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<sup>(1)</sup> Text with EEA relevance.

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## II

*(Non-legislative acts)*

## REGULATIONS

## COMMISSION DELEGATED REGULATION (EU) 2020/2153

of 7 October 2020

**amending Council Regulation (EU) 2017/1939 as regards the categories of operational personal data and the categories of data subjects whose operational personal data may be processed in the index of case files by the European Public Prosecutor's Office**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office <sup>(1)</sup>, and in particular Article 49(3) thereof,

Whereas:

- (1) The European Public Prosecutor's Office ('the EPPO') was established to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the Union.
- (2) The EPPO's case management system includes an index of all case files. The operational personal data contained in the index is limited to the data needed to identify cases or establish cross-links between different case files.
- (3) The categories of operational personal data and the categories of data subjects whose operational personal data may be processed in the index should therefore be identified.
- (4) Regulation (EU) 2017/1939 should be amended accordingly.
- (5) The group of experts referred to in Article 20(4) of Regulation (EU) 2017/1939 was consulted on 8 May 2020.
- (6) The European Data Protection Supervisor delivered an opinion on 31 July 2020,

HAS ADOPTED THIS REGULATION:

*Article 1*

In Regulation (EU) 2017/1939, the text set out in the Annex to this Regulation is added as an Annex.

*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*.

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<sup>(1)</sup> OJ L 283, 31.10.2017, p. 1.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 7 October 2020.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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## ANNEX

## ‘ANNEX

**Categories of data subjects and categories of operational personal data referred to in Article 49(3)****A. Categories of data subjects whose operational personal data may be processed in the index:**

- (a) suspected or accused persons in the criminal proceedings of the EPPO;
- (b) persons convicted following the criminal proceedings of the EPPO;
- (c) natural persons who reported or are victims of offences that fall within the competence of the EPPO;
- (d) contacts or associates of one of the persons referred to in points (a) and (b).

**B. Categories of operational personal data of the categories of data subjects referred to in points (a) and (b) of section A that may be processed in the index:**

- (a) surname, maiden name, given names and any alias or assumed names;
- (b) date and place of birth;
- (c) nationality;
- (d) sex;
- (e) place of residence, profession and whereabouts of the person concerned;
- (f) social security numbers, ID-codes, driving licences, identification documents, passport data, customs and tax identification numbers;
- (g) description and nature of the alleged offences, the date on which they were committed and the criminal category of the offences;
- (h) information concerning legal persons related to identified or identifiable individuals who are the subject to an investigation conducted by the European Public Prosecutor's Office;
- (i) suspected membership of a criminal organisation;
- (j) details of accounts held with banks and other financial institutions;
- (k) telephone numbers, SIM-card numbers, email addresses, IP addresses, and account and user names used on online platforms;
- (l) vehicle registration data;
- (m) identifiable assets owned or utilised by the person, such as crypto-assets and real estate.

**C. Categories of operational personal data of the categories of data subjects referred to in point (c) of section A that may be processed in the index, limited to what is necessary and proportionate in order for the EPPO to perform its investigative and prosecutorial tasks:**

- (a) surname, maiden name, given names and any alias or assumed names;
- (b) date and place of birth;
- (c) nationality;
- (d) sex;
- (e) place of residence, profession and whereabouts of the person concerned;
- (f) ID-codes, identification documents, and passport data;
- (g) description and nature of the offences involving or reported by the person concerned, the date on which the offences were committed and the criminal category of the offences.

**D. Categories of operational personal data of the categories of data subjects referred to in point (d) of section A that may be processed in the index, limited to what is necessary and proportionate in order for the EPPO to perform its investigative and prosecutorial tasks:**

- (a) surname, maiden name, given names and any alias or assumed names;
  - (b) date and place of birth;
  - (c) nationality;
  - (d) sex;
  - (e) place of residence, profession and whereabouts of the person concerned;
  - (f) ID-codes, identification documents, and passport data.'
-

**COMMISSION DELEGATED REGULATION (EU) 2020/2154****of 14 October 2020****supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards animal health, certification and notification requirements for movements within the Union of products of animal origin from terrestrial animals****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') <sup>(1)</sup>, and in particular Articles 166(3), 168(3) and 169(5) thereof,

Whereas:

- (1) Regulation (EU) 2016/429 lays down rules concerning, inter alia, the production, processing and distribution within the Union of products of animal origin from terrestrial animals. It also provides for the Commission to adopt delegated acts concerning detailed requirements supplementing the rules already laid down in that Regulation and, in particular, on preventive measures, including risk-mitigation measures, and restrictions on movements of consignments of products of animal origin from terrestrial animals, as well as advance notification of such movements, in order to ensure that such products do not cause the spread of listed diseases or emerging diseases within the Union.
- (2) In addition, the rules laid down in this act should take account of Union rules on movements of consignments of products of animal origin from terrestrial animals within the Union laid in Union acts adopted before Regulation (EU) 2016/429, and in particular in Council Directive 2002/99/EC <sup>(2)</sup>, as they have been shown to be effective in combating the spread of animal diseases. The rules laid down in this act should also take account of the experience gained in the application of the rules laid down in those earlier acts, and the rules should be adapted to the new legislative framework for animal health laid down in Regulation (EU) 2016/429.
- (3) Article 166 of Regulation (EU) 2016/429 lays down the general animal health obligations on operators at all stage of the production, processing and distribution of products of animal origin from terrestrial animals, including the movements of consignments of those products within the Union. In particular, it lays down the responsibilities of operators regarding the spread of listed diseases and emerging diseases, and more particularly when emergency measures or movement restrictions have been put in place by the competent authority at the place of production or processing of those products. Controlling the spread of listed diseases and emerging diseases is therefore not only the responsibility of the operators, but also the responsibility of the competent authority. This Regulation should therefore lay down a clear obligation on operators to only move consignments of such products produced or processed at places subject to emergency measures or movement restrictions after obtaining the authorisation of the competent authority and subject to any conditions imposed for that authorisation.
- (4) Article 168 of Regulation (EU) 2016/429 lays down certain information requirements as regards the animal health certificate required to accompany movements of consignments of products of animal origin from terrestrial animals, and empowers the Commission to adopt delegated acts supplementing that information. This Regulation should therefore lay down information requirements as regards the animal health certificate required to accompany consignments of such products produced and processed in places subject to emergency measures or movement restrictions as referred to in Article 166(2) of Regulation (EU) 2016/429. This should include information on

<sup>(1)</sup> OJ L 84, 31.3.2016, p. 1.

<sup>(2)</sup> Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption (OJ L 18, 23.1.2003, p. 11).

compliance with any conditions laid down by the competent authority regarding the movements of those consignments. The information requirements to be laid down in this Regulation are to be taken into account in the model animal health certificate for products of animal origin established in a separate implementing act laying down the rules for the uniform application of Regulation (EU) 2017/625 of the European Parliament and of the Council <sup>(3)</sup> and the AHL Regulation (EU) 2016/429 concerning model official certificates, official attestations and model declarations for certain categories of terrestrial animals and germinal products thereof.

- (5) Article 169 of Regulation (EU) 2016/429 establishes the rules for the advance notification of movements of products of animal origin from terrestrial animals to other Member States and empowers the Commission to adopt delegated acts concerning the information requirements for such advanced notification and for emergency procedures for the advance notification in the event of power cuts and other disturbances in 'Traces'. This Regulation therefore should lay down the information obligations on operators in the advanced notification. In order to harmonise the information provided in the advanced notification to ensure that the competent authority at destination receives all the necessary details on the consignment, this Regulation should also lay down the requirements on the contents of the advance notification based on the situations where this is required in accordance with Regulation (EU) 2016/429 and the conditions that products of animal origin should comply with to be allowed to move to other Member States and details on the emergency procedures for such notifications.
- (6) As the 'Traces' system is an integrated component of the Information Management System for Official Controls (IMSOC) computerised system as referred to in Articles 131 to 136 of Regulation (EU) 2017/625, the contingency arrangements established for IMSOC pursuant to the rules laid down in Commission Implementing Regulation (EU) 2019/1715 <sup>(4)</sup> should apply.
- (7) This Regulation establishes a complete set of rules governing the animal health aspects of the movements of consignments of products of animal origin from terrestrial animals within the Union, the contents of the animal health certificate required to accompany such consignments and advance notification obligations. As these rules are to be applied in tandem and are interlinked, they should be laid down in a single act rather than in separate acts with numerous cross-references, in order to facilitate their application, in the interests of transparency, and to avoid a duplication of rules. This is also in keeping with the approach adopted by Regulation (EU) 2016/429.
- (8) This Regulation should be applicable from 21 April 2021 in accordance with the date of application of Regulation (EU) 2016/429,

HAS ADOPTED THIS REGULATION:

#### Article 1

#### Subject matter and scope

This Regulation supplements the rules laid down in Regulation (EU) 2016/429 regarding movements within the Union of consignments of products of animal origin from terrestrial animals in relation to:

- (a) obligations on operators for movements within the Union of consignments of products of animal origin from terrestrial animals produced or processed in establishments, food businesses or zones subject to emergency measures or movement restrictions as referred to in Article 166(2) of Regulation (EU) 2016/429;
- (b) information requirements for the animal health certificate provided for in Article 167(1) of Regulation (EU) 2016/429 (animal health certification);
- (c) information requirements for the advance notification of movements of those consignments to other Member States, provided for in Article 169(1) of Regulation (EU) 2016/429 (advance notification);

<sup>(3)</sup> Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (OJ L 95, 7.4.2017, p. 1).

<sup>(4)</sup> Commission Implementing Regulation (EU) 2019/1715 of 30 September 2019 laying down rules for the functioning of the information management system for official controls and its system components (the IMSOC Regulation) (OJ L 261, 14.10.2019, p. 37).

- (d) emergency procedures for the advance notification of movements of those consignments, provided for in Article 169(1) of Regulation (EU) 2016/429, in the event of power cuts and other disturbances of Traces.

#### *Article 2*

##### **Obligations on operators moving consignments of products of animal origin**

Operators shall only move consignments of products of animal origin from terrestrial animals subject to the emergency measures or movement restrictions referred to in Article 166(2) of Regulation (EU) 2016/429 within the Union if:

- (a) such movements are authorised by the competent authority of the place of origin; and
- (b) the consignments comply with the conditions for the authorisation required in accordance with point (a).

#### *Article 3*

##### **Animal health certificate for movements of consignments of products of animal origin**

In addition to the information required in accordance with Article 168(1) of Regulation (EU) 2016/429, the animal health certificate shall contain the information set out in the Annex to this Regulation.

#### *Article 4*

##### **Information obligation on operators for the advance notification of movements of consignments of products of animal origin between Member States**

In the advance notification, operators shall provide the competent authority of the Member State of origin with the information set out in the Annex to this Regulation in addition to information required in accordance with Article 168(1) of Regulation (EU) 2016/429, and they shall do so for each consignment of products of animal origin referred to in Article 1 of this Regulation.

#### *Article 5*

##### **Emergency procedures**

In the event of power cuts or other disturbances of Traces, the competent authority of the place of origin of consignments of products of animal origin referred to in Article 1 of this Regulation to be moved to another Member State shall comply with the contingency arrangements for Traces and Member States' national systems in the event of unplanned or planned unavailability established for the Information Management System for Official Controls (IMSOC) in Article 46 of Implementing Regulation (EU) 2019/1715.

#### *Article 6*

##### **Entry into force and applicability**

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 21 April 2021.

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

Done at Brussels, 14 October 2020.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

## ANNEX

**Information to be contained in the animal health certificate accompanying movements within the Union of consignments of products of animal origin from terrestrial animals**

- (a) the name and address of the consignor and the consignee;
  - (b) the name and address of the establishment or place of dispatch;
  - (c) the name and address of the establishment or place of destination;
  - (d) a description of the product of animal origin, including:
    - (i) the category of the product, as defined in Article 2 of Delegated Regulation (EU) 2020/687:
      - fresh meat (specifying the category, if needed);
      - meat products;
      - casings;
      - raw milk, colostrum and colostrum-based products;
      - dairy products;
      - eggs;
      - egg products;
      - composite products (indicating ingredients of animal origin)
    - (ii) the animal species from which the product of animal origin was obtained;
    - (iii) the Member State or region of origin of the raw material;
    - (iv) the treatment(s) that the product of animal origin has undergone;
    - (v) the marking applied on the product of animal origin, where required;
    - (vi) the place and date of their production or processing;
  - (e) the quantity of the product of animal origin;
  - (f) the date and place of issue of the animal health certificate; the name, capacity and signature of the official veterinarian; and the stamp of the competent authority of the place of origin of the consignment;
  - (g) the name of the listed disease or emerging disease causing the movement restrictions in the [establishment, food business or zone at the place of dispatch];
  - (h) details of compliance with the conditions for the granting of the authorisation referred to in Article 2 of this Regulation, and either:
    - (i) the title and date of publication in the *Official Journal of the European Union* of the relevant legal act adopted by the Commission providing those conditions; or
    - (ii) the reference to the legal act or instruction approved and made public by the competent authority providing those conditions.
-

**COMMISSION DELEGATED REGULATION (EU) 2020/2155****of 14 October 2020****supplementing Directive (EU) 2010/31/EU of the European Parliament and of the Council by establishing an optional common European Union scheme for rating the smart readiness of buildings****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2010/31/EU of the European Parliament and the Council of 19 May 2010 on the energy performance of buildings <sup>(1)</sup>, and in particular Article 8(10) thereof,

Whereas:

- (1) Directive 2010/31/EU is the main legislation, together with Directive 2009/125/EC of the European Parliament and of the Council <sup>(2)</sup> and Regulation (EU) 2017/1369 of the European Parliament and of the Council <sup>(3)</sup>, addressing energy efficiency in buildings in the context of the 2030 energy efficiency targets. Directive 2010/31/EU has two complementary objectives, namely to accelerate the renovation of existing buildings by 2050 and to support the modernisation of all buildings by using smart technologies, such as those that make use of artificial intelligence and cloud-based services, and having a clearer link to clean mobility.
- (2) In order to support a consistent and transparent rating of the smart readiness of buildings in the Union, a common definition of the smart readiness indicator and a common methodology for calculating it should be established.
- (3) In order to ensure the acceptability, usability and consistency of the smart readiness indicator scheme, the Commission has developed, in collaboration with a wide range of stakeholders and in liaison with Member States, a methodology for rating smart readiness of buildings in accordance with Article 8(10) of Directive 2010/31/EU and its Annex IA.
- (4) That methodology for rating the smart readiness of buildings ensures a degree of consistency and comparability in rating of the smart readiness of buildings across the EU, while leaving enough flexibility to adapt the calculation to specific conditions.
- (5) Adequate control mechanisms on the implementation of the smart readiness indicator scheme should be established.
- (6) Where relevant, self-assessment of smart readiness by the owner, by the facility manager or any other stakeholder linked to the building, supported by open guidance and tools, should be possible.
- (7) In order to avoid the duplication of efforts and costs between the smart readiness indicator scheme and existing mandatory schemes, the methodology for rating the smart readiness of buildings should allow Member States, if they wish, to connect, or integrate, the smart readiness indicator scheme with national energy performance certification schemes and other schemes established under Directive 2010/31/EU.
- (8) The smart readiness indicator should be designed to reflect the smart readiness of buildings and their systems and should be used to complement – not to replace – tools that assess other aspects of buildings, for instance energy performance or sustainability.

