the goods, respectively, without causing major disruption in the logistical flows and processes of economic operators.
- (3) Currently, in accordance with Commission Delegated Regulation (EU) 2015/2446 ⁽²⁾, specific time-limits are laid down for the lodging of entry summary declarations or pre-departure declarations for cargo movements between the customs territory of the Union and any port on the North Sea. Once the United Kingdom has become a third country, the same time-limits should apply for those purposes for goods transported by sea arriving from or leaving for ports of the United Kingdom which are not located on the North Sea. Therefore, the time-limits laid down for the North Sea ports should apply to all ports of the United Kingdom of Great Britain and Northern Ireland and of the Channel Islands and the Isle of Man.
- (4) This Regulation should enter into force as a matter of urgency and apply as from the day following that on which the Treaties cease to apply to and in the United Kingdom unless a withdrawal agreement concluded with the United Kingdom has entered into force by that date,

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2015/2446 is amended as follows:

(1) in Article 105(c), the following point is added:

‘(vi) all ports of the United Kingdom of Great Britain and Northern Ireland and of the Channel Islands and the Isle of Man;’;

(2) in Article 244(1)(a), point (ii) is replaced by the following:

‘(ii) for containerised cargo movements between the customs territory of the Union and Greenland, the Faeroe Islands, Iceland or ports on the Baltic Sea, the North Sea, the Black Sea or the Mediterranean, all ports of Morocco and all ports of the United Kingdom of Great Britain and Northern Ireland and of the Channel Islands and the Isle of Man, at the latest two hours before departure from a port in the customs territory of the Union;’.

Article 2

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

It shall apply from the day following that on which the Treaties cease to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union.

However, this Regulation shall not apply if a withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) of the Treaty on European Union has entered into force by that date.

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

Done at Brussels, 19 December 2018.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION REGULATION (EU) 2019/335

of 27 February 2019

amending Annex III to Regulation (EC) No 110/2008 of the European Parliament and of the Council as regards the registration of the spirit drink ‘Tequila’ as a geographical indication

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 ⁽¹⁾, and in particular Article 17(8) thereof,

Whereas:

- (1) The Consejo Regulador del Tequila (‘the applicant’), a Mexican body established in accordance with Mexican law, applied for registration of ‘Tequila’ as a geographical indication in Annex III to Regulation (EC) No 110/2008 in accordance with the procedure provided for in Article 17(1) of that Regulation. ‘Tequila’ is a spirit drink that is traditionally produced in the United Mexican States by distilling juice extracted from *Agave tequilana* F.A.C. Weber (blue variety).
- (2) In accordance with Article 17(5) of Regulation (EC) No 110/2008, the Commission examined the application to register the name ‘Tequila’ sent by the applicant.
- (3) Having concluded that the application complies with Regulation (EC) No 110/2008, the Commission published the main specification of the technical file for ‘Tequila’ in the *Official Journal of the European Union* ⁽²⁾, pursuant to Article 17(6) of Regulation (EC) No 110/2008, for the purposes of the objection procedure.
- (4) In accordance with Article 17(7) of Regulation (EC) No 110/2008 and Article 13(1) of Commission Implementing Regulation (EU) No 716/2013 ⁽³⁾, *Unión Española del Licor* from Spain and *Vinum et Spiritus* from Belgium submitted objections to the registration of the name ‘Tequila’ as a geographical indication within the time limit specified. The Commission deemed the two objections admissible according to Article 14 of Implementing Regulation (EU) No 716/2013. Objection from *Unión de Licoristas Cataluña* as well as further information from *Unión Española del Licor* and from *Vinum et Spiritus* were also received but were deemed inadmissible, in conformity with Article 14(1) of Implementing Regulation (EU) No 716/2013, as they were not submitted within the time period referred to in Article 17(7) of Regulation (EC) No 110/2008.
- (5) By letter dated 4 April 2017 the Commission communicated the two admissible objections to the applicant and invited it to file its observations within two months in accordance with Article 15(1) of Implementing Regulation (EU) No 716/2013. The applicant sent its observations within the required deadline, on 3 June 2017.
- (6) In accordance with Article 15(1) of Implementing Regulation (EU) No 716/2013, the Commission communicated the observations from the applicant by letters of 31 July 2017 to the two objectors, who were given two months to submit any comments in accordance with Article 15(2) of that Implementing Regulation. The Commission received the reply from *Unión Española del Licor* on 22 September 2017.
- (7) The objections of *Unión Española del Licor* and *Vinum et Spiritus* relate to mandatory requirements laid down in an Official Standard NOM-006-SCFI-2012 (alcoholic beverages — Tequila — specifications) published in the *Diario Oficial de la Federación* on 13 December 2012 ⁽⁴⁾ (‘the Official Mexican Standard’) and referred to in the technical file for ‘Tequila’, concerning: (a) labelling requirements for marketing and health information and for the

⁽¹⁾ OJ L 39, 13.2.2008, p. 16.⁽²⁾ OJ C 255, 14.7.2016, p. 5.⁽³⁾ Commission Implementing Regulation (EU) No 716/2013 of 25 July 2013 laying down rules for the application of Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks (OJ L 201, 26.7.2013, p. 21).⁽⁴⁾ NORMA Oficial Mexicana NOM-006-SCFI-2012, Bebidas alcohólicas — Tequila — Especificaciones published in the Mexican *Diario Oficial* of 13 December 2012.

authorised producers' reference numbers; (b) restrictions on commercial arrangements between suppliers and bottlers concerning authorisation to use registered trade marks or other distinctive signs thus limiting the ability of bottlers to source Mexican product and limiting the marketing of 'Tequila' after bottling to certain authorised trade marks thereby preventing marketing under operators' own trade marks without specific authorisation; (c) rules for authorisation of operators in the Union permitted to bottle 'Tequila' and prescriptions for bottling procedures; (d) control requirements applied to authorised bottlers in the territory of the Union as well as consequences laid down in the Official Mexican Standard in cases of non-compliance; (e) prohibition of trade in bulk of 'Tequila' blend category product (containing up to 49 % of total reducing sugars from other sources than sugars originating from *Agave tequilana* F.A.C. Weber blue variety) within the Union and prohibition of sourcing 'Tequila' blend category in bulk via third countries; and (f) a requirement that the 100 % Agave 'Tequila' category has to be bottled at a plant managed by the authorised producers located within the designated geographical area in the United Mexican States. The objectors claim that these requirements circumvent, and are incompatible with the free trade and free competition of 'Tequila' in the Member States, and specifically infringe Article 6 of Regulation (EC) No 110/2008.

- (8) The applicant states that the objections should be dismissed as inadmissible because the template required in Article 13(1) of Implementing Regulation (EU) No 716/2013 was not used by the objectors in their submission, and that the objectors have not demonstrated which specific conditions for registration provided for in Regulation (EC) No 110/2008 are not fulfilled. The applicant asserts that the main objective of the system of controls on bottling, marketing, and distribution is to guarantee the traceability and, consequently, the authenticity of 'Tequila'. The applicant additionally states that any operator wishing to bottle bulk 'Tequila' can do so provided it obtains Tequila bottler's approval certificate and enters into a joint responsibility agreement for the registered trade mark or other distinctive sign.
- (9) Further, the applicant considers that none of the observations calling into question the application of the Official Mexican Standard constitute a ground for opposition in accordance with Regulation (EC) No 110/2008 given that the denomination 'Tequila' is already binding under the provisions of the Agreement between the Union and the United Mexican States of 27 May 1997 on the mutual recognition and protection of designations for spirit drinks ('the 1997 Agreement')⁽⁵⁾ that stipulates in its Article 4(2) that in the Union territory, the protected name 'Tequila' may not be used otherwise than under the conditions laid down in the laws and regulations of the United Mexican States.
- (10) Concerning the form of the objections raised by the applicant, the Commission considered the objections from *Unión Española del Licor and Vinum et Spiritus* admissible as they comply with requirements laid down in Articles 13(1) and 14(1) of Implementing Regulation (EU) No 716/2013 since all the information required in the form 'Request for objection to a geographical indication' set out in Annex III to that Implementing Regulation had been provided in the objections.
- (11) Concerning the applicability of the rules contained in the Official Mexican Standard, as it is a third country regulation, the Commission considers it does not have direct extra territorial effect in the Union. However, by means of the publication of the main specification of the technical file for 'Tequila' in the *Official Journal of the European Union* certain rules from the Official Mexican Standard are expressly mentioned and thus asserted to be applicable to product intended for export. These include production requirements, labelling provisions, and rules on the bottling of the 100 % Agave 'Tequila' category that are set out or referred to in the said publication in the *Official Journal of the European Union*. A system allowing operators or the authorities of a third country to prevent the distribution of product throughout the single market in a manner incompatible with the principles of Union law after its importation, cannot be protected by means of Regulation (EC) No 110/2008.
- (12) Concerning the relation to the 1997 Agreement that protected 'Tequila' in the territory of the Union, it is recalled that the possible protection under Regulation (EC) No 110/2008 follows a different legal regime, independent from the one laid down by the 1997 Agreement. Given that the applicant has decided to apply for individual protection of the geographical indication 'Tequila' under Regulation (EC) No 110/2008 in addition to the protection under the 1997 Agreement, it should be clarified that the protection under the two instruments applies according to the respective rules of each instrument.
- (13) The Commission has assessed the arguments and evidence provided by the objectors and the applicant, and concluded that the name 'Tequila' should be registered as a geographical indication in Annex III to Regulation (EC) No 110/2008 under the following considerations.