<sup>(1)</sup> OJ L 153, 18.6.2010, p. 13.

<sup>(2)</sup> Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (OJ L 285, 31.10.2009, p. 10).

<sup>(3)</sup> Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU (OJ L 198, 28.7.2017, p. 1).

- (9) The smart readiness indicator should not be an indicator for the energy performance of buildings. Building owners should be informed that the smart readiness as reflected in the smart readiness indicator and the energy performance of buildings as expressed by energy performance certificates are different issues, which therefore have to be addressed by different types of measures, though smart readiness should help enhance energy performance.
- (10) The benefits for consumers, building users and owners will be maximized when available instruments for rating buildings are used in combination, ensuring that the consumers, building users and owners can gain a comprehensive understanding of their buildings and of how they can improve overall performance.
- (11) The smart readiness indicator should be available for both existing buildings and new building projects. Digital models of buildings, including building information models or digital twins, should be allowed to be used to facilitate the calculation of smart readiness scores.
- (12) The smart readiness indicator calculation framework should be allowed to be used for all types of buildings and building units covered by Directive 2010/31/EU.
- (13) The smart readiness indicator should allow to highlight the additional benefits from advanced smart technologies for building owners and users, for instance in terms of energy savings and preparedness to climate change, or in terms of more inclusiveness and accessibility, comfort and well-being.
- (14) The assessment of the smart readiness of buildings and building units as part of the smart readiness indicator scheme for the purpose of issuing a smart readiness indicator certificate should be carried out by qualified or accredited experts.
- (15) Where Member States consider it appropriate, experts accredited for the energy performance certification of buildings, or for the inspection of heating, air-conditioning and combined heating or air-conditioning and ventilation systems under Directive 2010/31/EU, or for performing energy audits under Directive 2012/27/EU of the European Parliament and of the Council <sup>(\*)</sup>, should be allowed to be considered competent also to assess the smart readiness of buildings or building units.
- (16) Increased digitisation and connectivity in buildings increases cybersecurity and data protection risks and makes buildings and their systems more vulnerable to cyber threats and misuse of personal data. The European Data Protection Supervisor was consulted pursuant to Article 42(1) of Regulation (EU) 2018/1725. The smart readiness indicator should help to inform building owners and users of those risks,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

### **Subject matter and scope**

This Regulation establishes an optional common Union scheme for rating the smart readiness of buildings that is to say the definition of the smart readiness indicator and a common methodology by which it is to be calculated. The methodology consists of calculating smart readiness scores of buildings or building units and deriving smart readiness rating of buildings or building units.

#### *Article 2*

### **Definitions**

For the purposes of this Regulation, the following definitions apply:

<sup>(\*)</sup> Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

- (1) 'smart readiness indicator' means an indicator that informs on the rating of smart readiness of a building or building unit in line with Article 8(10) of Directive 2010/31/EU;
- (2) 'smart readiness indicator scheme' means a system of certification of smart readiness of buildings;
- (3) 'economic operator' means a natural or legal person who owns a building located on the territory of a Member State, or a natural or legal person who owns or occupies a building unit located on the territory of a Member State, and who requests a smart readiness indicator certificate for that building or building unit;
- (4) 'smart readiness rating' means the rating of the building or building unit in accordance with the methodology set out in this Regulation;
- (5) 'smart readiness score' means the score obtained by a building or building unit as part of the process for rating smart readiness;
- (6) 'system' means a system that can be found in a building and that is relevant to the scope of smart readiness rating as set out in Directive 2010/31/EU, including but not limited to technical building systems as defined in Article 2 of Directive 2010/31/EU;
- (7) 'smart readiness key functionality' means one of the three key functionalities referred to in point 2 of Annex IA of Directive 2010/31/EU;
- (8) 'impact criterion' means a key impact that smart-ready services are designed to achieve, as set out in this Regulation;
- (9) 'technical domain' means a collection of smart-ready services which, together, realise an integrated and consistent part of the services expected from the building or building unit such as heating;
- (10) 'connectivity' means the ability of systems to exchange data with each other and the ability of the building or building unit to exchange data, with the grid and related entities, such as an aggregator, or other buildings;
- (11) 'interoperability' is the ability of a system to interact for a common purpose, based on commonly agreed standards, by exchanging information and data;
- (12) 'cybersecurity' means the activities necessary to protect network and information systems, as well as the users of such systems, and other individuals affected by cyber threat;
- (13) 'smart-ready technology' means a technological enabler, such as building automation, for one or more smart-ready services;
- (14) 'smart-ready service' means a function or an aggregation of functions provided by one or more technical components or systems. A smart-ready service makes use of smart-ready technologies and orchestrates them into higher-level functions;
- (15) 'smart readiness indicator certificate' means a certificate recognised by a Member State or by a legal person designated by a Member State, which indicates the smart readiness of a building or building unit, calculated according to the methodology set out in this Regulation;
- (16) 'functionality level' means the level of smart readiness of a smart-ready service;
- (17) 'weighting factor' means a parameter that is used in the calculation of the smart readiness indicator to express the importance of a given technical domain or impact criterion in that calculation;
- (18) 'ventilation' means a process by which fresh air flow rates are managed to maintain and improve indoor air quality according to applicable requirements;
- (19) 'energy balance' means an approach by which certain weighting factors may be adapted based on the climate zone of the building.

### Article 3

#### Smart readiness indicator

1. The smart readiness indicator shall allow for rating and communicating the smart readiness of buildings and building units to economic operators and other stakeholders, in particular planners and building operators.

2. The smart readiness indicator shall allow for the assessment of the capabilities of a building or building unit to adapt its operation to the needs of the occupant and of the grid and to improve its energy efficiency and overall in-use performance. The smart readiness indicator shall cover features for increased energy savings, benchmarking and flexibility, and enhanced functionalities and capabilities provided by more interconnected and intelligent devices.
3. The smart readiness indicator shall include the smart readiness rating of a building or building unit and a set of smart readiness scores that reflect the smart readiness of buildings, building units and systems along predefined key functionalities, impact criteria and technical domains.
4. The smart readiness indicator shall include, where possible, additional information on inclusiveness and connectivity of the building, on interoperability and cybersecurity of systems, and on data protection.

#### *Article 4*

##### **Methodology for calculating the smart readiness indicator**

1. The methodology for calculating the smart readiness indicator shall be based on the assessment of smart-ready services present or planned at design stage in a building or building unit, and of smart-ready services that are considered relevant for that building or building unit.
2. The calculation of the smart readiness scores shall be based on a common Union methodological framework set out in Annexes I to VI.
3. The standard calculation methodology set out in Annexes I to VI may be adapted in accordance with Annex VII, in particular by making a link to energy performance calculations in the scope of energy performance certification.
4. The methodology for calculating the smart readiness indicator shall be used in accordance with the conditions set out in this Regulation, in particular regarding the qualification of experts.

#### *Article 5*

##### **Smart readiness rating**

The smart readiness rating of a building or building unit shall be based on the smart readiness scores calculated for the building or building unit in accordance with Annex VIII.

#### *Article 6*

##### **Optionality of the scheme**

1. The smart readiness indicator scheme shall be an optional common Union scheme.
2. Member States may decide if they implement the smart readiness indicator on their national territory, or parts thereof. They may also choose to implement the scheme only to certain categories of buildings.
3. Member States that implement the smart readiness indicator scheme may choose to apply it on a voluntary or mandatory basis for buildings or building units located on their territory.
4. Member States that decide to implement the smart readiness indicator scheme on their national territory, or parts thereof, shall notify the Commission prior to implementing the scheme.
5. Member States may decide to modify, adapt, or terminate the implementation of the scheme at any time without providing any justification to that end. They shall notify the Commission of any such decision.

*Article 7***Smart readiness indicator certificate**

1. The smart readiness indicator of a building or building unit shall be communicated to economic operators and other interested parties in a certificate.
2. The smart readiness indicator certificate shall include the information specified in Annex IX.

*Article 8***Smart readiness indicator experts**

1. Member States that decide to implement the smart readiness indicator shall ensure that the assessment of the smart readiness of buildings or building units with a view to issuing a smart readiness certificate is carried out by experts that are qualified or accredited. The experts may operate as self-employed or be employed by public bodies or private enterprises.
2. Member States that decide to implement the smart readiness indicator scheme shall lay down requirements on the qualification or accreditation of smart readiness indicator experts and ensure that those requirements include competence criteria, including in the ICT field.

*Article 9***Control system of the smart readiness indicator scheme**

1. Member States that decide to implement the smart readiness indicator scheme shall establish an independent control system for smart readiness indicator certificates. Where relevant, those Member States may rely on the independent control systems that are already in place, such as those for energy performance certification schemes.
2. The independent control system shall ensure the validity of the smart readiness indicator certificates issued on the Member State's territory.

*Article 10***Review**

The Commission, after consultation of the experts referred to in Article 23 of Directive 2010/31/EU, may review, as appropriate, this Regulation by 1 January 2026 and, if necessary, make proposals.

*Article 11***Entry into force**

This Regulation shall enter into force on the twentieth day following 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, 14 October 2020.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

## ANNEX I

**Calculation of smart readiness scores**

1. The smart readiness of a building or building unit reflects the capabilities of the building or building unit to adapt its operation to the needs of the occupants and the grid, and to improve its energy efficiency and overall in-use performance.
2. The smart readiness of a building or building unit is determined on the basis of the assessment of smart-ready services present or planned in, or relevant for, the building or building unit, and their functionality level.
3. The smart readiness of a building or building unit is expressed by a rating that derives from a total smart readiness score expressed as a percentage and that represents the ratio between the smart readiness of the building or building unit compared to the maximum smart readiness that it could reach.
4. The calculation of the smart readiness scores is based on pre-defined weighting factors in line with Annexes III, V and VII, the value of which may depend on climatic conditions and other relevant aspects, such as the type of building.
5. For expressing the smart readiness of a building or building unit, the methodology also allows the use of disaggregated smart readiness scores expressed as a percentage. The disaggregated scores may express smart readiness for one or more of the following:
  - (a) three key smart readiness functionalities as highlighted in point 2 of Annex Ia, to Directive 2010/31/EU:
    - (1) energy performance and operation;
    - (2) response to the needs of the occupants; and
    - (3) energy flexibility, including the ability of the building or building unit to enable participation in demand response.
  - (b) the smart readiness impact criteria as defined in Annex II to this Regulation;
  - (c) the smart readiness technical domains as defined in Annex IV to this Regulation.
6. The calculation of the smart readiness scores of a building or building unit relies on the assessment of the smart-ready services that are present, or planned at design stage, and on their functionality level. The assessment aims to determine with sufficient reliability what services are present or planned, and if so, the functionality level for each of those services. For this purpose, where they are available, digital models of buildings, including building information models or digital twins, may be used. The smart-ready services that can be present in a building are listed in a pre-defined smart-ready service catalogue as set out in Annex VI and are organised in pre-defined technical domains as set out in Annex IV.
7. The calculation of smart readiness scores is made in accordance with the following protocol:
  - (a) in accordance with the catalogue of smart-ready services as set out in Annex VI to this Regulation, for each technical domain as set out in Annex IV to this Regulation, smart-ready services that are present are assessed and, for each one, the functionality level is determined according to the catalogue of smart-ready services.
  - (b) in accordance with the catalogue of smart-ready services, and for each smart readiness impact criterion as set out in Annex II, the score  $I(d, ic)$  of each technical domain is determined, as follows:

$$I(d, ic) = \sum_{i=1}^{N_d} I_{ic}(FL(S_{i,d}))$$

where:

- (1)  $d$  is the number of the technical domain in question,
- (2)  $ic$  is the number of the impact criterion in question,

- (3)  $N_d$  is the total number of services in technical domain  $d$ ,
- (4)  $S_{i,d}$  is service  $i$  of technical domain  $d$ ,
- (5)  $FL(S_{i,d})$  is the functionality level of service  $S_{i,d}$  as available in the building or building unit,
- (6)  $I_{ic}(FL(S_{i,d}))$  is the score of service  $S_{i,d}$  for impact criterion number  $ic$ , according to the service's functionality level,
- (c) in accordance with the catalogue of smart-ready services, the maximum score of each technical domain for each impact criterion  $I_{max}(d,ic)$  is determined, as follows:

$$I_{max}(d,ic) = \sum_{i=1}^{N_d} I_{ic}(FL_{max}(S_{i,d}))$$

where:

- (1)  $FL_{max}(S_{i,d})$  is the highest functionality level that service  $S_{i,d}$  could have according to the smart-ready service catalogue,
- (2)  $I_{ic}(FL_{max}(S_{i,d}))$  is the score of service  $S_{i,d}$  for its highest functionality level, which means the maximum score of service  $S_{i,d}$  for impact criterion number  $ic$ ,
- (d) The smart readiness score expressed as a percentage for each of the impact criterion  $SR_{ic}$  is determined using the weighting specified in Annex V, as follows:

$$SR_{ic} = \frac{\sum_{d=1}^N W_{d,ic} \times I(d,ic)}{\sum_{d=1}^N W_{d,ic} \times I_{max}(d,ic)} \times 100$$

where:

- (1)  $d$  is the number of the technical domain in question,
- (2)  $N$  is the total number of technical domains (according to Annex IV),
- (3)  $W_{d,ic}$  is the weighting factor expressed as a percentage of technical domain number  $d$  for impact criterion number  $ic$ ,
- (e) smart readiness scores along the three key functionalities highlighted in Annex Ia, point 2 of Directive 2010/31/EU,  $SR_f$ , are determined, using the weighting factors specified according to Annex III, as follows:

$$SR_f = \sum_{ic=1}^M W_f(ic) \times SR_{ic}$$

where:

- (1)  $M$  is the total number of impact criteria according to Annex II,
- (2)  $W_f(ic)$  is the weighting factor expressed in percentage of impact criterion number  $ic$  for key functionality  $f$  according to Annex III,
- (3)  $SR_{ic}$  is the smart readiness score for impact criterion number  $ic$ .
- (f) the total smart readiness score  $SR$  may be calculated, as a weighted sum of the key functionalities' smart readiness scores, as follows:

$$SR = \sum W_f \times SR_f$$

where:

- (1)  $SR_f$  is the smart readiness score for key functionality  $f$ ,
- (2)  $W_f$  is the weight of key functionality  $f$  in the calculation of the total smart readiness scores, with  $\sum W_f = 1$ .

(g) smart readiness scores of technical domains for each impact criterion  $SR_{d,ic}$  may be calculated, as follows:

$$SR_{d,ic} = \frac{I(d,ic)}{I_{max}(d,ic)} \times 100$$

where:

- (1)  $I(d,ic)$  is the score of domain number  $d$  for impact criterion  $ic$ ,
  - (2)  $I_{max}(d,ic)$  is the maximum score of domain number  $d$  for impact criterion number  $ic$ .
-

*ANNEX II***Smart readiness impact criteria**

The smart readiness impact criteria considered in the calculation protocol set out in Annex I are the following:

- (a) energy efficiency,
  - (b) maintenance and fault prediction,
  - (c) comfort,
  - (d) convenience,
  - (e) health, well-being and accessibility,
  - (f) information to occupants,
  - (g) energy flexibility and storage.
-

*ANNEX III***Weighting of impact criteria in key functionalities**

1. Each impact criterion set out in Annex II of this Regulation is considered for only one of the three key functionalities, as set out in points 2 to 4. For each key functionality, Member States shall define the respective weighting factors of relevant impact criteria.
  2. For the 'energy performance and operation' key functionality, the relevant impact criteria are 'energy efficiency' and 'maintenance and fault prediction'.
  3. For the 'response to user needs' key functionality, the relevant impact criteria are 'comfort', 'convenience', 'information to occupants' and 'health, well-being & accessibility'.
  4. For the 'energy flexibility' key functionality, the relevant impact criterion is 'energy flexibility & storage'.
-

## ANNEX IV

**Technical domains**

The smart readiness technical domains considered in the calculation protocol set out in Annex I to this Regulation are the following:

- (a) heating,
  - (b) cooling,
  - (c) domestic hot water,
  - (d) ventilation,
  - (e) lighting,
  - (f) dynamic building envelope,
  - (g) electricity,
  - (h) electric vehicle charging,
  - (i) monitoring and control.
-

## ANNEX V

**Weighting of technical domains**

1. Each technical domain is weighted for each of the impact criterion and the weighting factors characterise the influence of the technical domain on the impact criterion.
  2. Technical domains' weighting factors are expressed as a percentage, and for each impact criterion, the sum of the weighting factors of the technical domains equals to 100 %.
  3. The standard approach to allocate weighting factors to the technical domains is based on:
    - (a) The climatic zone's energy balance for the weighting factors of 'heating', 'cooling', 'domestic hot water', 'ventilation', 'lighting', and 'electricity' technical domains along the 'energy efficiency', 'maintenance and prediction' and 'energy flexibility and storage' impact criteria;
    - (b) for all other cases: weighting factors that are either fixed or equally distributed.
  4. Member States define the climatic zones that are used, where relevant, in the determination of weighting factors. For this purpose, Member States may use, where available, relevant Union guidance.
  5. The weighting factors of technical domains may differ between residential and non-residential buildings for some impact criteria.
  6. Member States define the weighting factors and, for this purpose, are encouraged to use, where available, relevant Union guidance. They may also take into account possible impacts from climate change.
-

## ANNEX VI

**Smart ready service catalogue**

1. For the purpose of calculating smart readiness scores in accordance with the methodology set out in Annex I, Member States make available at least one smart-ready catalogue to be used by experts as the basis for identifying and assessing smart-ready services.
  2. A smart-ready service catalogue includes the list of smart-ready services to be considered for calculating the smart readiness score, related functionality levels, and corresponding individual scores for the impact criteria.
  3. The definition and any subsequent update of smart-ready catalogues reflect the current state of the art of smart-ready technologies.
  4. Member States are encouraged to provide guidelines to experts on the most effective way to identify and assess smart-ready services using, where available, relevant Union guidance.
  5. Member States may decide to make available several smart-ready catalogues, for instance for different building types.
-

*ANNEX VII***Possible adaptation of the standard calculation process**

1. To avoid unfairly penalising a building or building unit, some smart-ready services may be omitted in the calculation of the smart readiness scores, in case those services are not relevant for that building or building unit.
  2. Member States define the conditions under which such adaptations are relevant and allowed.
  3. Weighting factors of those technical domains for which the (climatic) energy balance approach would be used under the standard calculation may be calculated on the basis of the consumptions as evaluated in the energy performance certificate of the building or building unit in question.
-

*ANNEX VIII***Smart readiness rating**

1. The smart readiness rating is expressed on the basis of seven smart readiness classes, from highest smart readiness to lowest smart readiness.
2. Each smart readiness class corresponds to a range of total smart readiness scores as follows: 90 – 100 %; 80 – 90 %; 65 – 80 %; 50 – 65 %; 35 – 50 %; 20 – 35 %; < 20 %.

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## ANNEX IX

**Content of the smart readiness indicator certificate**

The information contained in the smart readiness indicator and conveyed to the end user includes the following:

- (a) unique ID of the certificate,
  - (b) date of issue and date of expiry of the certificate,
  - (c) an informational text clarifying the scope of the smart readiness indicator, in particular with regard to energy performance certificates,
  - (d) general information on the building or building unit (type of building or building unit, surface area, year of construction and where relevant, of renovation, location),
  - (e) where available, the energy performance class of the building or building unit as specified by a valid energy performance certificate,
  - (f) smart readiness class of the building or building unit,
  - (g) optionally, total smart readiness score of the building or building unit,
  - (h) smart readiness scores along the three key functionalities highlighted in Annex I of this Regulation,
  - (i) smart readiness score per impact criterion,
  - (j) optionally, scores of each technical domain for each impact criterion,
  - (k) where possible, available information on connectivity, in particular on the existence of high-speed-ready in-building physical infrastructure, such as the voluntary 'broadband ready' label,
  - (l) where possible, available information on interoperability, cybersecurity of systems and data protection, including where relevant on conformity to commonly agreed standards, and information on related risks,
  - (m) an informational text clarifying that the certificate reflects the smart readiness at the date of issuance and that any significant modifications to the building and its systems would affect smart readiness and would therefore require an update of the information given on the certificate,
  - (n) optionally, recommendations on how to improve the smart readiness of the building or building unit taking into account, where relevant, the heritage value.
  - (o) optionally, additional information on the assumptions made in the calculation of scores such as weighting factors of impact criteria used for calculating smart readiness scores for key functionalities.
-

**COMMISSION IMPLEMENTING REGULATION (EU) 2020/2156****of 14 October 2020****detailing the technical modalities for the effective implementation of an optional common Union scheme for rating the smart readiness of buildings****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2010/31/EU of the European Parliament and the Council of 19 May 2010 on the energy performance of buildings <sup>(1)</sup>, and in particular Article 8(11) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2020/2155 <sup>(2)</sup> establishes an optional common Union scheme for rating the smart readiness of buildings, that is to say the definition of the smart readiness indicator and a common methodology by which such indicator is to be calculated.
- (2) That scheme is optional for Member States. Those Member States that opt in to the common scheme should implement it in accordance with this Regulation and Delegated Regulation 2020/2155.
- (3) The technical modalities for the effective implementation of that optional common Union scheme are to be detailed in an implementing act.
- (4) The assessment of the smart readiness of buildings and building units as part of the smart readiness indicator scheme for the purpose of issuing a smart readiness indicator certificate should be carried out by experts that are qualified or accredited, either operating in a self-employed capacity or employed by public bodies or private enterprises.
- (5) Where Member States consider it appropriate, experts accredited for the energy performance certification of buildings, for the inspection of heating, air-conditioning and combined heating or air-conditioning and ventilation systems under Directive 2010/31/EU, and for performing energy audits under Directive 2012/27/EU of the European Parliament and of the Council <sup>(3)</sup>, should be allowed to be considered competent to also assess the smart readiness of buildings or building units.
- (6) Member States that decide to implement the smart readiness indicator scheme should be allowed to implement a test phase in accordance with the details provided in this Regulation. No legislation is considered necessary for such a test phase, unless a Member State deems that its national context requires such legislation. During this test phase feedback should be allowed to be collected in order to adjust the implementation modalities of the scheme and prepare the review of this Regulation and of Delegated Regulation (EU) 2020/2155.
- (7) The implementation of the smart readiness indicator scheme should make it possible for building or building unit owners, or other stakeholders linked to the building or building unit, such as facility managers, to evaluate the smart readiness of their buildings or building units. However, a smart readiness indicator certificate should only be issued on the basis of such an assessment where performed by a qualified or accredited expert.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 26 of Directive 2010/31/EU,

<sup>(1)</sup> OJ L 153, 18.6.2010, p. 13.

<sup>(2)</sup> Commission Delegated Regulation (EU) 2020/2155 of 14 October 2020 supplementing Directive 2010/31/EU of the European Parliament and of the Council by establishing an optional common European Union scheme for rating the smart readiness of buildings (see page 9 of this Official Journal).

<sup>(3)</sup> Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

HAS ADOPTED THIS REGULATION:

#### *Article 1*

### **Subject matter and scope**

This Regulation details the technical modalities for the effective implementation of an optional common Union scheme for rating the smart readiness of buildings established in Delegated Regulation (EU) 2020/2155.

#### *Article 2*

### **Definitions**

For the purposes of this Regulation, the definitions in Delegated Regulation (EU) 2020/2155 shall apply.

The following definition shall also apply:

‘smart readiness indicator modalities’ means the technical modalities for the effective implementation of the optional common Union scheme for rating the smart readiness of buildings set up by Delegated Regulation (EU) 2020/2155.

#### *Article 3*

### **Accreditation and qualification of smart readiness indicator experts**

1. Where Member States decide to implement the smart readiness indicator scheme, they may decide that experts accredited or qualified for issuing energy performance certificates, or for carrying out inspection of heating, air-conditioning, combined heating or air-conditioning and ventilation systems under Directive 2010/31/EU, or for performing energy audits under Directive 2012/27/EU, are also competent for issuing smart readiness indicator certificates. In that case, Member States may decide to set additional requirements for those experts in order to qualify for issuing smart readiness indicator certificates, in particular in relation to their training.
2. Member States shall make available to the public information on the qualifications of experts in charge of the smart readiness assessment.
3. Where relevant, Member States may make available to the public either regularly updated lists of qualified or accredited experts or regularly updated lists of accredited companies that offer the services of such experts. Member States may use for this purpose the same means as for experts for energy performance certification and inspections under Article 17 of Directive 2010/31/EU.

#### *Article 4*

### **Issue of the smart readiness indicator certificate and terms and conditions of its use**

1. Any economic operator may request from the experts referred to in Article 3 a smart readiness indicator assessment and certificate for the building or building unit in question.
2. The expert shall verify the reliability of the information collected for the assessment of the smart readiness of the building or building unit and for the issue of the smart readiness indicator certificate.
3. Where relevant, the expert may, when assessing the smart readiness of a building or building unit, take into account other regional or national indicators, and related assessment methods.

4. A smart readiness indicator certificate shall only be issued on the basis of an assessment performed by a qualified or accredited expert
5. The smart readiness indicator certificate shall include the elements listed in Annex IX to Delegated Regulation (EU) 2020/2155.
6. The validity of the smart readiness indicator certificate shall not exceed 10 years. However, where there is a significant change in a building or building unit that would have had an impact on the initial assessment of smart readiness, a new certificate shall be recommended.

#### *Article 5*

### **Coupling with energy performance certification and inspection schemes**

1. Member States that decide to implement the smart readiness indicator scheme may couple the issuing of the smart readiness indicator certificate with their energy performance certification scheme or with their scheme for the inspection of heating, air-conditioning and combined heating or air-conditioning and ventilation systems under Directive 2010/31/EU, or with their scheme for energy audits under Directive 2012/27/EU.
2. Member States may decide that coupling with those schemes shall be mandatory, in which case a smart readiness indicator certificate shall be issued whenever an energy performance certificate has to be issued or whenever an inspection or audit has to be performed, or that it shall be voluntary, in which case a smart readiness indicator certificate shall be issued only at the request of the economic operator.
3. Where Member States choose to couple the smart readiness indicator scheme with their energy performance certification or inspection or energy audit scheme, they may rely on the independent control system already in place for that scheme.

#### *Article 6*

### **Self-assessment**

1. The Commission shall make available by 1 April 2021 on its website a framework that allows building owners, users and other interested stakeholders to evaluate the smart readiness of a building or building unit. Member States may adapt or supplement this framework for use in their national context.
2. Where the smart readiness of a building or building unit is evaluated by building owners, users or other stakeholders without the intervention of an expert, this may not lead to the issue of a smart readiness indicator certificate.

#### *Article 7*

### **Monitoring and promotion of the smart readiness indicator scheme**

1. Where Member States decide to implement the smart readiness indicator scheme, experts that operate in the respective Member State's or Member States' territory shall report data on the smart readiness indicator certificates they issue to the national or, where applicable, the regional authorities of the respective Member States, in accordance with the Annex to this Regulation.
2. Member States that decide to implement the smart readiness indicator scheme shall report annually to the Commission the number of smart readiness indicator certificates issued on their territory and related statistics, as set out in the Annex to this Regulation.
3. The Commission, based on consultation with Member States, experts and stakeholders, and based on the data provided by experts, shall monitor the market uptake of the smart readiness indicator scheme.
4. Member States that decide to implement the smart readiness indicator scheme may establish additional measures to support the uptake of the scheme. Such measures may be established and reported in the context of the long-term renovation strategies required under Article 2a of Directive 2010/31/EU.

*Article 8***Testing of the smart readiness indicator scheme**

1. Member States may undertake a non-committal test phase of the smart readiness indicator scheme at national level.
2. National test phases may begin as from the entry into force of this Regulation.
3. Member States that undertake a national test phase shall submit a report on the related feedback to the Commission up to 6 months after the conclusion of the test phase.
4. All arrangements of the national test phases shall be defined by Member States. They include but are not limited to the duration, phasing, types of building and geographical zones targeted, aspects of the smart readiness indicator framework that are tested, arrangements for collecting feedback, the criteria for the choice of experts carrying out the smart readiness indicator assessments, the decision on whether an independent control system is established as part of the test phase, the decision on whether certificates are issued and made available to economic operators during the test phase, and designation of a third party to manage the test phase, where relevant.
5. At the end of the national test phases, Member States shall assess the outcomes and decide whether they will implement the smart readiness indicator scheme.
6. Member States that plan to undertake a national test phase shall notify the Commission ahead of launching the test phase, also indicating applicable arrangements.
7. The Commission shall support Member States that undertake a test phase of the smart readiness indicator at national level by supplying the framework referred to in Article 6 of this Regulation and by supporting exchanges of information and good practices.
8. The Commission, in consultation with Member States, shall monitor the test phases of the smart readiness indicator scheme.
9. Member States that choose to conduct the test phase may include in their report to the Commission an analysis or evaluation of the data collected by their national experts. Such national analyses or evaluations shall be taken into consideration by the Commission for the purpose of further developing the smart readiness indicator and related methodology.