⁽⁵⁾ OJ L 152, 11.6.1997, p. 15. The 1997 Agreement has been implemented through the Commission Regulation (EC) No 936/2009 (OJ L 264, 8.10.2009, p. 5).

- (14) As regards labelling requirements referred to at (a) in recital (7), Article 6(1) of Regulation (EC) No 110/2008 provides that Member States may lay down additional rules on production, description, presentation and labelling which are stricter than those provided in Annex II of that Regulation in so far as they are compatible with Union law. Article 6(1) of that Regulation is to be applied *mutatis mutandis* to rules laid down by the authorities of third countries. From the Official Mexican Standard and from section 9 of the main specification of the technical file for 'Tequila', it appears that the United Mexican States provides for stricter rules on the labelling of all 'Tequila' products additional to those laid down in Regulation (EC) No 110/2008. The rules in question concern marketing and health information, reference numbers and names and addresses identifying the authorised producer or the bottler. These requirements are not inconsistent with Union rules on labelling and notably those contained in Regulation (EU) No 1169/2011 of the European Parliament and of the Council ⁽⁶⁾. The requirement that operators are identified by a reference number or name and address is justifiable in the interests of transparency and traceability and not an unreasonable requirement. For these reasons, the Commission considers that the opposition grounds concerning labelling requirements are not founded and have to be rejected.
- (15) Restrictions on commercial arrangements between suppliers and bottlers referred to at (b) in recital (7) and rules for authorisation of bottlers in the Union and the procedures for the said authorisations referred to at (c) in recital (7) are justified with regard to the need to ensure traceability and prevent fraud. The rules are expressly applied to labelling of product intended for export as stated in the second paragraph of section 9 of the main specification of the technical file for 'Tequila' published in the *Official Journal of the European Union*, which refers to the use of the term 'Tequila' and the registered trade marks or other distinctive sign under the joint responsibility agreement filed with the Mexican Patents and Trademarks Office. The Commission considers that these rules and arrangements in so far as they apply to the use of the term 'Tequila' within the Union are proportionate and justified and opposition grounds are not founded and have to be rejected.
- (16) As regards control requirements applied to authorised bottlers in the territory of the Union as well as consequences laid down in the Official Mexican Standard in cases of non-compliance referred to at (d) in recital (7), Article 22 of Regulation (EC) No 110/2008 lays down provisions for verification of compliance with the specification prior to placing product on the market, which for 'Tequila' for sale to consumers, includes bottling activities, and specifically requires verification of compliance to be ensured by public authorities of the third country or by one or more product certification bodies for product originating in a third country. The Commission notes the verification procedures and action in case of non-compliance are justified with reference to the need to ensure traceability and prevent admixing and fraud which is difficult to detect for such product. As far as the Official Mexican Standard provides for a verification of compliance with the specifications in the technical file before placing of 'Tequila' for sale to consumers on the Union market, the rules are in accordance with Article 22(2) of Regulation (EC) No 110/2008. For these reasons, the Commission considers that the opposition grounds concerning control requirements are not founded and have to be rejected.
- (17) As regards the alleged prohibition of trade in bulk of 'Tequila' blend category product within the Union referred to at (e) in recital (7), the Commission notes that the publication of the main specification of the technical file for 'Tequila' in the *Official Journal of the European Union* details only the specific rule for the prohibition on trade in bulk product for the 100 % Agave 'Tequila' category, there is no reference prohibiting trade within the single market of 'Tequila' blend category in bulk once it has been imported into the Union.
- (18) As regards the alleged prohibition on the sourcing of 'Tequila' blend category in bulk via third countries resulting from the requirement to conclude a joint responsibility agreement filed with the Mexican Patents and Trademarks Office for the supply of bulk product and in view of the need to ensure traceability and prevent fraud, the Commission considers it justified to require that the purchase of bulk product from outside of the Union can only be made from producers in the country of origin. For these reasons, the Commission considers that the opposition grounds concerning restrictions on bulk product are not founded and have to be rejected.

⁽⁶⁾ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).

- (19) As regards the objection that the requirement of mandatory bottling within the demarcated geographical area applying to 100 % Agave category of 'Tequila' referred to at (f) in recital (7) is not in conformity with Union law it should be stated that, in accordance with Article 10 of Implementing Regulation (EU) No 716/2013, any restrictions concerning the bottling of spirit drink within the demarcated geographical area are to be justified in the technical file since they constitute a potential restriction to the free movement of goods and the freedom to provide services within the single market. Union law does not apply to determine whether or not a third country can restrict bottling within its territory, but it applies to prevent restrictions to the rebottling or bottling of bulk product within the Union, if such bulk products were exported from the third country into the Union. Such restrictions can only be allowed if they are necessary, proportionate and suitable to protect the reputation of the geographical indication. ⁽⁷⁾
- (20) In section 7 of the main specification of the technical file the applicant states that the aim of the bottling restriction is to preserve the greater organoleptic complexity that could be jeopardised by bulk transport since no other sugars than those obtained from *Agave tequilana* F.A.C. Weber (blue variety) are added. The applicant asserts also that another reason for the bottling restriction is to preserve the reputation of 100 % Agave 'Tequila' which is essentially based on particular characteristics and more generally on the quality of the product that in turn results from the knowledge of the local authorised producers and may be endangered by the risk of admixture and fraud which is difficult to detect. The requirement at issue must be regarded as compatible with Union law despite its restrictive effect if it is shown that it is necessary and proportionate and capable of upholding the considerable reputation incontestably enjoyed among customers by the Mexican denomination 'Tequila'. It stems from the information contained in the technical file that the bottling restriction is limited to only one category of 'Tequila', while it does not represent an obstacle for import to the Union of 'Tequila' blend category (containing up to 49 % sugar from other sources than raw material) in bulk to which this restriction does not apply. The territorial scope of the restriction is limited to the demarcated geographical area for 'Tequila' which is confined to five Mexican states. The evidence provided by the applicant shows this restriction is justified as a proportionate and appropriate measure to uphold the guarantee of the product's composition and its reputation among consumer. Further, no less restrictive alternative measures capable of attaining an adequate level of control have been indicated. Therefore, the necessary justification of the restriction on the mandatory bottling of 100 % Agave category of 'Tequila', is compatible with Article 10 of Implementing Regulation (EU) No 716/2013.
- (21) For the above reasons, the Commission considers that the grounds provided in the opposition to the registration of the geographical indication 'Tequila' in Annex III to Regulation (EC) No 110/2008, concerning the mandatory bottling within the demarcated geographical area applying to 100 % Agave 'Tequila' category are not founded and have to be rejected.
- (22) In the light of the above and in accordance with Article 17(8) of Regulation (EC) No 110/2008, the Commission considers that the application for registration of 'Tequila' as a geographical indication satisfies the conditions laid down in that Regulation. The name 'Tequila' should be therefore protected and registered as a geographical indication in Annex III to Regulation (EC) No 110/2008.
- (23) Regulation (EC) No 110/2008 should therefore be amended accordingly.
- (24) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Spirit Drinks,

HAS ADOPTED THIS REGULATION:

Article 1

In Annex III to Regulation (EC) No 110/2008, in product category 'Other spirit drinks', the following entry is added:

	'Tequila'	United Mexican States'
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Article 2

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

⁽⁷⁾ Recital (6) of Implementing Regulation (EU) No 716/2013.

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

Done at Brussels, 27 February 2019.

For the Commission

The President

Jean-Claude JUNKER

COMMISSION IMPLEMENTING REGULATION (EU) 2019/336**of 27 February 2019****amending Regulation (EU) No 1141/2010 and Implementing Regulation (EU) No 686/2012 as regards the rapporteur Member State for the evaluation of 1-methylcyclopropene, famoxadone, mancozeb, methiocarb, methoxyfenozide, pirimicarb, pirimiphos-methyl and thiacloprid****(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 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular Article 19, thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) No 686/2012 ⁽²⁾ and Commission Regulation (EU) No 1141/2010 ⁽³⁾ allocated to the United Kingdom, as rapporteur Member State, the evaluation of certain active substances contained in plant protection products.
- (2) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. The Treaties will cease to apply to the United Kingdom from the date of entry into force of a withdrawal agreement or, failing that, two years after that notification, i.e. from 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.
- (3) The draft withdrawal agreement as agreed between the negotiators, and endorsed by the European Council (Article 50 of the Treaty on European Union), contains arrangements for the application of provisions of Union law to and in the United Kingdom during a transition period beyond the date the Treaties cease to apply to and in the United Kingdom. If that agreement enters into force Union legislation in the field of plant protection products will apply to and in the United Kingdom during the transition period in accordance with that agreement and will cease to apply at the end of that period. However, even if the withdrawal agreement is ratified by the EU and the United Kingdom, during the transition period the United Kingdom is not to act as leading authority for risk assessments, examinations, approvals or authorisations at the level of the Union or at the level of Member States acting jointly as referred to, amongst others, in Regulation (EC) No 1107/2009.
- (4) It is therefore necessary to allocate to other Member States the evaluation of the active substances for which the United Kingdom is the rapporteur Member State and where a decision on their renewal of approval is not expected before 30 March 2019. The active substances concerned are 1-methylcyclopropene, famoxadone, mancozeb, methiocarb, methoxyfenozide, pirimicarb, pirimiphos-methyl and thiacloprid.
- (5) That allocation should ensure a balance in the distribution of the responsibilities and the work between Member States.
- (6) As the evaluation of the active substances concerned are at an advanced stage and the work to be carried out is expected to be minor, a co-rapporteur Member State should not be allocated for that evaluation.
- (7) Implementing Regulation (EU) No 686/2012 and Regulation (EU) No 1141/2010 should therefore be amended accordingly.
- (8) This Regulation should apply from 30 March 2019. However, in case the two year period referred to in Article 50(3) of the Treaty on European Union is extended, this Regulation should apply from the day following

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) No 686/2012 of 26 July 2012 allocating to Member States, for the purposes of the renewal procedure, the evaluation of active substances (OJ L 200, 27.7.2012, p. 5).

⁽³⁾ Commission Regulation (EU) No 1141/2010 of 7 December 2010 laying down the procedure for the renewal of the inclusion of a second group of active substances in Annex I to Council Directive 91/414/EEC and establishing the list of those substances (OJ L 322, 8.12.2010, p. 10).

that on which legislation in the field of plant protection products ceases to apply to and in the United Kingdom, as, in accordance with Article 4(3) of Council Regulation (EEC, Euratom) No 1182/71 ⁽⁴⁾, the cessation of application of acts fixed at a given date occurs on the expiry of the last hour of the day falling on that date.

- (9) 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

Implementing Regulation (EU) No 686/2012 is amended in accordance with Annex I to this Regulation.

Article 2

Regulation (EU) No 1141/2010 is amended in accordance with Annex II to this Regulation.

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*.

It shall apply from 30 March 2019.

However, where a decision has been taken to extend the two year period referred to in Article 50(3) of the Treaty on European Union, this Regulation shall apply from the day following that on which legislation in the field of plant protection products ceases to apply to and in the United Kingdom.

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

Done at Brussels, 27 February 2019.

For the Commission
The President
Jean-Claude JUNCKER

⁽⁴⁾ Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

ANNEX I

Part A of the Annex to Implementing Regulation (EU) No 686/2012 is amended as follows:

- (a) the entry for 1-methyl-cyclopropene is replaced by the following:

Active substance	Rapporteur Member State	Co-rapporteur Member State
'1-methyl-cyclopropene	NL	

- (b) the entry for Mancozeb is replaced by the following:

Active substance	Rapporteur Member State	Co-rapporteur Member State
'Mancozeb	EL	

- (c) the entry for Methiocarb is replaced by the following:

Active substance	Rapporteur Member State	Co-rapporteur Member State
'Methiocarb	DE	

- (d) the entry for Methoxyfenozide is replaced by the following:

Active substance	Rapporteur Member State	Co-rapporteur Member State
'Methoxyfenozide	SK	

- (e) the entry for Pirimicarb is replaced by the following:

Active substance	Rapporteur Member State	Co-rapporteur Member State
'Pirimicarb	SE	

- (f) the entry for Pirimiphos-methyl is replaced by the following:

Active substance	Rapporteur Member State	Co-rapporteur Member State
'Pirimiphos-methyl	FR	

- (g) the entry for Thiacloprid is replaced by the following:

Active substance	Rapporteur Member State	Co-rapporteur Member State
'Thiacloprid	DE	

ANNEX II

In Annex I to Regulation (EU) No 1141/2010, the entry for Famoxadone is replaced by the following:

Column A		Column B	Column C	Column D
Famoxadone	2012	FI		31 August 2012'

COMMISSION IMPLEMENTING REGULATION (EU) 2019/337**of 27 February 2019****approving the active substance mefentrifluconazole in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011****(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 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular Article 13(2) thereof,

Whereas:

- (1) In accordance with Article 7(1) of Regulation (EC) No 1107/2009, the United Kingdom received on 29 February 2016 an application from BASF Agro B.V. for the approval of the active substance mefentrifluconazole.
- (2) In accordance with Article 9(3) of Regulation (EC) No 1107/2009, the United Kingdom, as rapporteur Member State, notified the applicant, the other Member States, the Commission and the European Food Safety Authority ('the Authority') on 30 March 2016 of the admissibility of the application.
- (3) On 25 April 2017, the rapporteur Member State submitted a draft assessment report to the Commission with a copy to the Authority, assessing whether that active substance can be expected to meet the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009.
- (4) The Authority complied with Article 12(1) of Regulation (EC) No 1107/2009. In accordance with Article 12(3) of Regulation (EC) No 1107/2009, it requested that the applicant supply additional information to the Member States, the Commission and the Authority. The assessment of the additional information by the rapporteur Member State was submitted to the Authority in the format of an updated draft assessment report on 1 February 2018.
- (5) On 5 July 2018, the Authority communicated to the applicant, the Member States and the Commission its conclusion ⁽²⁾ on whether the active substance mefentrifluconazole can be expected to meet the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009. The Authority made its conclusion available to the public.
- (6) As regards the new criteria to identify endocrine disrupting properties introduced by Commission Regulation (EU) 2018/605 ⁽³⁾, which became applicable on 10 November 2018 and the joint guidance document to identify endocrine disrupting substances ⁽⁴⁾, the conclusion of the Authority infers that it is unlikely that mefentrifluconazole is an endocrine disrupter via the estrogenic, androgenic, thyroidogenic and steroidogenic modalities. Furthermore, based on the available evidence and according to the guidance for the identification of endocrine disruptors, mefentrifluconazole is unlikely to be an endocrine disruptor for fish considering that the test modalities have been appropriately covered. The Commission therefore considers that mefentrifluconazole is not to be considered as having endocrine disrupting properties.

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ EFSA (European Food Safety Authority), 2018. Conclusion on the peer review of the pesticide risk assessment of the active substance BAS 750 F (mefentrifluconazole). *EFSA Journal* 2018;16(7):5379, 32 pp. <https://doi.org/10.2903/j.efsa.2018.5379>

⁽³⁾ Commission Regulation (EU) 2018/605 of 19 April 2018 amending Annex II to Regulation (EC) No 1107/2009 by setting out scientific criteria for the determination of endocrine disrupting properties (OJ L 101, 20.4.2018, p. 33).

⁽⁴⁾ ECHA (European Chemicals Agency) and EFSA (European Food Safety Authority) with the technical support of the Joint Research Centre (JRC), Andersson N, Arena M, Auteri D, Barmaz S, Grignard E, Kienzler A, Lepper P, Lostia AM, Munn S, Parra Morte JM, Pellizzato F, Tarazona J, Terron A and Van der Linden S, 2018. Guidance for the identification of endocrine disruptors in the context of Regulations (EU) No 528/2012 and (EC) No 1107/2009. *EFSA Journal* 2018;16(6):5311, 135 pp. <https://doi.org/10.2903/j.efsa.2018.5311>. ECHA-18-G-01-EN.

- (7) On 12 December 2018, the Commission presented to the Standing Committee on Plants, Animals, Food and Feed the review report for mefentrifluconazole and on 25 January 2019, it presented a draft Regulation providing that mefentrifluconazole is approved.
- (8) The applicant was given the possibility to submit comments on the review report.
- (9) It has been established with respect to one or more representative uses of at least one plant protection product containing the active substance, and in particular the uses which were examined and detailed in the review report, that the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009 are satisfied.
- (10) It is therefore appropriate to approve mefentrifluconazole.
- (11) In accordance with Article 13(2) of Regulation (EC) No 1107/2009 in conjunction with Article 6 thereof and in the light of current scientific and technical knowledge, it is, however, necessary to include certain conditions and restrictions. It is, in particular, appropriate to require further confirmatory information.
- (12) In accordance with Article 13(4) of Regulation (EC) No 1107/2009, the Annex to Commission Implementing Regulation (EU) No 540/2011 ⁽⁵⁾ should be amended accordingly.
- (13) 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

Approval of active substance

The active substance mefentrifluconazole, as specified in Annex I, is approved subject to the conditions laid down in that Annex.