*Article 9***Review**

The Commission may review, as appropriate, this Regulation by 1 January 2026, in the light of the experience gained and progress made during its application.

*Article 10***Entry into force**

This Regulation shall enter into force on the twentieth day following 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, 14 October 2020.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

## ANNEX

**Monitoring of the implementation of the smart readiness indicator scheme**

1. For each certificate issued, data on the following categories, where available, are reported by experts to national or, where relevant, regional authorities:
    - (a) the type of buildings or building unit;
    - (b) the total useful floor area of the building or building unit;
    - (c) the smart readiness class;
    - (d) the overall smart readiness score;
    - (e) the smart readiness scores with regard to the three key smart readiness functionalities highlighted in Annex IA to Directive 2010/31/EU and in Delegated Regulation (EU) 2020/2155;
    - (f) the smart readiness scores with regard to the smart readiness indicator impact criteria as set out in Annex II to Delegated Regulation (EU) 2020/2155.
  2. Member States may choose the most effective approach to allow for collecting those data. They may rely on their energy performance certificate database, where available.
  3. Member States report annually to the Commission on the data collected in accordance with the requirements set out in point 1. The annual report to the Commission includes, where available, at least the following:
    - (a) the total number of smart readiness indicator certificates issued, the overall distribution of smart readiness classes, in accordance with Annex VIII to Delegated Regulation (EU) 2020/2155, and statistics on the energy performance of buildings and building units for which smart readiness indicator certificates were issued;
    - (b) statistics on the buildings for which smart readiness indicator certificates were issued in the reporting year, including the share of certificates for:
      - (1) residential and non-residential buildings;
      - (2) single family dwellings;
      - (3) multifamily apartment buildings;
      - (4) non-residential buildings with a total useful floor area equal to or less than 1 000 m<sup>2</sup>;
      - (5) non-residential buildings with a total useful floor area of more than 1 000 m<sup>2</sup>.
    - (c) The distribution of smart readiness classes, according to Annex VIII to Delegated Regulation (EU) 2020/2155 for each of the following categories of buildings:
      - (1) single family dwellings;
      - (2) multifamily apartment buildings;
      - (3) non-residential buildings with a total useful floor area equal to or less than 1 000 m<sup>2</sup>;
      - (4) non-residential buildings with a total useful floor area of more than 1 000 m<sup>2</sup>.
  4. Where allowed by available data, Member States may give more detailed statistics, differentiating between building types such as educational buildings, healthcare buildings, or heritage buildings.
-

**COMMISSION IMPLEMENTING REGULATION (EU) 2020/2157****of 14 December 2020****approving Union amendments to the specification for a Protected Designation of Origin or a Protected Geographical Indication ('Montello – Colli Asolani' (PDO))**

THE EUROPEAN COMMISSION,

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

Having regard to Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation <sup>(1)</sup>, and in particular Article 15(2) thereof,

Whereas:

- (1) The Commission has examined the application for the approval of Union amendments to the product specification for the Protected Designation of Origin 'Montello – Colli Asolani', forwarded by Italy in accordance with Article 105 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council <sup>(2)</sup> in conjunction with Article 15 of Delegated Regulation (EU) 2019/33. The amendments provide for a change of name from 'Montello – Colli Asolani' to 'Asolo Montello'/'Montello Asolo'.
- (2) The Commission has published the application for the approval of the Union amendments to the product specification in the *Official Journal of the European Union* <sup>(3)</sup>, as required by Article 97(3) of Regulation (EU) No 1308/2013.
- (3) No statement of objection has been received by the Commission under Article 98 of Regulation (EU) No 1308/2013.
- (4) The Union amendments to the product specification should therefore be approved in accordance with Article 99 of Regulation (EU) No 1308/2013 in conjunction with Article 15(2) of Delegated Regulation (EU) 2019/33,

HAS ADOPTED THIS REGULATION:

*Article 1*

The amendments to the product specification published in the *Official Journal of the European Union* regarding the name 'Montello – Colli Asolani' (PDO) are hereby approved.

*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*.

<sup>(1)</sup> OJ L 9, 11.1.2019, p. 2.

<sup>(2)</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

<sup>(3)</sup> OJ C 325, 2.10.2020, p. 28.

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

Done at Brussels, 14 December 2020.

*For the Commission,  
On behalf of the President,  
Janusz WOJCIECHOWSKI  
Member of the Commission*

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## COMMISSION IMPLEMENTING REGULATION (EU) 2020/2158

of 14 December 2020

**approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications ('Chabichou du Poitou' (PDO))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs <sup>(1)</sup>, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to the first subparagraph of Article 53(1) of Regulation (EU) No 1151/2012, the Commission has examined France's application for the approval of amendments to the product specification for the protected designation of origin 'Chabichou du Poitou', registered under Commission Regulation (EC) No 1107/96 <sup>(2)</sup>, as amended by Commission Regulation (EC) No 159/2009 <sup>(3)</sup>.
- (2) By letter of 4 December 2018, the French authorities notified the Commission that transitional periods under Article 15(4) of Regulation (EU) No 1151/2012, for a limited duration of 2 to 5 years, had been granted to operators established on their territory who meet the conditions laid down in that Article under the Order of 7 November 2018 amending the product specification for the protected designation of origin 'Chabichou du Poitou', published in the *Official Journal of the French Republic* <sup>(4)</sup> on 14 November 2018. By letter of 28 January 2020, the same authorities submitted the text of a new Order of 24 December 2019, published in the *Official Journal of the French Republic* <sup>(5)</sup> on 10 January 2020, which amends the Order of 7 November 2018 and the names of the operators covered by the transitional period. The list of operators is appended to the specification. The operators, who had been legally marketing 'Chabichou du Poitou' continuously for at least 5 years prior to submission of the application, lodged an objection during the national opposition procedure. Two operators objected to the following provision under the heading 'Method of production': 'Pre-drainage of the curds is prohibited.' Two operators objected to the following provision under the heading 'Description of product': "'Chabichou du Poitou' is made exclusively from [whole] raw [goat's] milk.' and the following provision under the heading 'Method of production': 'The milk used is raw goat's milk.' 100 operators objected to the following provision under the heading 'Method of production': 'At least 75 % of the goats' total annual feed must come from the geographical area, i.e. 825 kilograms of dry matter per goat per year.' 18 operators objected to the following provision under the heading 'Method of production': 'The feed comprises a minimum of 55 % fodder, i.e. 605 kilograms of dry matter per goat per year.' 86 operators objected to the following provisions under the heading 'Method of production': 'The supplementary ration contains at least 150 kilograms or 30 % of cereals and/or oilseeds and/or protein crops from the geographical area.', 'The annual amount of feed per goat contains at least 200 kilograms of dry matter in the form of lucerne or legumes from the geographical area.', and 'The fodder is produced entirely in the geographical area.'
- (3) Since the amendments in question are not minor within the meaning of Article 53(2) of Regulation (EU) No 1151/2012, the Commission published the amendment application in the *Official Journal of the European Union* <sup>(6)</sup> as required by Article 50(2)(a) of that Regulation.
- (4) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the amendments to the specification should be approved,

<sup>(1)</sup> OJ L 343, 14.12.2012, p. 1.

<sup>(2)</sup> Commission Regulation (EC) No 1107/96 of 12 June 1996 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92 (OJ L 148, 21.6.1996, p. 1).

<sup>(3)</sup> Commission Regulation (EC) No 159/2009 of 25 February 2009 approving minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications (Chabichou du Poitou (PDO)) (OJ L 53, 26.2.2009, p. 8).

<sup>(4)</sup> JORF No 0263 of 14 November 2018, text No 36.

<sup>(5)</sup> JORF No 0008 of 10 January 2020, text No 35.

<sup>(6)</sup> OJ C 251, 31.7.2020, p. 22.

HAS ADOPTED THIS REGULATION:

*Article 1*

The amendments to the product specification published in the *Official Journal of the European Union* regarding the name 'Chabichou du Poitou' (PDO) are hereby approved.

*Article 2*

The protection provided under Article 1 is subject to the transitional period granted by France under Article 15(4) of Regulation (EU) No 1151/2012 to operators meeting the conditions laid down in that Article, pursuant to the Orders of 7 November 2018 and 24 December 2019 amending the specification for the protected designation of origin 'Chabichou du Poitou', published in the *Official Journal of the French Republic* on 14 November 2018 and 10 January 2020, respectively.

*Article 3*

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

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

Done at Brussels, 14 December 2020.

*For the Commission,  
On behalf of the President,  
Janusz WOJCIECHOWSKI  
Member of the Commission*

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**COMMISSION IMPLEMENTING REGULATION (EU) 2020/2159****of 16 December 2020****amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff <sup>(1)</sup>, and in particular Article 9(1)(a) and (b) thereof,

Whereas:

- (1) Regulation (EEC) No 2658/87 establishes a goods nomenclature ('Combined Nomenclature' or 'CN') to meet, at one and the same time, the requirements of the Common Customs Tariff, the external trade statistics of the Union, and other Union policies concerning the importation or exportation of goods.
- (2) Regulation (EEC) No 2658/87 also establishes an Integrated Tariff of the European Union ('TARIC'), which meets the requirements of the Common Customs Tariff, external trade statistics, the commercial, agricultural and other Union policies concerning the importation or exportation of goods.
- (3) In order for the Union to monitor statistics related solely to the importation of specific goods, the creation of statistical subheadings in TARIC is the most appropriate tool; such TARIC statistical codes are laid down in Annex 10 'Statistical TARIC codes' of Part Three 'Tariff Annexes' of Annex I to Regulation (EEC) No 2658/87.
- (4) Commission Implementing Regulation (EU) 2020/1369 <sup>(2)</sup> introduced new TARIC subheadings for protective face masks to Annex 10 of Part Three of Annex I to Regulation (EEC) No 2658/87. In order to ensure that those new codes are reintroduced in the Combined Nomenclature applicable as from 1 January 2021, it is necessary to amend Annex I to Regulation (EEC) No 2658/87, as it is to be amended, with effect from 1 January 2021, by Commission Implementing Regulation (EU) 2020/1577 <sup>(3)</sup>.
- (5) The COVID-19 pandemic situation is ongoing in the Union and Member States are struggling to halt the spread of COVID-19. Therefore, the demand for and use of certain medical goods in the Member States, in particular protective face masks, diagnostic reagents and diagnostic kits, are high and increasing and are likely to remain high into the future. The imports of such goods bring additional challenges to the customs authorities.
- (6) In order to facilitate and harmonise customs controls in the Member States at Union level, it is appropriate to create additional TARIC subheadings, which would allow to faster distinguish the products concerned from others under the same subheading, thus mitigating the impact of possible delays in the supply chain during the COVID-19 pandemic.
- (7) Considering the importance of SARS-CoV-2 vaccines, the creation of a CN code would be appropriate, in order to also monitor their exportation.
- (8) Additional TARIC subheadings should be created in order to ensure better monitoring of trade flows of protective face masks, diagnostic reagents and diagnostic kits.

<sup>(1)</sup> OJ L 256, 7.9.1987, p. 1.

<sup>(2)</sup> Commission Implementing Regulation (EU) 2020/1369 of 29 September 2020 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 319, 2.10.2020, p. 2).

<sup>(3)</sup> Commission Implementing Regulation (EU) 2020/1577 of 21 September 2020 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 361, 30.10.2020, p. 1).

- (9) Such additional TARIC subheadings would also facilitate the implementation by Member States of Commission Decision (EU) 2020/491 <sup>(4)</sup>. As the protective face masks are amongst the most imported medical products, their specific identification in the TARIC would allow for a quicker declaration process by distinguishing such products from other products currently classified under the same subheading.
- (10) Annex I to Regulation (EEC) No 2658/87 should therefore be amended accordingly.
- (11) Customs authorities and economic operators should be able to apply the amendments to the Combined Nomenclature laid down in this Regulation as from the date of application of Implementing Regulation (EU) 2020/1577, in order to ensure continuity of the collection of statistical data for the relevant goods. Therefore, this Regulation should enter into force as a matter of urgency and apply from 1 January 2021.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex I to Regulation (EEC) No 2658/87 is amended as set out in the Annex to this Regulation.

*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 1 January 2021.

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

Done at Brussels, 16 December 2020.

*For the Commission,  
On behalf of the President,  
Gerassimos THOMAS  
Director-General  
Directorate-General for Taxation and Customs Union*

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<sup>(4)</sup> Commission Decision (EU) 2020/491 of 3 April 2020 on relief from import duties and VAT exemption on importation granted for goods needed to combat the effects of the COVID-19 outbreak during 2020 (OJ L 103 I, 3.4.2020, p. 1.)

## ANNEX

Annex I to Regulation (EEC) No 2658/87 is amended as follows:

- (1) In Part Two, Section VI, Chapter 30, the rows for CN code 3002 13 00, 3002 14 00 and 3002 15 00 are replaced by the following:

|             |                                                                                                              |      |   |
|-------------|--------------------------------------------------------------------------------------------------------------|------|---|
| '3002 13 00 | -- Immunological products, unmixed, not put up in measured doses or in forms or packings for retail sale (*) | Free | - |
| 3002 14 00  | -- Immunological products, mixed, not put up in measured doses or in forms or packings for retail sale (*)   | Free | - |
| 3002 15 00  | -- Immunological products, put up in measured doses or in forms or packings for retail sale (*)              | Free | - |

(\*) Statistical TARIC codes: See Annex 10.'

- (2) In Part Two, Section VI, Chapter 30, the row for CN code 3002 20 00 is replaced by the following:

|              |                                                                   |      |          |
|--------------|-------------------------------------------------------------------|------|----------|
| '3002 20     | - Vaccines for human medicine:                                    |      |          |
| ★ 3002 20 10 | -- Vaccines against SARS-related coronaviruses (SARS-CoV species) | Free | p/st (*) |
| ★ 3002 20 90 | -- Other                                                          | Free | -        |

(\*) Dose (in case of multi-dose containers, dose for adults)'.  
(\*) Statistical TARIC codes: See Annex 10.'

- (3) In Part Two, Section VI, Chapter 38, the row for CN code 3822 00 00 is replaced by the following:

|             |                                                                                                                                                                                                     |      |   |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|---|
| '3822 00 00 | Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials (*) | Free | - |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|---|

(\*) Statistical TARIC codes: See Annex 10.'