Article 2

Amendments to Implementing Regulation (EU) No 540/2011

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with Annex II to this Regulation.

Article 3

Entry into force

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

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

Done at Brussels, 27 February 2019.

For the Commission
The President
Jean-Claude JUNCKER

⁽⁵⁾ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

ANNEX I

Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Date of approval	Expiration of approval	Specific provisions
Mefentrifluconazole CAS No: 1417782-03-6 CIPAC No: Not assigned	(2RS)-2-[4-(4-chloro-phenoxy)-2-(trifluoromethyl)phenyl]-1-(1H-1,2,4-triazol-1-yl)propan-2-ol	≥ 970 g/kg The impurity N, N-dimethylformamide shall not exceed 0,5 g/kg in the technical material. The impurity toluene shall not exceed 1 g/kg in the technical material The impurity 1,2,4-(1H)-triazole shall not exceed 1 g/kg in the technical material	20 March 2019	20 March 2029	For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on mefentrifluconazole, and in particular Appendices I and II thereof, shall be taken into account. In this overall assessment Member States shall pay particular attention to: — the protection of operators, ensuring that conditions of use include the application of adequate personal protective equipment; — the protection of aquatic organisms. Conditions of use shall include risk mitigation measures, such as buffer zones and/or vegetative strips, where appropriate. The applicant shall submit to the Commission, the Member States and the Authority confirmatory information as regards: 1. the technical specification of the active substance as manufactured (based on commercial scale production) and the compliance of the toxicity batches with the confirmed technical specification; 2. the effect of water treatment processes on the nature of residues present in surface and groundwater, when surface water or ground water is abstracted for drinking water. The applicant shall submit the information referred to in point 1 by 20 March 2020 and the information referred to in point 2 within two years from the date of publication, by the Commission, of a guidance document on evaluation of the effect of water treatment processes on the nature of residues present in surface and groundwater.

⁽¹⁾ Further details on identity and specification of active substance are provided in the review report.

In Part B of the Annex to Implementing Regulation (EU) No 540/2011, the following entry is added:

	Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Date of approval	Expiration of approval	Specific provisions
'132	Mefentrifluconazole CAS No: 1417782-03-6 CIPAC No: Not assigned	(2RS)-2-[4-(4-chlorophenoxy)-2-(trifluoromethyl)phenyl]-1-(1H-1,2,4-triazol-1-yl)propan-2-ol	≥ 970 g/kg The impurity N, N-dimethylformamide shall not exceed 0,5 g/kg in the technical material. The impurity toluene shall not exceed 1 g/kg in the technical material The impurity 1,2,4-(1H)-triazole shall not exceed 1 g/kg in the technical material	20 March 2019	20 March 2029	For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on mefentrifluconazole, and in particular Appendices I and II thereof, shall be taken into account. In this overall assessment Member States shall pay particular attention to: — the protection of operators, ensuring that conditions of use include the application of adequate personal protective equipment; — the protection of aquatic organisms. Conditions of use shall include risk mitigation measures, such as buffer zones and/or vegetative strips, where appropriate. The applicant shall submit to the Commission, the Member States and the Authority confirmatory information as regards: 1. the technical specification of the active substance as manufactured (based on commercial scale production) and the compliance of the toxicity batches with the confirmed technical specification; 2. the effect of water treatment processes on the nature of residues present in surface and groundwater, when surface water or ground water is abstracted for drinking water.

	Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Date of approval	Expiration of approval	Specific provisions
						The applicant shall submit the information referred to in point 1 by 20 March 2020 and the information referred to in point 2 within two years from the date of publication, by the Commission, of a guidance document on evaluation of the effect of water treatment processes on the nature of residues present in surface and ground-water.'

⁽¹⁾ Further details on identity and specification of active substance are provided in the review report.

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2019/338

of 20 February 2019

on the prolongation of enhanced surveillance for Greece

(notified under document C(2019) 1481)

(Only the Greek text is authentic)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability ⁽¹⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) Following the expiry of the European Stability Mechanism financial assistance on 20 August 2018, the Commission Implementing Decision (EU) 2018/1192 ⁽²⁾ activated enhanced surveillance of Greece for a period of six months, as from 21 August 2018.
- (2) Greece should continue key institutional and structural reforms over the medium term so as to ensure their completion and full effectiveness, building on the substantial number of actions implemented by it under the European Stability Mechanism financial assistance programme ('the programme'). To that end, Greece has made a commitment in the Eurogroup to continue and complete all key reforms adopted under the programme and to safeguard the objectives of the important reforms adopted under that programme and its predecessors.
- (3) Greece has also committed to implement specific actions in the areas of fiscal and fiscal-structural policies, social welfare, financial stability, labour and product markets, privatisation and public administration. Those specific actions, which are set out in an annex to the Eurogroup statement of 22 June 2018, will contribute to address potential sources of Greece's economic difficulties.
- (4) Since 2010, Greece has received a substantial amount of financial assistance, as a result of which Greece's outstanding liabilities towards the euro-area Member States, the European Financial Stability Facility and the European Stability Mechanism come to a total amount of EUR 243 700 million. Greece received financial support from its European partners on concessional terms and specific measures to place debt on a more sustainable footing were adopted in 2012 and again by the European Stability Mechanism in 2017. On 22 June 2018, it was politically agreed in the Eurogroup to implement additional measures to ensure debt sustainability. The measures include the extension of weighted average maturities by an additional 10 years, the deferral of interest and amortisation by an additional 10 years as well as the implementation of other debt measures. Two additional measures (the abolition of the step-up interest rate margin related to the debt buy-back tranche of the European Financial Stability Facility programme as of 2018 and the restoration of the transfer of equivalent amounts to the income earned by euro-area national central banks on Greek government bonds held under the Agreement on Net Financial Assets and the Securities Market Programme) can be agreed bi-annually in the Eurogroup on the basis of positive reporting under enhanced surveillance on Greece's compliance with its post-programme policy commitments.
- (5) Greece's general government balance has been positive since 2016. Greece is expected to have met the primary surplus target of 3,5 % of Gross Domestic Product in 2018 and is projected to achieve the target over the medium term. External net lending turned positive in 2015, and has shown only small deficits thereafter.

⁽¹⁾ OJ L 140, 27.5.2013, p. 1.

⁽²⁾ Commission Implementing Decision (EU) 2018/1192 of 11 July 2018 on the activation of enhanced surveillance for Greece (OJ L 211, 22.8.2018, p. 1).

The economy has continued to recover, with growth at an estimated 2,0 % in 2018, and unemployment is on a declining path. Greece initiated a broad structural reform agenda to improve its business environment and competitiveness under the financial assistance programmes and has continued to take measures in that area since August 2018.

- (6) Even so, notwithstanding those reforms, Greece continues to experience significant legacy stock imbalances and vulnerabilities. In particular, as is also identified by the Commission's 2019 Alert Mechanism Report, prepared pursuant to Articles 3 and 4 of Regulation (EU) No 1176/2011 of the European Parliament and of the Council ⁽³⁾, Greece faces some difficulties. Public debt is estimated to have stood at 182,8 % of Gross Domestic Product at the end of the third quarter of 2018, the highest level in the Union. The net international investment position of – 140,5 % of Gross Domestic Product in 2017 also remains highly elevated; moreover, in spite of the current account being close to balance, it is still insufficient to support a reduction of the large net international investment position to prudent levels at a satisfactory pace. While unemployment has continued to decline from its peak of 27,9 % in 2013, it still stood at 18,6 % in October 2018. Long-term unemployment (13,5 % in the third quarter of 2018) and youth unemployment (39,1 % in November 2018) also remain very high. The business environment and the judicial system still need considerable additional improvement, as Greece still lags far behind the best-performance frontier in several areas of the structural components of leading comparative indicators (e.g. time to reach a judicial decision, enforcing contracts, registering property, resolving insolvency, etc.).
- (7) While the banking sector remains sufficiently capitalised, it continues to face challenges linked to large stocks of non-performing exposures and low levels of profitability, while there remain strong links with the State. At end-September 2018, the stock of non-performing exposures was still very high at EUR 84,7 billion or 46,7 % of total on-balance-sheet exposures. Greece has adopted key reforms under the programme, and intends to develop additional tools in the near term, to strengthen the framework for the resolution of non-performing exposures and thereby to facilitate the clean-up of banks' balance sheets. Notwithstanding, continuous efforts will be needed to bring the non-performing-exposure ratio to sustainable levels, and enable financial institutions to fulfil their intermediation and risk management function at all times.
- (8) After being cut off from financial market borrowing since 2010, Greece started to regain market access through issuances of government bonds as from July 2017. Greece had a successful bond issuance in January 2019, which was its first issuance since the exit from the programme. Greece's borrowing conditions nonetheless remain fragile against the background of external economic risks and domestic challenges in sustaining reform implementation over the medium term.
- (9) The Commission published its first assessment under enhanced surveillance on Greece on 21 November 2018. The assessment carried out by the Commission and reflected in its Communication described progress on Greece's general and specific reform commitments made in the Eurogroup and concluded that reform implementation has progressed but further efforts were needed to fulfil Greece's reform commitments ⁽⁴⁾.
- (10) In light of the above, the Commission concludes that the conditions justifying the establishment of enhanced surveillance pursuant to Article 2 of Regulation (EU) No 472/2013 are still present. In particular, Greece continues to face risks with respect to its financial stability which, if they materialise, could have adverse spill-over effects on other euro-area Member States. Should any spillover effects materialise, they could occur indirectly by impacting investor confidence and thus refinancing costs for banks and sovereigns in other euro-area Member States.
- (11) Therefore, over the medium term, Greece needs to continue adopting measures to address the sources or potential sources of difficulties and implementing structural reforms to support a robust and sustainable economic recovery, with a view to alleviate the legacy effects of several factors. Those factors include the severe and protracted downturn during the crisis; the size of Greece's debt burden; its financial sector vulnerabilities; the continued relatively strong interlinkages between the financial sector and the Greek public finances, including through State ownership; the risk of contagion of severe tensions in either of those sectors to other Member States, as well as euro-area Member States' exposure to the Greek sovereign.
- (12) In order to address residual risks and monitor the fulfilment of the commitments geared thereto, it appears necessary and appropriate to prolong the enhanced surveillance of Greece pursuant to Article 2(1) of Regulation (EU) No 472/2013.

⁽³⁾ Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances (OJ L 306, 23.11.2011, p. 25).

⁽⁴⁾ European Commission: Enhanced Surveillance Report — Greece, November 2018, Institutional Paper 90, November 2018.

- (13) Greece was given the opportunity to express its views on the assessment of the Commission, via a letter sent on 14 February 2019. In its response on 15 February 2019, Greece broadly concurred with the Commission's assessment of the economic challenges it faces, which is the basis for prolonging enhanced surveillance.
- (14) Greece will continue to benefit from technical support under the Structural Reform Support Programme (as laid down in Regulation (EU) 2017/825 of the European Parliament and of the Council ⁽³⁾) for the design and implementation of reforms, including for the continuation and completion of key reforms in line with the policy commitments monitored under enhanced surveillance.
- (15) The Commission intends to closely collaborate with the European Stability Mechanism, in the context of its Early Warning System, in implementing the enhanced surveillance,

HAS ADOPTED THIS DECISION:

Article 1

The period of enhanced surveillance of Greece under Article 2(1) of Regulation (EU) No 472/2013 activated by Implementing Decision (EU) 2018/1192 shall be prolonged for a period of six months, commencing on 21 February 2019.

Article 2

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 20 February 2019.

For the Commission
Pierre MOSCOVICI
Member of the Commission

⁽³⁾ Regulation (EU) 2017/825 of the European Parliament and the Council of 17 May 2017 on the establishment of the Structural Reform Support Programme for the period 2017 to 2020 and amending Regulations (EU) No 1303/2013 and (EU) No 1305/2013 (OJ L 129, 19.5.2017, p. 1).

DECISION (EU) 2019/339 OF THE PRESIDENT OF THE EUROPEAN COMMISSION
of 21 February 2019
on the function and terms of reference of the hearing officer in certain trade proceedings

THE PRESIDENT OF THE EUROPEAN COMMISSION,

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

Having regard to the Rules of Procedure of the Commission ⁽¹⁾, and in particular Article 22 thereof,

Whereas:

- (1) Article 41 of the Charter of Fundamental Rights of the European Union provides that every person has the right to have their affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union. That article sets out a series of procedural rights that apply to interested parties involved in administrative proceedings which may affect their interests.
- (2) In 2007, the Commission created the function of hearing officer, in order to safeguard the effective exercise of the procedural rights of interested parties and ensure that trade proceedings are handled impartially, fairly and within a reasonable time. From 2007 to 2012, that role was entrusted to an official of the Directorate-General for Trade experienced in trade defence issues.
- (3) In 2012, in order to strengthen the role of the hearing officer, and to reinforce the transparency and fairness of trade proceedings, the President of the Commission adopted Decision 2012/199/EU ⁽²⁾. In order to take into account past experience, new legal developments including the reference to the role of the hearing officer in Regulations (EU) 2016/1036 ⁽³⁾ and (EU) 2016/1037 ⁽⁴⁾ of the European Parliament and of the Council as well as increasing procedural constraints, that Decision should be replaced.
- (4) The function of the hearing officer should be attributed to an independent person experienced in trade proceedings. The hearing officer should be appointed by the Commission in accordance with the rules laid down in the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union. In accordance with those rules, consideration may be given to candidates who are not officials of the Commission.
- (5) In order to ensure full independence, the hearing officer should be attached, for administrative purposes only, to the member of the Commission responsible for trade policy.
- (6) The main tasks of the hearing officer should be to advise the member of the Commission responsible for trade policy and the Director-General responsible for trade policy ('the Director-General'), to guarantee procedural rights, decide on requests for access to the file, to take decisions on the confidential nature of documents and to review the position of the Commission services responsible for the extension of deadlines. The hearing officer should seek to ensure that in the preparation of draft legal acts or proposals, due account is taken of all the relevant facts, whether favourable or unfavourable to the parties concerned.
- (7) The hearing officer should ensure that the opportunities afforded to interested parties for presenting evidence of facts and defence of their interests during the proceeding are such as to enable them to exercise their rights of defence in the most effective manner.
- (8) The intervention of the hearing officer should take place in a manner that any follow-up can be implemented, bearing in mind the time constraints of the proceedings.
- (9) It is necessary to determine the manner and circumstances in which the hearing officer may intervene, and to establish rules for the organisation, conduct and follow-up of such interventions.

⁽¹⁾ OJ L 308, 8.12.2000, p. 26.

⁽²⁾ Decision 2012/199/EU of the President of the European Commission of 29 February 2012 on the function and terms of reference of the hearing officer in certain trade proceedings (OJ L 107, 19.4.2012, p. 5).

⁽³⁾ 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 (OJ L 176, 30.6.2016, p. 21).

⁽⁴⁾ 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 (OJ L 176, 30.6.2016, p. 55).

- (10) The power of the hearing officer to decide on issues concerning access to the file, confidentiality and deadlines should provide the parties involved in a trade proceeding with an additional procedural guarantee whilst not impeding the orderly conduct and timely completion of proceedings.
- (11) The reports of the hearing officer should ensure that the main issues dealt with, and recommendations made by the hearing officer are brought to the attention of the decision-makers and thus provide an additional guarantee for the respect of the rights of parties affected by a trade proceeding. The annual reports of the hearing officer should also inform the Member States, the European Parliament and the public about the main activities of the hearing officer.
- (12) When processing personal data, the hearing officer should adhere to Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁵⁾.
- (13) This Decision should be without prejudice to the general rules granting or excluding access to Commission documents,

HAS ADOPTED THIS DECISION:

Article 1

The hearing officer

A specific function of hearing officer in trade proceedings shall be created.

The task of the hearing officer shall be to safeguard the effective exercise of the procedural rights of the interested parties provided for in the following Regulations ('the basic Regulations') and to ensure that the trade proceedings are handled impartially, fairly and within a reasonable time:

- (a) Regulation (EU) 2016/1036 and in particular Article 5(10) and (11), Article 6(5) to (8), Article 8(3), (4) and (9), and Articles 18 to 21 thereof;
- (b) Regulation (EU) 2016/1037, and in particular Article 10(12) and (13), Article 11(5) to (8) and (10), Article 13(3), (4) and (9), and Articles 28 to 31 thereof;
- (c) Regulation (EU) 2015/478 of the European Parliament and of the Council ⁽⁶⁾, and in particular Articles 5 and 8 thereof;
- (d) Regulation (EU) 2015/755 of the European Parliament and of the Council ⁽⁷⁾, and in particular Articles 3 and 5 thereof;
- (e) Regulation (EU) 2015/1843 of the European Parliament and of the Council ⁽⁸⁾, and in particular Articles 9 and 10 thereof;
- (f) Regulation (EU) 2016/1035 of the European Parliament and of the Council ⁽⁹⁾, and in particular Article 5(12) and (13), Article 6(5) to (8), and Articles 12, 13 and 14 thereof;
- (g) Regulation (EC) No 868/2004 of the European Parliament and of the Council ⁽¹⁰⁾, and in particular Articles 7 and 8 thereof;

⁽⁵⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

⁽⁶⁾ Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports (OJ L 83, 27.3.2015, p. 16).

⁽⁷⁾ Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33).

⁽⁸⁾ Regulation (EU) 2015/1843 of the European Parliament and of the Council of 6 October 2015 laying down Union procedures in the field of the common commercial policy in order to ensure the exercise of the Union's rights under international trade rules, in particular those established under the auspices of the World Trade Organization (OJ L 272, 16.10.2015, p. 1).