- (4) In Part Two, Section XI, Chapter 63, the rows for CN codes 6307 90 93 and 6307 90 95 are replaced by the following:

|               |                                                                                                                                                                                |     |      |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|------|
| ★ '6307 90 93 | ----- Filtering facepieces (FFP) according to EN149; other masks conforming to a similar standard for masks as respiratory protective devices to protect against particles (*) | 6,3 | p/st |
| ★ 6307 90 95  | ----- Other (*)                                                                                                                                                                | 6,3 | p/st |

(\*) Statistical TARIC codes: See Annex 10.'

- (5) In Part Three, in Annex 10, the following rows are inserted:

|               |                                                                                                           |   |
|---------------|-----------------------------------------------------------------------------------------------------------|---|
| '3002 13 00   | -- Immunological products, unmixed, not put up in measured doses or in forms or packings for retail sale: |   |
| 3002 13 00 10 | --- Diagnostic reagents of a kind used in the diagnosis of SARS-CoV virus species infections              | - |
| 3002 13 00 90 | --- Other                                                                                                 | - |
| 3002 14 00    | -- Immunological products, mixed, not put up in measured doses or in forms or packings for retail sale:   |   |

|               |                                                                                               |    |
|---------------|-----------------------------------------------------------------------------------------------|----|
| 3002 14 00 10 | --- Diagnostic reagents of a kind used in the diagnosis of SARS-CoV virus species infections  | -  |
| 3002 14 00 90 | --- Other                                                                                     | -  |
| 3002 15 00    | -- Immunological products, put up in measured doses or in forms or packings for retail sale : |    |
| 3002 15 00 10 | -- -SARS-CoV virus species diagnostic reagents, whether or not put up in the form of kits     | -  |
| 3002 15 00 90 | --- Other                                                                                     | .' |

|               |                                                                                                                                                                                                  |    |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| 3822 00 00    | Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials: |    |
| 3822 00 00 10 | - SARS-CoV virus species diagnostic reagents, whether or not put up in the form of kits                                                                                                          | -  |
| 3822 00 00 90 | - Other                                                                                                                                                                                          | .' |

|               |                                                                                                                                                                             |       |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
|               | '- --- Protective face masks:                                                                                                                                               |       |
| 6307 90 93    | ----- Filtering facepieces (FFP) according to EN149; other masks conforming to a similar standard for masks as respiratory protective devices to protect against particles: |       |
|               | ----- Nonwovens:                                                                                                                                                            |       |
|               | ----- Filtering facepieces FFP2 and FFP3 according to EN149 and similar masks:                                                                                              |       |
| 6307 90 93 11 | ----- Filtering facepieces FFP2 and FFP3 according to EN149                                                                                                                 | p/st  |
| 6307 90 93 19 | ----- Other                                                                                                                                                                 | p/st  |
| 6307 90 93 20 | ----- Other                                                                                                                                                                 | p/st  |
| 6307 90 93 90 | ----- Other                                                                                                                                                                 | p/st  |
| 6307 90 95    | ----- Other:                                                                                                                                                                |       |
|               | ----- Nonwovens:                                                                                                                                                            |       |
|               | ----- Medical face masks according to EN14683; other masks conforming to a similar standard for medical face masks:                                                         |       |
| 6307 90 95 11 | ----- Medical face masks according to EN14683                                                                                                                               | p/st  |
| 6307 90 95 19 | ----- Other                                                                                                                                                                 | p/st  |
| 6307 90 95 20 | ----- Other                                                                                                                                                                 | p/st  |
|               | ----- Other :                                                                                                                                                               |       |
| 6307 90 95 91 | ----- Hand-made                                                                                                                                                             | p/st  |
| 6307 90 95 95 | ----- Other                                                                                                                                                                 | p/st' |

**COMMISSION REGULATION (EU) 2020/2160****of 18 December 2020****amending Annex XIV to Regulation (EU) No 1907/2006 of the European Parliament and of the Council as regards the substance group 4-(1,1,3,3-Tetramethylbutyl)phenol, ethoxylated (covering well-defined substances and substances of unknown or variable composition, complex reaction products or biological materials, polymers and homologues)****(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 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC <sup>(1)</sup>, and in particular Articles 58 and 131 thereof,

Whereas:

- (1) Coronavirus disease (COVID-19) is an infectious disease caused by a newly discovered coronavirus. On 30 January 2020, the World Health Organization declared the outbreak of COVID-19 a public health emergency of international concern and on 11 March 2020 it characterised COVID-19 as a pandemic.
- (2) The substance group 4-(1,1,3,3-tetramethylbutyl)phenol, ethoxylated (covering well-defined substances and substances of unknown or variable composition, complex reaction products or biological materials, polymers and homologues) (‘the substance group’) meets the criteria set out in Article 57(f) of Regulation (EC) No 1907/2006 and is listed in Annex XIV to that Regulation.
- (3) The latest application date for the substance group was 4 July 2019 and the sunset date is set at 4 January 2021. In accordance with Article 56(1) of Regulation (EC) No 1907/2006, uses of the substance group are not allowed after the sunset date unless an authorisation has been granted for a particular use, an application for authorisation for a given use was submitted before the latest application date but a decision on the application has not yet been taken or the use is covered by an exemption in accordance with that Regulation.
- (4) The COVID-19 pandemic has created an unprecedented public health emergency. In addition, the measures that Member States have had to adopt to contain the spread of COVID-19 have inflicted major disruptions to national economies and to the Union as a whole.
- (5) Potential treatments and vaccines to combat COVID-19 are being developed. The substance group is used in the diagnosis of COVID-19 and in the production of tools for that purpose. Currently it is used for the production of in-vitro diagnostic kits. The substance group is also used in the development of vaccines to combat COVID-19 and is expected to be used in their production. Furthermore, it cannot be excluded that the substance group is used for the development and the production of active pharmaceutical ingredients and finished dosage forms to combat COVID-19.
- (6) In this situation of public health emergency, it is of major interest for the Union that safe and efficacious medicinal products, safe medical devices and accessories to medical devices, suitable for the diagnosis, treatment or prevention of COVID-19 can be developed, produced, made available and used in the Union as soon as possible.

<sup>(1)</sup> OJ L 396, 30.12.2006, p. 1.

- (7) However, as the latest application date of 4 July 2019 passed before the onset of the COVID-19 pandemic, applications for authorisation for the uses of the substance group for the diagnosis, treatment or prevention of COVID-19 could not have been submitted before that date and therefore such uses cannot lawfully continue after the sunset date.
- (8) It is therefore of paramount importance to ensure that the use of the substance group is not prevented for the research, development and production of medicinal products, medical devices or accessories to medical devices, including *in vitro* diagnostic medical devices, and for use in such medical devices or accessories in view of their use for the diagnosis, treatment or prevention of COVID-19 after the sunset date as currently set in Annex XIV to Regulation (EC) No 1907/2006, as an exceptional measure for the protection of public health.
- (9) Furthermore, allowing the continued use of the substance group for those specific purposes after 4 January 2021 would contribute to the fulfilment of the objectives of the 'EU Strategy for COVID-19 vaccines' <sup>(\*)</sup>.
- (10) It is therefore appropriate to postpone the latest application date and the sunset date set for the substance group with regard to the uses for the research, development and production of medicinal products, medical devices, or accessories to medical devices, including *in vitro* diagnostic medical devices, for the diagnosis, treatment or prevention of COVID-19 and use in such medical devices or accessories. A postponement of the latest application date until 18 months after the entry into force of this Regulation is necessary in order to allow for the preparation of applications for authorisation for those uses and accordingly, it is appropriate to postpone the sunset date until 36 months after its entry into force.
- (11) Regulation (EC) No 1907/2006 should therefore be amended accordingly.
- (12) As the latest date of application for the substance group has already passed before the outbreak of COVID-19, in order to avoid a gap in the period during which applications for uses for the research, development and production of medicinal products, medical devices or accessories to medical devices, including *in vitro* diagnostic medical devices, in view of their use for the diagnosis, treatment or prevention of that disease and use in such medical devices or accessories can be validly submitted so that the use is covered by point (d) of Article 56(1) of Regulation (EC) No 1907/2006, it is necessary to provide for an urgent entry into force of this Regulation and for its retroactive application as from 4 July 2019. In addition, this Regulation should enter into force as a matter of urgency and should apply retroactively in order to ensure the continued use of the substance group after 4 January 2021 for the same uses.
- (13) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS REGULATION:

#### Article 1

Annex XIV to Regulation (EC) No 1907/2006 is amended in accordance with the Annex to this Regulation.

#### 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 4 July 2019.

<sup>(\*)</sup> Communication from the Commission to the European Parliament, the European Council, the Council and the European Investment Bank of 17 June 2020 EU Strategy for COVID-19 vaccines, COM (2020) 245 final.

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

Done at Brussels, 18 December 2020.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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## ANNEX

In the table in Annex XIV to Regulation (EC) No 1907/2006, entry 42 concerning 4-(1,1,3,3-Tetramethylbutyl)phenol, ethoxylated (covering well-defined substances and UVCB substances, polymers and homologues) is amended as follows:

(1) the text of column 4 'Latest application date' is replaced by the following text:

'(a) 4 July 2019 (\*);

(b) by way of derogation from point (a), 22 June 2022 for uses as follows:

- for the research, development and production of medicinal products falling within the scope of Directive 2001/83/EC or medical devices or accessories to medical devices falling within the scope of Directive 93/42/EEC, Regulation (EU) 2017/745, Directive 98/79/EC or Regulation (EU) 2017/746 of the European Parliament and of the Council (\*\*), in view of their use for the diagnosis, treatment or prevention of the coronavirus disease (COVID-19),
- in medical devices or accessories to medical devices falling within the scope of Directive 93/42/EEC, Regulation (EU) 2017/745, Directive 98/79/EC or Regulation (EU) 2017/746, for the diagnosis, treatment or prevention of COVID-19.

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(\*\*) Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on *in vitro* diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU (OJ L 117, 5.5.2017, p. 176).';

(2) the text of column 5 'Sunset date' is replaced by the following text:

'(a) 4 January 2021 (\*\*);

(b) by way of derogation from point (a), 22 December 2023 for uses as follows:

- for the research, development and production of medicinal products falling within the scope of Directive 2001/83/EC or medical devices or accessories to medical devices falling within the scope of Directive 93/42/EEC, Regulation (EU) 2017/745, Directive 98/79/EC or Regulation (EU) 2017/746, in view of their use for the diagnosis, treatment or prevention of COVID-19,
  - in medical devices or accessories to medical devices falling within the scope of Directive 93/42/EEC, Regulation (EU) 2017/745, Directive 98/79/EC or Regulation (EU) 2017/746, for the diagnosis, treatment or prevention of COVID-19.'
-

**COMMISSION IMPLEMENTING REGULATION (EU) 2020/2161****of 18 December 2020**

**initiating an investigation concerning possible circumvention of the anti-dumping measures imposed by Implementing Regulation (EU) 2019/915 on imports of certain aluminium foil in rolls originating in the People's Republic of China by imports of certain aluminium foil in rolls consigned from Thailand, whether declared as originating in Thailand or not, and making such imports subject to registration**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union <sup>(1)</sup> ('the basic Regulation'), and in particular Articles 13(3) and 14(5) thereof,

After having informed the Member States,

Whereas:

**A. REQUEST**

- (1) The European Commission ('the Commission') has received a request pursuant to Articles 13(3) and 14(5) of the basic Regulation, to investigate the possible circumvention of the anti-dumping measures imposed on imports of certain aluminium foil in rolls originating in the People's Republic of China and to make imports of certain aluminium foil in rolls consigned from Thailand, whether declared as originating in Thailand or not, subject to registration.
- (2) The request was lodged on 9 November 2020. The applicant has requested anonymity and duly substantiated it in the request. The Commission considers that there are sufficient grounds to grant the confidentiality of the applicant's identity.

**B. PRODUCT**

- (3) The product concerned by the possible circumvention is aluminium foil of a thickness of 0,007 mm or more but less than 0,021 mm, not backed, not further worked than rolled, whether or not embossed, in low weight rolls of a weight not exceeding 10 kg, classified on the date of entry into force of Commission Implementing Regulation (EU) 2019/915 <sup>(2)</sup> under CN codes ex 7607 11 11 and ex 7607 19 10 (TARIC codes 7607 11 11 10 and 7607 19 10 10) and originating in the People's Republic of China ('the product concerned'). This is the product to which the measures that are currently in force apply.
- (4) The product under investigation is the same as that defined in the preceding recital, currently falling under CN codes ex 7607 11 11 and ex 7607 19 10, but consigned from Thailand, whether declared as originating in Thailand or not (TARIC codes 7607 11 11 11 and 7607 19 10 11), ('the product under investigation').

**C. EXISTING MEASURES**

- (5) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Implementing Regulation (EU) 2019/915 ('the existing measures').

<sup>(1)</sup> OJ L 176, 30.6.2016, p. 21.

<sup>(2)</sup> Commission Implementing Regulation (EU) 2019/915 of 4 June 2019 imposing a definitive anti-dumping duty on imports of certain aluminium foil in rolls originating in the People's Republic of China following an expiry review under Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 146, 5.6.2019, p. 63).

**D. GROUNDS**

- (6) The request contains sufficient evidence that the existing anti-dumping measures on imports of the product concerned are being circumvented by imports of the product under investigation.
- (7) The evidence in the request shows the following.
- (8) A change in the pattern of trade involving exports from the People's Republic of China and Thailand to the Union has taken place following the imposition of measures on the product concerned.
- (9) This change appears to stem from the consignment of the product concerned via Thailand to the Union after having undergone assembly operations in Thailand. The evidence shows that such assembly operations constitute circumvention as these operations started or substantially increased since, or just prior to, the initiation of the anti-dumping investigation. Moreover the parts from the People's Republic of China used during these assembly operations constitute above 60 % of the total value of the assembled product while the value added during the assembly operations is lower than 25 % of the manufacturing cost.
- (10) Furthermore, the evidence shows that because of the practices described above the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and prices. Significant volumes of imports of the product under investigation appear to have entered the EU market. In addition, there is sufficient evidence that imports of the product under investigation are made at injurious prices.
- (11) Finally, the evidence shows that the prices of the product under investigation are dumped in relation to the normal value previously established for the product concerned.
- (12) Should circumvention practices covered by Article 13 of the basic Regulation, other than the ones mentioned above, be identified in the course of the investigation, the investigation may also cover these practices.

**E. PROCEDURE**

- (13) In light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13(3) of the basic Regulation and to make imports of the product under investigation subject to registration, in accordance with Article 14(5) of the basic Regulation.
- (14) In order to obtain the information necessary for this investigation, all interested parties should contact the Commission forthwith, but not later than the time-limit set in Article 3(2) of this Regulation. The time-limit set in Article 3(2) of this Regulation applies to all interested parties. Information, as appropriate, may also be sought from the Union industry.
- (15) The authorities of Thailand and the People's Republic of China will be notified of the initiation of the investigation.