⁽⁹⁾ Regulation (EU) 2016/1035 of the European Parliament and of the Council of 8 June 2016 on protection against injurious pricing of vessels (OJ L 176, 30.6.2016, p. 1).

⁽¹⁰⁾ Regulation (EC) No 868/2004 of the European Parliament and of the Council of 21 April 2004 concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not members of the European Community (OJ L 162, 30.4.2004, p. 1).

- (h) Regulation (EU) No 978/2012 of the European Parliament and of the Council ⁽¹¹⁾, and in particular Article 24 thereof, and Commission Delegated Regulation (EU) No 155/2013 ⁽¹²⁾, and in particular Article 6 thereof, and Commission Delegated Regulation (EU) No 1083/2013 ⁽¹³⁾, and in particular Article 5 thereof;
- (i) Regulation (EU) 2015/476 of the European Parliament and of the Council ⁽¹⁴⁾, and in particular Articles 1(2) and 2(2) thereof.

Article 2

Definitions

For the purposes of this Decision the following definitions shall apply:

- (a) 'trade proceeding' means any investigation or administrative procedure performed by the Commission services under any of the basic Regulations;
- (b) 'interested party' means any person whose interests are affected by a trade proceeding pursuant to the basic Regulations;
- (c) 'rights of the interested parties' means procedural rights and the right of every person to have their affairs handled impartially, fairly and within a reasonable time in trade proceedings.

Article 3

Appointment, termination of appointment and deputising

1. The Commission shall appoint the hearing officer in accordance with the rules laid down in the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union.
2. The appointment of the hearing officer shall be published in the *Official Journal of the European Union*. Any interruption, termination of appointment or transfer of the hearing officer shall be the subject of a reasoned decision of the Commission. That decision shall be published in the *Official Journal*.
3. The hearing officer shall be attached, for administrative purposes, to the member of the Commission responsible for trade policy.
4. Where the hearing officer is unable to act in a given case, the member of the Commission responsible for trade policy, where possible after consultation with the hearing officer, shall designate an official, who is not involved in the case concerned and has sufficient experience in trade proceedings, to carry out the hearing officer's duties on a case by case basis.
5. Paragraph 4 shall apply where the hearing officer perceives an actual or potential conflict of interest in the performance of their functions, and duly submits a request to be relieved of their duties, in a specific case, to the member of the Commission responsible for trade policy.
6. Where the hearing officer is unable to act for a period of time not limited to a given case or has ceased to act as hearing officer, the member of the Commission responsible for trade policy shall designate an official experienced in trade proceedings to carry out the hearing officer's duties *ad interim*, until the hearing officer is in a position to resume their duties or until the Commission decides to appoint a new hearing officer.

⁽¹¹⁾ Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (OJ L 303, 31.10.2012, p. 1).

⁽¹²⁾ Commission Delegated Regulation (EU) No 155/2013 of 18 December 2012 establishing rules related to the procedure for granting the special incentive arrangement for sustainable development and good governance under Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences (OJ L 48, 21.2.2013, p. 5).

⁽¹³⁾ Commission Delegated Regulation (EU) No 1083/2013 of 28 August 2013 establishing rules related to the procedure for temporary withdrawal of tariff preferences and adoption of general safeguard measures under Regulation (EU) No 978/2012 of the European Parliament and the Council applying a scheme of generalised tariff preferences (OJ L 293, 5.11.2013, p. 16).

⁽¹⁴⁾ Regulation (EU) 2015/476 of the European Parliament and of the Council of 11 March 2015 on the measures that the Union may take following a report adopted by the WTO Dispute Settlement Body concerning anti-dumping and anti-subsidy matters (OJ L 83, 27.3.2015, p. 6).

*Article 4***Principles of intervention of the hearing officer**

1. The duties of the hearing officer shall be carried out in accordance with paragraphs 2 to 11.
2. The hearing officer shall act independently and shall not take instructions in fulfilling their tasks.
3. The hearing officer shall be bound by the rules of the Staff Regulations prohibiting unauthorised disclosure of information received in the line of duty and shall continue to be bound by that obligation after leaving the service.
4. The hearing officer shall take account of the need for effective application of the basic Regulations in accordance with Union law and the relevant case law of the Court of Justice of the European Union.
5. The hearing officer shall have access without restriction and undue delay to any files pertaining to a trade proceeding at any time of the proceeding.
6. The hearing officer shall make decisions as provided for in Articles 12 to 16 and may make recommendations to the Commission services responsible for the investigation on any issue concerning the rights of the interested parties who have requested the intervention of the hearing officer. The hearing officer shall seek to ensure that in the preparation of draft legal acts or proposals to the Commission, due account is taken of all the relevant facts, whether favourable or unfavourable to the parties concerned.
7. The hearing officer shall be kept informed by the Director responsible or their delegate about the development of all proceedings in which the hearing officer has intervened until the adoption of a final legal act.
8. The hearing officer shall be informed without delay of any substantial change of the Commission's position at the stage of imposition of definitive measures in trade proceedings in order to assess any potential impact on the rights of the interested parties.
9. The hearing officer shall advise the member of the Commission responsible for trade policy and, where appropriate, the Director-General, concerning the follow-up of the hearing officer's recommendations and, where necessary, on possible remedies.
10. The Director responsible shall consult the hearing office on any changes or updates of policy regarding procedural matters and substantive issues having an impact on the rights of the interested parties or on any other issue arising from a trade proceeding.
11. The hearing officer may present observations and recommendations on any matter arising out of a trade proceeding to the member of the Commission responsible for trade policy and, where necessary, the Director-General.

*Article 5***Intervention of the hearing officer**

1. Interested parties may request the intervention of the hearing officer in trade proceedings. Any request shall be submitted in good time, bearing in mind the time constraints of the proceedings. Interested parties shall request the intervention of the hearing officer at the earliest possible time following the occurrence of the event justifying such intervention.
2. The hearing officer may also act at the request of the member of the Commission responsible for trade policy, the Director-General, the Director responsible for a trade proceeding or their delegate, or a Director of another service consulted on a trade proceeding.
3. Any request for intervention of the hearing officer shall be made in writing and shall state the issues to be brought to the attention of the hearing officer, including an explanation on how the applicant's rights of defence are affected.
4. Any final legal act or proposal of the Commission shall be accompanied by a note from the hearing officer stating whether they intervened in the proceeding concerned and the nature of any intervention.
5. The hearing officer shall receive a copy of the consultations launched by the competent Commission services pursuant to Article 23(3) of the Rules of Procedure of the Commission.

*Article 6***Hearings**

1. The hearing officer may, upon request or as set out in the basic Regulations, organise and conduct hearings between an individual interested party or a group of interested parties with similar interests and the Commission services responsible for the investigation. The hearing officer may also organise and conduct hearings among interested parties with different interests.
2. Upon receipt of a request for a hearing, the hearing officer shall assess the issues raised and decide whether a hearing is appropriate. A hearing may cover any issue which arises at any moment of a trade proceeding and could affect the rights of the interested parties.
3. Hearings shall, in principle, only take place if the issues cannot be settled with the Commission services.
4. Where hearing requests are submitted outside the relevant timeframes set for the proceeding, the hearing officer shall examine the reasons for such late requests, the nature of the issues raised and the impact of those issues on the rights of defence, having due regard to the interests of good administration and the timely completion of the investigation.
5. The purpose of the hearing shall be to ensure that the rights of defence of parties are respected by the Commission services. The hearing officer shall, in principle, not accept or consider any evidence that has not been submitted to the Commission services in the course of proceedings.
6. Natural or legal persons invited to attend a hearing with the hearing officer shall either appear in person or be represented by a duly authorised agent appointed from among their staff or a legal representative. They may be assisted by a legal adviser or another qualified person from outside their staff if admitted by the hearing officer.
7. This Article is without prejudice to the right to a hearing with the Commission services responsible for investigation under the basic Regulations.

*Article 7***Hearings with individual interested parties or groups of interested parties with similar interests and the Commission services responsible for investigation**

1. The hearing officer may organise and conduct a hearing between an individual interested party or a group of interested parties with similar interests and the Commission services responsible for the investigation, upon a reasoned request of the interested party or the group of interested parties with similar interests.
2. An individual interested party may request a hearing on a specific issue with a group of interested parties with similar interests and the Commission services responsible for the investigation. The hearing shall take place provided that at least one other individual interested party with similar interests agrees to participate.

*Article 8***Hearings among interested parties with different interests**

1. The hearing officer may organise and chair a hearing among interested parties with different interests to allow opposing views to be presented and rebuttal arguments offered.
2. A hearing among interested parties with different interests may be organised in each trade proceeding after the hearing officer has heard the views of the Commission services responsible for the investigation.
3. An individual interested party may request a hearing among interested parties with different interests on a specific issue. A hearing may take place provided that at least one other individual interested party with different interests agrees to participate.
4. The Commission services responsible for the investigation shall attend the hearing as observers.
5. The competent representatives of the Member States may attend any hearing among interested parties with different interests as observers.

*Article 9***Preparation of hearings**

1. After hearing the Director responsible or their delegate, the hearing officer shall determine the date, the duration and the place of the hearing. Where a postponement is requested by the interested parties or the Commission services, the hearing officer shall decide whether or not to allow it.
2. Where appropriate, the hearing officer may hold a preparatory meeting with the interested parties or with the Commission services responsible for the investigation and other services in order to identify and clarify, as far as possible, any questions of fact or law to be addressed during the hearing. The hearing officer may request any information necessary for the preparation of the hearing from the participants.
3. The hearing officer shall prepare the agenda of each hearing. The agenda shall be made available to all participants prior to the hearing.
4. The hearing officer may, within a reasonable time after the deadline for the submission of comments on a disclosure and before a hearing among parties, invite the participants to submit questions on the information provided by other interested parties.
5. The hearing officer may, after hearing the Director responsible or their delegate, supply in advance to the parties invited to a hearing a list of the questions on which they are invited to comment.
6. The hearing officer may ask for prior written notification of the essential contents of the intended statement of the participants in any hearing.
7. The hearing officer shall invite the staff of the member of the Commission responsible for trade policy and the Legal Service to hearings organised by the hearing officer. The hearing officer may invite other Commission services to attend such hearings.
8. The hearing officer may invite external experts to attend such hearings. Interested parties and the Commission services may request the hearing officer to admit external experts to hearings. The hearing officer shall decide on such requests. External experts invited to a hearing shall be required to sign a confidentiality agreement.
9. External experts may be asked to provide any relevant analysis, reports or publications. They shall be included in the file open for consultation by interested parties and made available to all participants whenever possible prior to the hearing.

*Article 10***Conduct of hearings**

1. The hearing officer shall be responsible for the conduct of hearings. The hearing officer shall ensure that the hearing is held in a fair and impartial manner.
2. Hearings shall not be public. The hearing officer shall decide which persons are to be heard on behalf of an interested party and whether the persons concerned are to be heard separately or in the presence of other persons invited to attend. In the latter case, the legitimate interest of the interested parties in the protection of their business secrets and other confidential information shall be taken into consideration.
3. The hearing officer may allow the participants to pose and answer questions during the hearing.
4. If the hearing officer has admitted external experts, those experts shall have the opportunity to present their views and to answer questions from other participants in the hearing.
5. Where appropriate after a hearing, in view of the need to ensure the right to be heard, and after hearing the Director responsible or their delegate, the hearing officer may afford interested parties the opportunity to submit further written comments. The hearing officer shall fix a date by which such submissions are to be made. The hearing officer may decide not to take into account written comments received after that date.

*Article 11***Follow-up on hearings**

1. Where hearings among interested parties with different interests are organised, the hearing officer shall produce a transcript or a meaningful summary of the hearing and shall make it available to all participants in the hearing. The transcript or meaningful summary shall be included in the file open for consultation by interested parties.

Where hearings between an individual interested party or a group of interested parties with similar interests and the Commission services are organised, the hearing officer shall produce a transcript or a meaningful summary of the hearing and shall make it available to all participants in the hearing. Those participants may submit a reasoned request for confidentiality of certain information contained in the transcript or the summary. The hearing officer shall decide on the requests after hearing the Commission services responsible for the investigation and where necessary other services. The non-confidential version of the transcript or summary of the hearing shall be included in the file for consultation by interested parties.

2. The hearing officer may convey recommendations to the Commission services responsible for the investigation in accordance with Article 4(5). The Commission services responsible for the investigation shall inform the hearing officer within a reasonable period of time before the adoption of a final legal act whether and how they have taken those recommendations into account and shall provide the hearing officer with a copy of the draft legal act.

3. The hearing officer shall inform the member of the Commission responsible for trade policy without delay about hearings with individual parties or a group of interested parties with similar interests as provided for in Article 18. If the case so requires, the hearing officer shall submit an immediate recommendation to the member of the Commission responsible for trade policy or the Director-General.

4. In principle, recommendations made by the hearing officer to the Commission services responsible for the investigation, and reports and observations to the member of the Commission responsible for trade policy and the Director-General, shall be considered confidential internal documents.

However, in the interest of transparency and good administration, the hearing officer shall decide which documents, originating from the hearing officer, are to be included in the file open for inspection to parties.

Article 12

Access to file

1. An interested party may request the hearing officer to review any refusal of the Commission services responsible for the investigation to provide that party, within a reasonable time, with access to the file open for consultation or to a particular document in the possession of the Commission. The hearing officer shall examine the case and shall make a decision on whether to grant partial or full access or refuse access to the file or the requested document.

2. The hearing officer shall set the time limits within which access shall be provided by the Commission services responsible for the investigation.

Article 13

Confidentiality

1. The hearing officer shall be bound by the general rules regarding the confidentiality of information submitted by interested parties in administrative proceedings before the Commission.

2. The hearing officer shall examine requests by interested parties or the Commission services responsible for the investigation regarding the confidential nature of a document in the possession of the Commission services responsible for the investigation. The hearing officer shall decide on such requests bearing in mind both the rights of defence of interested parties and the rules on confidentiality.

Article 14

Non-confidential summaries of confidential information

1. An interested party may request the hearing officer to review the assessment of the Commission services responsible for the investigation as to whether a non-confidential summary of confidential information submitted in the course of an investigation is in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence.

2. If the Commission services responsible for the investigation intend to disregard a document or information for which an interested party has refused to provide a meaningful non-confidential summary, the latter may request the hearing officer to decide on the matter.

3. The hearing officer shall examine the requests. If the non-confidential summary is not sufficiently detailed, the hearing officer shall give the interested party that provided the summary an opportunity to comment and improve its summary within a reasonable time.

4. If the interested party that submitted the confidential information provides a deficient summary or offers justifications that cannot be accepted or does not act, the hearing officer shall decide whether or not to disregard confidential information for which no meaningful non-confidential summary has been provided in accordance with the relevant provisions of the basic Regulations.

Article 15

Access to confidential information not susceptible to summary

At the request of an interested party the hearing officer may examine information that is confidential and not susceptible to summary, for which confidentiality has been requested and to which that party has no access, in order to verify how that information was used by the Commission services responsible for the investigation.

The hearing officer shall inform the requesting interested party whether:

- (a) the information withheld from that party is relevant to that party's defence;
- (b) where relevant, the investigation services have correctly reflected the information in the facts and considerations on which they have based their conclusions.

Article 16

Extension of deadlines

1. A request for extension of time limits or postponement of the dates for replying to questionnaires, for submitting additional information, for on-the-spot visits, or for comments on disclosures shall first be addressed by any interested party to the Commission services responsible for the investigation. Such a request shall be made in due time before the expiry of the original time limit.

Where such a request is rejected or where the interested party considers that the extension given is too short, it may submit, before the expiry of the original time limit, a reasoned request to the hearing officer to review the matter. The request shall be submitted directly to the hearing officer.

After hearing the Director responsible or their delegate, the hearing officer may extend the time limits or reject the request.

The hearing officer shall decide with due regard to the specific circumstances of the request concerned and the time constraints of the proceeding.

2. The Commission services shall not act in the matter referred to the hearing officer before the hearing officer has decided.

Article 17

Participation in the meetings of committees

The hearing officer may attend relevant committee meetings. Where appropriate, the hearing officer may reply to questions from Member States as far as those questions concern the nature of the hearing officer's intervention in the proceedings.

Article 18

Reports of the hearing officer

1. At the end of each year, the hearing officer shall prepare an annual report. The annual report shall contain information on the cases in which the hearing officer intervened, the type of decisions and recommendations made and any recommendation for improving the trade proceedings. The report shall be addressed to the member of the Commission responsible for trade policy. The Director-General and Director(s) concerned shall receive a copy of the report.

2. Summaries of the annual report shall be communicated to the European Parliament and the Member States and published on the website of the hearing officer.
3. In addition to the annual report provided for in paragraph 1 and where warranted, the hearing officer shall on an *ad hoc* basis, provide the member of the Commission responsible for trade policy with a summary of the hearing officer's activities and the issues which arose during those activities. That information shall outline the main policy issues, the decisions and the recommendations made by the hearing officer and how those recommendations were taken into account by the Commission services responsible for the investigation. The Director-General shall receive a copy of such information.
4. The hearing officer shall report on any hearing among interested parties with different interests and may report to the member of the Commission responsible for trade policy and the Director-General on any other issue arising out of a trade proceeding or otherwise relevant for the effective application of Union law in trade proceedings.
5. The final report of the hearing officer in hearings among parties with different interests shall be submitted to the member of the Commission responsible for trade policy, the Director-General and the Director concerned. It shall be communicated to the competent representatives of the Member States and the interested parties.

Article 19

Transitional provisions

This Decision shall apply to proceedings which are initiated as of the date of entry into force of this Decision and to proceedings which have already been initiated before that date.