**(a) Collection of information and holding of hearings**

- (16) All interested parties including the Union industry, importers and any relevant association are invited to make their views known in writing and to provide supporting evidence provided that such submissions are made within the deadline provided for in Article 3(2). Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

**(b) Requests for exemptions**

- (17) In accordance with Article 13(4) of the basic Regulation, imports of the product under investigation may be exempted from measures if the importation does not constitute circumvention.

- (18) Since the possible circumvention takes place outside the Union, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to producers of the product under investigation in Thailand that can show that they are not engaged in circumvention practices as defined in Articles 13(1) and 13(2) of the basic Regulation. Producers, if any, wishing to obtain an exemption should come forward within the time-limit indicated in Article 3(1) of this Regulation. Copies of the questionnaire for exporting producers in the People's Republic of China, the exemption claim form questionnaire for exporting producers in Thailand and questionnaires for importers in the EU are available in the file for inspection by interested parties and on DG Trade's website: [https://trade.ec.europa.eu/tdi/case\\_details.cfm?id=2503](https://trade.ec.europa.eu/tdi/case_details.cfm?id=2503). The questionnaires have to be submitted within the time-limit indicated in Article 3(2) of this Regulation.

#### F. REGISTRATION

- (19) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation shall be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount, not exceeding the residual duty imposed by Commission Implementing Regulation (EU) 2019/915 can be levied from the date on which registration of such imports was imposed.

#### G. TIME-LIMITS

- (20) In the interest of sound administration, time-limits should be stated within which:
- interested parties may make themselves known to the Commission, submit questionnaires, present their views in writing or any other information to be taken into account during the investigation,
  - producers in Thailand may request exemptions from registration of imports or measures,
  - interested parties may make a written request to be heard by the Commission.
- (21) Attention is drawn to the fact that the exercise of procedural rights set out in the basic Regulation depends on parties making themselves known within the time-limits laid down in Article 3 of this Regulation.

#### H. NON-COOPERATION

- (22) If any interested party refuses access to or does not provide the necessary information within the time-limits, or significantly impedes the investigation, findings, affirmative or negative, may be made on the basis of facts available in accordance with Article 18 of the basic Regulation.
- (23) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available in accordance with Article 18 of the basic Regulation.
- (24) If an interested party does not cooperate or cooperates only partially and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

#### I. SCHEDULE OF THE INVESTIGATION

- (25) The investigation will be concluded, pursuant to Article 13(3) of the basic Regulation, within nine months of the date of entry into force of this Regulation.

#### J. PROCESSING OF PERSONAL DATA

- (26) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council <sup>(3)</sup>.

<sup>(3)</sup> 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).

- (27) A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website: <http://ec.europa.eu/trade/policy/accessing-markets/trade-defence/>

#### K. HEARING OFFICER

- (28) Interested parties may request the intervention of the Hearing Officer for trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.
- (29) The Hearing Officer may organise hearings and mediate between the interested party/-ies and Commissions services to ensure that the interested parties' rights of defence are being fully exercised. A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in the due course.
- (30) Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, interested parties should request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. In principle, the timeframes set out in Article 3(3) of this Regulation to request hearings with the Commission services apply *mutatis mutandis* to requests for hearings with the Hearing Officer. Where hearing requests are submitted outside the relevant timeframes, the Hearing Officer will also 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.
- (31) For further information and contact details interested parties may consult the Hearing Officer's web pages on DG TRADE's website: <http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/>

HAS ADOPTED THIS REGULATION:

#### Article 1

An investigation is initiated pursuant to Article 13(3) of Regulation (EU) 2016/1036, in order to determine if imports of aluminium foil of a thickness of 0,007 mm or more but less than 0,021 mm, not backed, not further worked than rolled, whether or not embossed, in low weight rolls of a weight not exceeding 10 kg, currently classified under CN codes ex 7607 11 11 and ex 7607 19 10, consigned from Thailand, whether declared as originating in Thailand or not (TARIC codes 7607 11 11 11 and 7607 19 10 11), are circumventing the measures imposed by Implementing Regulation (EU) 2019/915.

#### Article 2

1. The customs authorities of the Member States shall, pursuant to Article 13(3) and Article 14(5) of Regulation (EU) 2016/1036, take the appropriate steps to register the imports identified in Article 1 of this Regulation.
2. Registration shall expire nine months following the date of entry into force of this Regulation.
3. The Commission may direct customs authorities to cease registration in respect of imports of products made by exporters/producers having applied for an exemption from registration and having been found to fulfil the conditions for an exemption to be granted.

#### Article 3

1. Interested parties must make themselves known by contacting the Commission within 15 days from the date of entry into force of this Regulation.

2. Interested parties, if their representations are to be taken into account during the investigation, must present their views in writing and submit questionnaire replies, in case an exemption is requested from registration of imports or measures, or any other information within 37 days from the date of the publication of this Regulation in the *Official Journal of the European Union*, unless otherwise specified.

3. Interested parties may also apply to be heard by the Commission within the same 37-day time limit. For hearings pertaining to the initiation stage of the investigation the request must be submitted within 15 days of the date of entry into force of this Regulation. Any request to be heard must be made in writing and must specify the reasons for the request.

4. Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing a) the Commission to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their right of defence.

5. All written submissions, including the information requested in this Regulation, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled '*Sensitive*'<sup>(4)</sup>. Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

6. Parties providing '*Sensitive*' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of Regulation (EU) 2016/1036, which will be labelled '*For inspection by interested parties*'. These summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence.

7. If a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.

8. Interested parties are invited to make all submissions and requests via TRON.tdi (<https://webgate.ec.europa.eu/tron/TDI>) including scanned powers of attorney and certification sheets.

In order to have access to TRON.tdi, interested parties need an EU Login account. Full instructions on how to register and use TRON.tdi are available on <https://webgate.ec.europa.eu/tron/resources/documents/gettingStarted.pdf>

By using TRON.tdi or email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document '*CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES*' published on the website of the Directorate-General for Trade: [http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc\\_148003.pdf](http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf)

The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by email, interested parties should consult the communication instructions with interested parties referred to above.

<sup>(4)</sup> A '*Sensitive*' document is a document which is considered confidential pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

Commission address for correspondence:

European Commission  
Directorate-General for Trade  
Directorate G  
Office: CHAR 04/039  
1049 Brussels  
BELGIUM  
TRON.tdi: <https://webgate.ec.europa.eu/tron/tdi>  
Email: TRADE-AC-ALUFOIL@ec.europa.eu

*Article 4*

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

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

Done at Brussels, 18 December 2020.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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**COMMISSION IMPLEMENTING REGULATION (EU) 2020/2162****of 18 December 2020**

**initiating an investigation concerning possible circumvention of the anti-dumping measures imposed by Implementing Regulation (EU) 2015/2384 and Implementing Regulation (EU) 2017/271 on imports of certain aluminium foil originating in the People's Republic of China by imports of certain aluminium foil consigned from Thailand, whether declared as originating in Thailand or not, and making such imports subject to registration**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union <sup>(1)</sup> ('the basic Regulation'), and in particular Articles 13(3) and 14(5) thereof,

After having informed the Member States,

Whereas:

**A. REQUEST**

- (1) The European Commission ('the Commission') has received a request pursuant to Articles 13(3) and 14(5) of the basic Regulation, to investigate the possible circumvention of the anti-dumping measures imposed on imports of certain aluminium foil originating in the People's Republic of China and to make imports of certain aluminium foil consigned from Thailand, whether declared as originating in Thailand or not, subject to registration.
- (2) The request was lodged on 9 November 2020. The applicant has requested anonymity and duly substantiated it in the request. The Commission considers that there are sufficient grounds to grant the confidentiality of the applicant's identity.

**B. PRODUCT**

- (3) The product concerned by the possible circumvention is aluminium foil of a thickness of not less than 0,008 mm and not more than 0,018 mm, not backed, not further worked than rolled, in rolls of a width not exceeding 650 mm and of a weight exceeding 10 kg, classified on the date of entry into force of Commission Implementing Regulation (EU) 2015/2384 <sup>(2)</sup> under CN code ex 7607 11 19 (TARIC code 7607 11 19 10), aluminium foil of a thickness of not less than 0,007 mm and less than 0,008 mm, regardless of the width of the rolls, whether or not annealed, classified on the date of entry into force of Commission Implementing Regulation (EU) 2017/271 <sup>(3)</sup> under CN code ex 7607 11 19 (TARIC code 7607 11 19 30), aluminium foil of a thickness of not less than 0,008 mm and not more than 0,018 mm and in rolls of a width exceeding 650 mm, whether or not annealed, classified on the date of entry into force of Implementing Regulation (EU) 2017/271 under CN code ex 7607 11 19 (TARIC code 7607 11 19 40), aluminium foil of a thickness of more than 0,018 mm and less than 0,021 mm, regardless of the width of the rolls, whether or not annealed, classified on the date of entry into force of Regulation

<sup>(1)</sup> OJ L 176, 30.6.2016, p. 21.

<sup>(2)</sup> Commission Implementing Regulation (EU) 2015/2384 of 17 December 2015 imposing a definitive anti-dumping duty on imports of certain aluminium foils originating in the People's Republic of China and terminating the proceeding for imports of certain aluminium foils originating in Brazil following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 332, 18.12.2015, p. 63).

<sup>(3)</sup> Commission Implementing Regulation (EU) 2017/271 of 16 February 2017 extending the definitive anti-dumping duty imposed by Council Regulation (EC) No 925/2009 on imports of certain aluminium foil originating in the People's Republic of China to imports of slightly modified certain aluminium foil (OJ L 40, 17.2.2017, p. 51) and amended by Commission Implementing Regulation (EU) 2017/2213 of 30 November 2017 amending Commission Implementing Regulation (EU) 2017/271 extending the definitive anti-dumping duty imposed by Council Regulation (EC) No 925/2009 on imports of certain aluminium foil originating in the People's Republic of China to imports of slightly modified certain aluminium foil (OJ L 316, 1.12.2017, p. 17).

(EU) 2017/271 under CN code ex 7607 11 19 (TARIC code 7607 11 19 50), and/or aluminium foil of a thickness of not less than 0,021 mm and not more than 0,045 mm, when presented with at least two layers, regardless of the width of the rolls, whether or not annealed, classified on the date of entry into force of Implementing Regulation (EU) 2017/271 under CN code ex 7607 11 90 (TARIC codes 7607 11 90 45 and 7607 11 90 80) and originating in the People's Republic of China ('the product concerned'). This is the product to which the measures that are currently in force apply.

- (4) The product under investigation is the same as that defined in the preceding recital, currently falling under CN codes ex 7607 11 19 (TARIC codes 7607 11 19 10, 7607 11 19 30, 7607 11 19 40, 7607 11 19 50) and ex 7607 11 90 (TARIC codes 7607 11 90 44, 7607 11 90 46, 7607 11 90 71, 7607 11 90 72), but consigned from Thailand, whether declared as originating in Thailand or not (TARIC additional code C601), ('the product under investigation').

#### C. EXISTING MEASURES

- (5) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Implementing Regulation (EU) 2015/2384 and extended by Implementing Regulation (EU) 2017/271 as last amended by Implementing Regulation (EU) 2017/2213 ('the existing measures').

#### D. GROUNDS

- (6) The request contains sufficient evidence that the existing anti-dumping measures on imports of the product concerned are being circumvented by imports of the product under investigation.
- (7) The evidence in the request shows the following.
- (8) A change in the pattern of trade involving exports from the People's Republic of China and Thailand to the Union has taken place following the imposition of measures on the product concerned.
- (9) This change appears to stem from the consignment of the product concerned via Thailand to the Union after having undergone assembly operations in Thailand. The evidence shows that such assembly operations constitute circumvention as these operations started or substantially increased since, or just prior to, the initiation of the anti-dumping investigation. Moreover the parts from the People's Republic of China used during these assembly operations constitute above 60 % of the total value of the assembled product and while value added during the assembly operations is lower than 25 % of the manufacturing cost.
- (10) Furthermore, the evidence shows that because of the practices described above the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and prices. Significant volumes of imports of the product under investigation appear to have entered the EU market. In addition, there is sufficient evidence that imports of the product under investigation are made at injurious prices.
- (11) Finally, the evidence shows that the prices of the product under investigation are dumped in relation to the normal value previously established for the product concerned.
- (12) Should circumvention practices covered by Article 13 of the basic Regulation, other than the ones mentioned above, be identified in the course of the investigation, the investigation may also cover these practices.

#### E. PROCEDURE

- (13) In light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13(3) of the basic Regulation and to make imports of the product under investigation subject to registration, in accordance with Article 14(5) of the basic Regulation.

- (14) In order to obtain the information necessary for this investigation, all interested parties should contact the Commission forthwith, but not later than the time-limit set in Article 3(2) of this Regulation. The time-limit set in Article 3(2) of this Regulation applies to all interested parties. Information, as appropriate, may also be sought from the Union industry.
- (15) The authorities of Thailand and the People's Republic of China will be notified of the initiation of the investigation.

**(a) Collection of information and holding of hearings**

- (16) All interested parties including the Union industry, importers and any relevant association are invited to make their views known in writing and to provide supporting evidence provided that such submissions are made within the deadline provided for in Article 3(2). Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

**(b) Requests for exemptions**

- (17) In accordance with Article 13(4) of the basic Regulation, imports of the product under investigation may be exempted from measures if the importation does not constitute circumvention.
- (18) Since the possible circumvention takes place outside the Union, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to producers of the product under investigation in Thailand that can show that they are not engaged in circumvention practices as defined in Articles 13(1) and 13(2) of the basic Regulation. Producers, if any, wishing to obtain an exemption should come forward within the time-limit indicated in Article 3(1) of this Regulation. Copies of the questionnaire for exporting producers in the People's Republic of China, the exemption claim form questionnaire for exporting producers in Thailand and questionnaires for importers in the EU are available in the file for inspection by interested parties and on DG Trade's website: [https://trade.ec.europa.eu/tdi/case\\_details.cfm?id=2502](https://trade.ec.europa.eu/tdi/case_details.cfm?id=2502). The questionnaires have to be submitted within the time-limit indicated in Article 3(2) of this Regulation.

**F. REGISTRATION**

- (19) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation shall be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount, not exceeding the residual duty imposed by Implementing Regulation (EU) 2015/2384 and extended by Implementing Regulation (EU) 2017/271 as last amended by Implementing Regulation (EU) 2017/2213 can be levied from the date on which registration of such imports was imposed.

**G. TIME-LIMITS**

- (20) In the interest of sound administration, time-limits should be stated within which:
- interested parties may make themselves known to the Commission, submit questionnaires, present their views in writing or any other information to be taken into account during the investigation,
  - producers in Thailand may request exemptions from registration of imports or measures,
  - interested parties may make a written request to be heard by the Commission.
- (21) Attention is drawn to the fact that the exercise of procedural rights set out in the basic Regulation depends on parties making themselves known within the time-limits laid down in Article 3 of this Regulation.

#### H. NON-COOPERATION

- (22) If any interested party refuses access to or does not provide the necessary information within the time-limits, or significantly impedes the investigation, findings, affirmative or negative, may be made on the basis of facts available in accordance with Article 18 of the basic Regulation.
- (23) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available in accordance with Article 18 of the basic Regulation.
- (24) If an interested party does not cooperate or cooperates only partially and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

#### I. SCHEDULE OF THE INVESTIGATION

- (25) The investigation will be concluded, pursuant to Article 13(3) of the basic Regulation, within nine months of the date of entry into force of this Regulation.

#### J. PROCESSING OF PERSONAL DATA

- (26) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council <sup>(4)</sup>.
- (27) A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website: <http://ec.europa.eu/trade/policy/accessing-markets/trade-defence/>

#### K. HEARING OFFICER

- (28) Interested parties may request the intervention of the Hearing Officer for trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.
- (29) The Hearing Officer may organise hearings and mediate between the interested party/-ies and Commissions services to ensure that the interested parties' rights of defence are being fully exercised. A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in the due course.
- (30) Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, interested parties should request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. In principle, the timeframes set out in Article 3(3) of this Regulation to request hearings with the Commission services apply *mutatis mutandis* to requests for hearings with the Hearing Officer. Where hearing requests are submitted outside the relevant timeframes, the Hearing Officer will also 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.
- (31) For further information and contact details interested parties may consult the Hearing Officer's web pages on DG TRADE's website: <http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/>

<sup>(4)</sup> 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).

HAS ADOPTED THIS REGULATION:

#### *Article 1*

An investigation is initiated pursuant to Article 13(3) of Regulation (EU) 2016/1036, in order to determine if imports of aluminium foil of a thickness of not less than 0,008 mm and not more than 0,018 mm, not backed, not further worked than rolled, in rolls of a width not exceeding 650 mm and of a weight exceeding 10 kg, aluminium foil of a thickness of not less than 0,007 mm and less than 0,008 mm, regardless of the width of the rolls, whether or not annealed, aluminium foil of a thickness of not less than 0,008 mm and not more than 0,018 mm and in rolls of a width exceeding 650 mm, whether or not annealed, aluminium foil of a thickness of more than 0,018 mm and less than 0,021 mm, regardless of the width of the rolls, whether or not annealed, currently classified under CN code ex 7607 11 19 (TARIC codes 7607 11 19 10, 7607 11 19 30, 7607 11 19 40, 7607 11 19 50), and/or aluminium foil of a thickness of not less than 0,021 mm and not more than 0,045 mm, when presented with at least two layers, regardless of the width of the rolls, whether or not annealed, currently classified under CN code ex 7607 11 90 (TARIC codes 7607 11 90 44, 7607 11 90 46, 7607 11 90 71, 7607 11 90 72), consigned from Thailand, whether declared as originating in Thailand or not (TARIC additional code C601), are circumventing the measures imposed by Commission Implementing Regulation (EU) 2015/2384 and extended by Implementing Regulation (EU) 2017/271, as last amended by Implementing Regulation (EU) 2017/2213.

#### *Article 2*

1. The customs authorities of the Member States shall, pursuant to Article 13(3) and Article 14(5) of Regulation (EU) 2016/1036, take the appropriate steps to register the imports identified in Article 1 of this Regulation.
2. Registration shall expire nine months following the date of entry into force of this Regulation.
3. The Commission may direct customs authorities to cease registration in respect of imports of products made by exporters/producers having applied for an exemption from registration and having been found to fulfil the conditions for an exemption to be granted.

#### *Article 3*

1. Interested parties must make themselves known by contacting the Commission within 15 days from the date of entry into force of this Regulation.
2. Interested parties, if their representations are to be taken into account during the investigation, must present their views in writing and submit questionnaire replies, in case an exemption is requested from registration of imports or measures, or any other information within 37 days from the date of the publication of this Regulation in the *Official Journal of the European Union*, unless otherwise specified.
3. Interested parties may also apply to be heard by the Commission within the same 37-day time limit. For hearings pertaining to the initiation stage of the investigation the request must be submitted within 15 days of the date of entry into force of this Regulation. Any request to be heard must be made in writing and must specify the reasons for the request.
4. Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing a) the Commission to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their right of defence.

5. All written submissions, including the information requested in this Regulation, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled '*Sensitive*'<sup>(9)</sup>. Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

6. Parties providing '*Sensitive*' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of Regulation (EU) 2016/1036, which will be labelled '*For inspection by interested parties*'. These summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence.

7. If a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.

8. Interested parties are invited to make all submissions and requests via TRON.tdi (<https://webgate.ec.europa.eu/tron/> TDI) including scanned powers of attorney and certification sheets.

In order to have access to TRON.tdi, interested parties need an EU Login account. Full instructions on how to register and use TRON.tdi are available on <https://webgate.ec.europa.eu/tron/resources/documents/gettingStarted.pdf>

By using TRON.tdi or email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document '*CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES*' published on the website of the Directorate-General for Trade: [http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc\\_148003.pdf](http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf)

The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by email, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

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Email: [TRADE-AC-ALUFOIL@ec.europa.eu](mailto:TRADE-AC-ALUFOIL@ec.europa.eu)

<sup>(9)</sup> A '*Sensitive*' document is a document which is considered confidential pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

*Article 4*

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

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

Done at Brussels, 18 December 2020.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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**COMMISSION IMPLEMENTING REGULATION (EU) 2020/2163****of 18 December 2020****on the implementation in the United Kingdom in respect of Northern Ireland of the rules of origin laid down in Union preferential trade arrangements**

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 <sup>(1)</sup>, and in particular Article 66(a) thereof,

Whereas:

- (1) The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ('the Withdrawal Agreement') was concluded on behalf of the Union by Council Decision (EU) 2020/135 <sup>(2)</sup> and entered into force on 1 February 2020.
- (2) Article 4 of the Protocol on Ireland/Northern Ireland annexed to the Withdrawal Agreement ('the Protocol') reiterates that Northern Ireland is part of the customs territory of the United Kingdom, and that nothing in the Protocol prevents the United Kingdom from including Northern Ireland in the territorial scope of its Schedules of Concessions annexed to the General Agreement on Tariffs and Trade 1994 ('GATT 1994'). Therefore, for the purpose of applying preferential trade arrangements, third countries or groups of third countries with which the Union has such preferential trade arrangements cannot consider Northern Ireland to be part of the Union. In particular, for the purposes of applying the provisions on cumulation, goods originating or processing carried out in Northern Ireland should not be counted as goods originating or processing carried out in the Union.
- (3) However, Article 13(1) of the Protocol sets out that any reference to the customs territory of the Union in the Protocol as well as in the provisions of Union law that makes it applicable to and in the United Kingdom in respect of Northern Ireland by the Protocol, applies to the land territory of Northern Ireland. In accordance with Article 5 of the Protocol, Regulation (EU) No 952/2013 and obligations stemming from international agreements concluded by the Union, or by its Member States acting jointly, insofar as they relate to trade in goods between the Union and third countries, apply to and in the United Kingdom in respect of Northern Ireland.
- (4) The bilateral arrangements between the Union and the United Kingdom under the Protocol do not give rise to rights and obligations for other third countries.
- (5) Under Article 5(2) and Article 56(2)(d) and (e) of Regulation (EU) No 952/2013, Union customs legislation includes preferential tariff measures under agreements that the Union has concluded with, or adopted unilaterally in respect of certain countries or territories outside its customs territory or groups of such countries or territories.
- (6) Under Article 64(1) Regulation (EU) No 952/2013, in order to benefit from the preferential tariff measures referred to in Article 56(2)(d) and (e) of that Regulation, goods must comply with the rules on preferential origin referred to in its Article 64(2) to (5). Commission Implementing Regulation (EU) 2015/2447 <sup>(3)</sup> lays down the procedural rules, as referred to in Article 64(1), to facilitate the establishment in the Union of the preferential origin of goods.

<sup>(1)</sup> OJ L 269, 10.10.2013, p. 1.

<sup>(2)</sup> Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 1).

<sup>(3)</sup> Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

- (7) Given the special customs-related situation of the United Kingdom in respect of Northern Ireland, and in order to apply the preferential tariff measures and to ensure compliance with the relevant rules of origin after the end of the transition period provided for in the Withdrawal Agreement, it is necessary to adopt specific procedural rules to facilitate the establishment in Northern Ireland of the preferential origin of goods.
- (8) The measures laid down in this Regulation relate to the preferential proofs of origin to be used for goods imported into the United Kingdom with respect to Northern Ireland, the verification of the preferential origin of such goods and the conditions for granting and suspending preferential tariff measures.
- (9) As the transition period provided for in the Withdrawal Agreement ends on 31 December 2020, this Regulation should enter into force as a matter of urgency and apply from 1 January 2021.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

##### **Scope**

This Regulation shall apply to goods imported in the United Kingdom in respect of Northern Ireland in application of the preferential tariff measures referred to in Article 56(2)(d) and (e) of Regulation (EU) No 952/2013.

#### *Article 2*

##### **Application of preferential rules of origin in the United Kingdom in respect of Northern Ireland**

1. For the purpose of applying in the United Kingdom in respect of Northern Ireland the preferential tariff measures referred to in Article 1 of this Regulation, the rules on preferential origin in Article 64(1) of Regulation (EU) No 952/2013 shall apply *mutatis mutandis* in the United Kingdom in respect of Northern Ireland.
2. References made to the Union or to the Member States in the rules referred to in paragraph 1 shall be understood to include the United Kingdom in respect of Northern Ireland. However, the territory of Northern Ireland shall not be considered part of the Union in the third countries or groups of third countries with which the Union has preferential trade arrangements for the purpose of applying, in respect of exports to the United Kingdom in respect of Northern Ireland, the provisions on cumulation contained in those rules with goods originating or processing carried out in the Union.

#### *Article 3*

##### **Obligations related to proofs of origin under preferential trade arrangements adopted unilaterally by the Union**

Without prejudice to Article 4 of this Regulation, proofs of origin for products to be imported into the United Kingdom in respect of Northern Ireland shall be issued or made out in third countries or groups of third countries benefiting from the preferential tariff measures referred to in Article 56(2)(e) of Regulation (EU) No 952/2013, under the conditions as established in the rules of origin laid down for the application of those measures for the importation of such products into the Union.

*Article 4***Proofs of origin**

Proofs of origin issued or made out in third countries or groups of third countries benefiting from the preferential tariff measures referred to in Article 1 shall indicate 'the United Kingdom in respect of Northern Ireland' for products to be imported into the United Kingdom in respect of Northern Ireland under the preferential trade arrangements containing those measures.

*Article 5***Verification under preferential trade arrangements adopted unilaterally by the Union**

The origin of products imported into the United Kingdom in respect of Northern Ireland and benefiting there from the preferential tariff measures referred to in Article 56(2)(e) of Regulation (EU) No 952/2013, shall be verified in the third countries or groups of third countries concerned, on request from the competent customs authorities of the United Kingdom in respect of Northern Ireland, under the conditions as established in the rules of origin laid down for the application of those measures for the importation of such products in the Union.

*Article 6***Granting of preferences under preferential trade arrangements**

1. Preferential tariff measures as referred to in Article 1 shall not be granted in the United Kingdom in respect of Northern Ireland unless the third countries or groups of third countries benefiting from the preferential tariff measures referred to in Article 1 has undertaken measures to ensure compliance, and inform the Commission accordingly, when exporting into the United Kingdom in respect of Northern Ireland, with:

- (a) the rules of preferential origin for the products;
- (b) the rules on issuing or making out the proofs of origin;
- (c) the rules on verifying the preferential origin of products;
- (d) the other conditions laid down in the relevant preferential trade arrangements.

2. For the purpose of paragraph 1, the Commission shall publish on its website the date on which the third countries or group of third countries are understood to have taken measures to ensure compliance.

*Article 7***Suspension of preferences under preferential trade arrangements**

1. The preferential tariff measures referred to in Article 1 shall not be granted in the United Kingdom in respect of Northern Ireland where cases of fraud, irregularities or systematic failure to comply with or ensure compliance with the rules on the preferential origin of the products and with the related procedures have been established in accordance with paragraphs 2 and 3.

2. Where there are reasonable doubts as to the existence of fraud, irregularities or systematic failure as referred to in paragraph 1, the Commission shall publish a notice in the *Official Journal of the European Union* stating the grounds leading to such doubts.

3. If the fraud, irregularities or systematic failure identified are not addressed within 6 months of the publication of the notice, the preferential tariff measures shall not be applied in the United Kingdom in respect of Northern Ireland. The Commission shall publish on its website the date on which the preferential tariff measures cease to apply in the United Kingdom in respect of Northern Ireland.

4. The United Kingdom in respect of Northern Ireland shall communicate to the Commission all information relevant for the application of this Article.

5. The preferential tariff measures may become applicable again if, in accordance with Article 6, the third countries or group of third countries in question takes the measures necessary to ensure compliance.

*Article 8*

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 1 January 2021.

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

Done at Brussels, 18 December 2020.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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# DECISIONS

## POLITICAL AND SECURITY COMMITTEE DECISION (CFSP) 2020/2164

of 15 December 2020

### **extending the mandate of the Head of Mission of the European Union Capacity Building Mission in Somalia (EUCAP Somalia) (EUCAP Somalia/1/2020)**

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular the third paragraph of Article 38 thereof,

Having regard to Council Decision 2012/389/CFSP of 16 July 2012 on the European Union Capacity Building Mission in Somalia (EUCAP Somalia) <sup>(1)</sup>, and in particular Article 9(1) thereof,

Whereas:

- (1) Pursuant to Article 9(1) of Decision 2012/389/CFSP, the Political and Security Committee (PSC) is authorised, in accordance with the third paragraph of Article 38 of the Treaty, to take the relevant decisions for the purpose of exercising the political control and strategic direction of the European Union Capacity Building Mission in Somalia (EUCAP Somalia), including the decision to appoint a Head of Mission.
- (2) On 19 September 2019, the PSC adopted Decision (CFSP) 2019/1591 <sup>(2)</sup>, appointing Mr Christopher REYNOLDS as Head of Mission of EUCAP Somalia from 10 September 2019 to 31 December 2020.
- (3) On 10 December 2020, the Council adopted Decision 2020/2031 <sup>(3)</sup>, extending the mandate of EUCAP Somalia until 31 December 2022.
- (4) The High Representative of the Union for Foreign Affairs and Security Policy has proposed to extend the mandate of Mr Christopher REYNOLDS as Head of Mission of EUCAP Somalia from 1 January 2021 to 31 December 2021,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The mandate of Mr Christopher REYNOLDS as Head of Mission of the European Union Capacity Building Mission in Somalia (EUCAP Somalia) is hereby extended for the period from 1 January 2021 to 31 December 2021.