Procedural steps taken before the date of entry into force of this Decision shall continue to have effect for the purposes of this Decision.

Article 20

Repeal of Decision 2012/199/EU

Decision 2012/199/EU is repealed.

Article 21

Entry into force

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

Done at Brussels, 21 February 2019.

For the Commission
The President
Jean-Claude JUNCKER

III

(Other acts)

EUROPEAN ECONOMIC AREA

DECISION OF THE EEA JOINT COMMITTEE

No 246/2018

of 5 December 2018

amending Annex VI (Social security) to the EEA Agreement [2019/340]

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ('the EEA Agreement'), and in particular Article 98 thereof,

Whereas:

- (1) Commission Regulation (EU) 2017/492 of 21 March 2017 amending Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems and Regulation (EC) No 987/2009 of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004 ⁽¹⁾ is to be incorporated into the EEA Agreement.
- (2) Annex VI to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex VI to the EEA Agreement shall be amended as follows:

1. The following indent is added in points 1 (Regulation (EC) No 883/2004 of the European Parliament and of the Council) and 2 (Regulation (EC) No 987/2009 of the European Parliament and of the Council):
'— **32017 R 0492**: Commission Regulation (EU) 2017/492 of 21 March 2017 (OJ L 76, 22.3.2017, p. 13).'
2. The following shall be added in adaptation (h) of point 1 (Regulation (EC) No 883/2004 of the European Parliament and of the Council):

'NORWAY

Old age income pension under the National Insurance Act (Chapter 20) and defined contribution pension schemes under the Act on Mandatory Occupational Pensions.'

Article 2

The text of Regulation (EU) 2017/492 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 6 December 2018, provided that all the notifications under Article 103(1) of the EEA Agreement have been made (*).

⁽¹⁾ OJ L 76, 22.3.2017, p. 13.

(*) No constitutional requirements indicated.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 5 December 2018.

For the EEA Joint Committee

The President

Oda Helen SLETNES

DECISION OF THE EEA JOINT COMMITTEE

No 18/2019

of 8 February 2019

amending Annex IX (Financial services) to the EEA Agreement [2019/341]

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ('the EEA Agreement'), and in particular Article 98 thereof,

Whereas:

- (1) Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 ⁽¹⁾, as corrected by OJ L 349, 21.12.2016, p. 8, is to be incorporated into the EEA Agreement.
- (2) Annex IX to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex IX to the EEA Agreement shall be amended as follows:

- (1) the following indent is added in points 16b (Directive 98/26/EC of the European Parliament and of the Council) and 31ba (Directive 2014/65/EU of the European Parliament and of the Council):
— **32014 R 0909:** Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 (OJ L 257, 28.8.2014, p. 1), as corrected by OJ L 349, 21.12.2016, p. 8.;
- (2) the following is added in point 29f (Regulation (EU) No 236/2012 of the European Parliament and of the Council):
, as amended by:
— **32014 R 0909:** Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 (OJ L 257, 28.8.2014, p. 1), as corrected by OJ L 349, 21.12.2016, p. 8.;
- (3) the following is inserted after point 31bea (Commission Implementing Regulation (EU) No 594/2014):
'31bf. **32014 R 0909:** Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1), as corrected by OJ L 349, 21.12.2016, p. 8.

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Notwithstanding the provisions of Protocol 1 to this Agreement, and unless otherwise provided for in this Agreement, the term "Member State(s)" and "competent authorities" shall be understood to include, in addition to their meaning in the Regulation, the EFTA States and their competent authorities, respectively.
- (b) References to "members of the ESCB" or to "central banks" shall be understood to include, in addition to their meaning in the Regulation, the national central banks of the EFTA States.
- (c) Liechtenstein may allow third-country CSDs already providing services referred to in Article 25(2) to financial intermediaries in Liechtenstein or already having set up a branch in Liechtenstein to continue to provide the services referred to in Article 25(2) for a period not exceeding 5 years after the date of entry into force of Decision of the EEA Joint Committee No 18/2019 of 8 February 2019.

⁽¹⁾ OJ L 257, 28.8.2014, p. 1.

- (d) In Article 1(3), the words “Union law” shall be replaced by the words “the EEA Agreement”.
- (e) In Article 12(3), the words “Union currencies” shall be replaced by the words “official currencies of the Contracting Parties to the EEA Agreement”.
- (f) In Article 13 and in the first subparagraph of Article 14(1), the words “, the EFTA Surveillance Authority” shall be inserted after the words “relevant authorities”.
- (g) In Articles 19(3), 33(3), 49(4), 52(2) and 53(3), the words “ESMA, which” shall be replaced by the words “ESMA. ESMA or, as the case may be, the EFTA Surveillance Authority”.
- (h) In Article 24(5):
 - (i) in the first and second subparagraphs, the words “and, in cases concerning an EFTA State, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
 - (ii) in the third subparagraph, the words “ESMA, which” shall be replaced by the words “ESMA. ESMA or, as the case may be, the EFTA Surveillance Authority”.
- (i) In Article 34(8), the words “Union competition rules” shall be replaced by the words “competition rules applicable pursuant to the EEA Agreement”.
- (j) In Article 38(5), the words “17 September 2014” shall be replaced by the words “the date of entry into force of Decision of the EEA Joint Committee No 18/2019 of 8 February 2019”.
- (k) In Article 49(1), as regards the EFTA States, the words “by 18 December 2014” shall read “within three months of the date of entry into force of Decision of the EEA Joint Committee No 18/2019 of 8 February 2019”.
- (l) In Article 55:
 - (i) in paragraphs 5 and 6, the words “Union law” shall be replaced by the words “the EEA Agreement”;
 - (ii) in paragraph 6, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.
- (m) In Articles 58(3) and 69(1), as regards the EFTA States, the words “by 16 December 2014” shall read “within three months of the date of entry into force of Decision of the EEA Joint Committee No 18/2019 of 8 February 2019”.
- (n) In Article 61(1), as regards the EFTA States, the words “by 18 September 2016” shall read “within one year of the date of entry into force of Decision of the EEA Joint Committee No 18/2019 of 8 February 2019”.
- (o) In Article 69(2) and (5), as regards the EFTA States, the words “in the EEA” shall be inserted after the words “entry into force”.
- (p) In Article 76, as regards the EFTA States:
 - (i) in paragraphs 4, 5 and 6, the words “the decision of the EEA Joint Committee containing” shall be inserted after the words “entry into force of”;
 - (ii) in paragraph 5, the words “until 13 June 2017” are replaced by the words “within six months from the date of entry into force of a decision of the EEA Joint Committee containing Directive 2014/65/EU and Regulation (EU) No 600/2014”;
 - (iii) in paragraph 7, the words “3 January 2017” shall read “these acts apply in the EEA”.

Article 2

The text of Regulation (EU) No 909/2014, as corrected by OJ L 349, 21.12.2016, p. 8, in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 February 2019, provided that all the notifications under Article 103(1) of the EEA Agreement have been made (*).

(*) Constitutional requirements indicated.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 February 2019.

For the EEA Joint Committee

The President

Claude MAERTEN

DECISION OF THE EEA JOINT COMMITTEE

No 21/2019

of 8 February 2019

amending Annex IX (Financial services) to the EEA Agreement [2019/342]

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ('the EEA Agreement'), and in particular Article 98 thereof,

Whereas:

- (1) Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions ⁽¹⁾ is to be incorporated into the EEA Agreement.
- (2) Annex IX to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The following is inserted after point 31j (Directive 2014/17/EU of the European Parliament and of the Council) of Annex IX to the EEA Agreement:

'31k. **32015 R 0751:** Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (OJ L 123, 19.5.2015, p. 1).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) In point (b) of Article 3(2), as regards the EFTA States, the words "8 June 2015" shall read "the date of entry into force of Decision of the EEA Joint Committee No 21/2019 of 8 February 2019".
- (b) In Article 16(2), as regards the EFTA States, the words "until 9 December 2016" shall read "for one year after the date of entry into force of Decision of the EEA Joint Committee No 21/2019 of 8 February 2019."

Article 2

The text of Regulation (EU) 2015/751 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 February 2019, provided that all the notifications under Article 103(1) of the EEA Agreement have been made (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 February 2019.

For the EEA Joint Committee

The President

Claude MAERTEN

⁽¹⁾ OJ L 123, 19.5.2015, p. 1.

(*) Constitutional requirements indicated.

CORRIGENDA

Corrigendum to Commission Regulation (EU) 2018/1497 of 8 October 2018 amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards food category 17 and the use of food additives in food supplements*(Official Journal of the European Union L 253 of 9 October 2018)*

On page 44, in the Annex, in the amendments to Annex II to Regulation (EC) No 1333/2008 after point 2(c), the following omission is corrected:

for:

	'E 969	Advantame	55		only food supplements in syrup form'
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read:

	'E 969	Advantame	55		only food supplements in syrup form
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(d) the entry for food subcategory 17.3 is deleted.'