#### *Article 2*

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

<sup>(1)</sup> OJ L 187, 17.7.2012, p. 40.

<sup>(2)</sup> Political and Security Committee Decision (CFSP) 2019/1591 of 19 September 2019 on the appointment of the Head of Mission of the European Union Capacity Building Mission in Somalia (EUCAP Somalia) (EUCAP Somalia/1/2019) (OJ L 248, 27.9.2019, p. 65).

<sup>(3)</sup> Council Decision (CFSP) 2020/2031 of 10 December 2020 amending Decision 2012/389/CFSP on the on the European Union Capacity Building Mission in Somalia (EUCAP Somalia) (OJ L 419, 11.12.2020, p. 26).

Done at Brussels, 15 December 2020.

*For the Political and Security Committee*

*The Chairperson*

S. FROM-EMMESBERGER

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**COMMISSION IMPLEMENTING DECISION (EU) 2020/2165****of 9 December 2020****on laying down rules for the application of Regulation (EU) 2018/1861 of the European Parliament and of the Council as regards the minimum data quality standards and technical specifications for entering photographs and dactyloscopic data in the Schengen Information System (SIS) in the field of border checks and return***(notified under document C(2020) 8599)*

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006 <sup>(1)</sup>, and in particular Article 32(4) thereof,

Whereas:

- (1) The Schengen Information System ('SIS') in the field of border checks and return contains alerts on persons for the purposes of refusing entry and stay on the territory of the Member States or of verifying compliance with a return decision, thereby reinforcing the Union's migration policy and contributing to a high level of security within the area of freedom, security and justice.
- (2) Pursuant to Article 20(2) of Regulation (EU) 2018/1861 and Article 4(1) of Regulation (EU) 2018/1860 of the European Parliament and of the Council <sup>(2)</sup>, the categories of data that may be entered in an alert in SIS include photographs, facial images and dactyloscopic data (the latter including fingerprints as well as palm prints). Pursuant to Article 22(1) of Regulation (EU) 2018/1861 and Article 4(2) of Regulation (EU) 2018/1860, such data should be entered into SIS, if available.
- (3) Article 32(1) of Regulation (EU) 2018/1861, which also applies to the operation of SIS in the field of return pursuant to Article 19 of Regulation (EU) 2018/1860, stipulates that photographs, facial images and dactyloscopic data entered in an alert in SIS are subject to a quality check in order to ascertain that they meet minimum data quality standards and technical specifications.
- (4) It is necessary to lay down implementing measures specifying the minimum data quality standards and technical specifications for entering and storing such data in SIS.
- (5) The specifications should only set the level of quality required for entering and storing photographs in SIS to be used to confirm the identity of a person in accordance with Article 33(1) of that Regulation. The level of quality required for entering and storing photographs and facial images in SIS to be used to identify a person pursuant to Article 33(4) should be laid down at a later stage, when the conditions laid down in that Article have been fulfilled.

<sup>(1)</sup> OJ L 312, 7.12.2018, p. 14.

<sup>(2)</sup> Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals (OJ L 312, 7.12.2018, p. 1).

- (6) eu-LISA should, in consultation with the SIS II Advisory Group, develop and document the technical details of the standards and specifications laid down in this Decision, in the SIS Interface Control Document and Detailed Technical Specifications. Member States, the European Union Agency for Law Enforcement Cooperation ('Europol') and the European Border and Coast Guard Agency should develop their systems in compliance with the specifications set out in these documents.
- (7) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark did not take part in the adoption of Regulation (EU) 2018/1861 and is not bound by it or subject to its application. However, given that Regulation (EU) 2018/1861 builds upon the Schengen *acquis*, Denmark, in accordance with Article 4 of that Protocol, notified on 26 April 2019 its decision to implement Regulation (EU) 2018/1861 in its national law. Denmark is therefore bound under international law to implement this Decision.
- (8) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC <sup>(3)</sup>; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (9) This Decision constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC <sup>(4)</sup>; the United Kingdom is therefore not bound by it or subject to its application.
- (10) As regards Iceland and Norway, this Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* <sup>(5)</sup>, which fall within the area referred to in Article 1, point (G) of Council Decision 1999/437/EC <sup>(6)</sup>.
- (11) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* <sup>(7)</sup>, which fall within the area referred to in Article 1, point (G), of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC <sup>(8)</sup>.
- (12) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* <sup>(9)</sup>, which fall within the area referred to in Article 1, point (G), of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU <sup>(10)</sup>.

<sup>(3)</sup> Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

<sup>(4)</sup> Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

<sup>(5)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(6)</sup> Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

<sup>(7)</sup> OJ L 53, 27.2.2008, p. 52.

<sup>(8)</sup> Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

<sup>(9)</sup> OJ L 160, 18.6.2011, p. 21.

<sup>(10)</sup> Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

- (13) As regards Bulgaria and Romania, this Decision constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within the meaning of Article 4(2) of the 2005 Act of Accession and should be read in conjunction with Council Decisions 2010/365/EU <sup>(11)</sup> and (EU) 2018/934 <sup>(12)</sup>.
- (14) As regards Croatia, this Decision constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within the meaning of Article 4(2) of the 2011 Act of Accession and should be read in conjunction with Council Decision (EU) 2017/733 <sup>(13)</sup>.
- (15) Concerning Cyprus, this Decision constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within the meaning of Article 3(2) of the 2003 Act of Accession.
- (16) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council <sup>(14)</sup> and delivered an opinion on 26 August 2020.
- (17) The measures provided for in this Decision are in accordance with the opinion of the SIS-SIRENE Borders Committee,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The entry and storage of photographs and dactyloscopic data in SIS as referred to in Article 32 of Regulation (EU) 2018/1861 shall comply with minimum data quality standards and technical specifications set out in the Annex to this Decision.

#### *Article 2*

This Decision is addressed to:

- (1) the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Croatia, the Republic of Cyprus, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden;
- (2) the European Union Agency for Law Enforcement Cooperation and the European Border and Coast Guard Agency.

Done at Brussels, 9 December 2020.

*For the Commission*

Ylva JOHANSSON

*Member of the Commission*

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<sup>(11)</sup> Council Decision 2010/365/EU of 29 June 2010 on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Bulgaria and Romania (OJ L 166, 1.7.2010, p. 17).

<sup>(12)</sup> Council Decision (EU) 2018/934 of 25 June 2018 on the putting into effect of the remaining provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Bulgaria and Romania (OJ L 165, 2.7.2018, p. 37).

<sup>(13)</sup> Council Decision (EU) 2017/733 of 25 April 2017 on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Croatia (OJ L 108, 26.4.2017, p. 31).

<sup>(14)</sup> 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).

## ANNEX

**MINIMUM DATA QUALITY STANDARDS AND TECHNICAL SPECIFICATIONS FOR THE USE OF  
PHOTOGRAPHS AND DACTYLOSCOPIC DATA IN SIS.****1. Dactyloscopic data****1.1. Categories of dactyloscopic data used in SIS**

The following categories of dactyloscopic data may be used in SIS:

- (a) flat fingerprints, including flat thumb slaps and flat four-finger slaps;
- (b) rolled fingerprints;
- (c) palm prints.

**1.2. Permitted dactyloscopic data formats**

Member States may transmit to Central SIS:

- (a) data captured using live-scan devices at the national level that are capable of capturing and segmenting up to ten individual fingerprints; rolled, flat or both;
- (b) 'inked' fingerprints and palm prints; rolled, flat or both, which are digitally scanned at the relevant quality and resolution.

The Automated Fingerprint Identification System of Central SIS (CS-SIS AFIS), as defined in Article 33(2) of Regulation (EU) 2018/1861, must be compatible and interoperable with the dactyloscopic data formats mentioned under points (a) and (b).

**1.3. Minimum data quality standards and technical specifications****1.3.1. File and compression format ('dactyloscopic container')**

The input format for the transmission of dactyloscopic data ('dactyloscopic container') to SIS must be compliant with the SIS NIST standard based on the ANSI/NIST <sup>(1)</sup> binary format.

A 'SIS NIST checker' will be established at the level of the technical support function of Central SIS (CS-SIS) to check compliance of the transmitted dactyloscopic container with the defined SIS NIST standard.

Dactyloscopic containers that do not comply with the defined SIS NIST standard will be rejected by CS-SIS AFIS and will not be stored in Central SIS. If a non-compliant file is rejected by CS-SIS AFIS, CS-SIS will send an error message to the Member State that has transmitted the data.

**1.3.2. Image format and resolution**

Fingerprint and palm print images referred to in points (a), (b) and (c) of Section 1.1 must be of a nominal resolution of either 1 000 ppi or of 500 ppi with 256 grey levels in order to be processed by CS-SIS. 500 ppi images must be entered using the WSQ format while 1 000 ppi images must be in JPEG2000 (JP2) format.

**1.3.3. Quality thresholds for the storage and use of fingerprints and palm prints images in CS-SIS AFIS**

Dactyloscopic images must comply with the quality thresholds laid down in the SIS Interface Control Document and Detailed Technical Specifications in order to be stored and used in CS-SIS AFIS.

Member States are recommended to check the compliance with the quality thresholds of the dactyloscopic images before transmitting them to CS-SIS.

<sup>(1)</sup> American National Standard for Information Systems / National Institute of Standards and Technology.

Compliant dactyloscopic containers that contain dactyloscopic images on fingerprints or palm prints below the quality thresholds will not be stored in CS-SIS AFIS and will not be used for biometric searches. Dactyloscopic containers that contain dactyloscopic images rejected by CS-SIS AFIS may only be used to confirm the identity of a person in accordance with Article 33(1) of Regulation (EU) 2018/1861. CS-SIS will send an error message to the Member State that has transmitted the data when a file has been rejected by CS-SIS AFIS due to the low quality of the images.

1.4. *Biometric searches*

CS-SIS AFIS will provide a biometric search functionality for all types of dactyloscopic images satisfying the quality requirements established in Section 1.3.3.

The performance requirements and biometric accuracy for the different categories of biometric searches in CS-SIS AFIS are laid down in the SIS Interface Control Document and Detailed Technical Specifications.

2. **Photographs**

A minimum resolution of 480 × 600 pixels with 24 bits of colour depth must be used when entering photographs in SIS.

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**COMMISSION DECISION (EU) 2020/2166****of 17 December 2020****on the determination of the Member States' auction shares during the period 2021-2030 of the EU Emissions Trading System***(notified under document C(2020) 8945)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC <sup>(1)</sup>, and in particular Article 3d(3) and Article 10(2) thereof,

Whereas:

- (1) As regards the auctioning of allowances, Directive (EU) 2018/410 of the European Parliament and of the Council <sup>(2)</sup> amended Article 10(2) and Annex IIa of Directive 2003/87/EC, for the period beginning on 1 January 2021. In accordance with Article 10(2)(a) of Directive 2003/87/EC, 90 % of the total quantity of allowances issued pursuant to Chapter III of Directive 2003/87/EC ('general allowances') to be auctioned are distributed among Member States in shares that are identical to the share of the verified emissions under the EU ETS for 2005 or the average of the period from 2005 to 2007, whichever one is the highest. Pursuant to Article 10(2)(b) of Directive 2003/87/EC, the remaining 10 % of the total quantity of general allowances to be auctioned are distributed amongst certain Member States for the purposes of solidarity, growth and interconnections within the Union, thereby increasing the amount of allowances that those Member States auction by the percentages specified in Annex IIa of Directive 2003/87/EC.
- (2) On 1 February 2020, the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community <sup>(3)</sup> entered into force. In addition, as from the end of the transition period established in Article 126 of that Agreement, the Protocol on Ireland/Northern Ireland to that Agreement applies. The Member States' auction shares should be established so as take account of the withdrawal of the United Kingdom from the European Union and of the Protocol on Ireland/Northern Ireland.
- (3) The Member States' shares of general allowances pursuant to Article 10(2)(a) of Directive 2003/87/EC over the period 2021 – 2030 are determined on the basis of the same data used for the period 2013 – 2020, with the exception of the corrections made to the verified emissions of the Member States for 2005 or the average of the period from 2005 to 2007, recorded in the Union Registry and available in the European Union Transaction Log (EUTL) as of 30 June 2020 <sup>(4)</sup>. In accordance with Commission Implementing Regulation (EU) 2018/2066 <sup>(5)</sup>, the complete, consistent, transparent and accurate monitoring and reporting of greenhouse gas emissions are fundamental for the functioning of the EU ETS. Therefore, it is appropriate to use the most recent data recorded in the Union Registry and available in the EUTL for the determination of the Member States' auction shares of general allowances. Pursuant to Article 35(6) of Commission Regulation (EU) No 389/2013 <sup>(6)</sup>, the annual verified

<sup>(1)</sup> OJ L 275, 25.10.2003, p. 32.

<sup>(2)</sup> Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814 (OJ L 76, 19.3.2018, p. 3).

<sup>(3)</sup> Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 7).

<sup>(4)</sup> Ares(2020)4979599.

<sup>(5)</sup> Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1).

<sup>(6)</sup> Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011 (OJ L 122, 3.5.2013, p. 1).

emissions for an installation or an aircraft operator in the Union Registry may be corrected retroactively in order to ensure compliance with Articles 14 and 15 of Directive 2003/87/EC. Since 2012, such corrections to the verified emissions in the period from 2005 to 2007 have been made, as more accurate data was recorded by the EU ETS operators in the Union Registry and is now available in the EUTL.

- (4) Pursuant to Article 3d(3) of Directive 2003/87/EC, the number of allowances issued pursuant to Chapter II of Directive 2003/87/EC ('aviation allowances') to be auctioned by each Member State should be proportionate to its share of the total attributed aviation emissions for all Member States for the relevant reference year. For the period from 2021 to 2030, the relevant reference year is 2018 and the relevant scope is that established by Regulation (EU) 2017/2392 of the European Parliament and of the Council <sup>(7)</sup>. The Commission has collected the data on the aviation emissions in 2018 from Eurocontrol in order to establish the Member States' auction shares of aviation allowances,

HAS ADOPTED THIS DECISION:

#### *Article 1*

For the period from 2021 to 2030, the Member States' auction shares referred to in Article 3d(3) and Article 10(2) of Directive 2003/87/EC are set out in the Annexes to this decision as follows:

- (a) Annex I: Member States' auction shares of the allowances issued pursuant to Chapter III of Directive 2003/87/EC;
- (b) Annex II: Member States' auction shares of the allowances issued pursuant to Chapter II of Directive 2003/87/EC.

#### *Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 17 December 2020.

*For the Commission*  
Frans TIMMERMANS  
Executive Vice-President

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<sup>(7)</sup> Regulation (EU) 2017/2392 of the European Parliament and of the Council of 13 December 2017 amending Directive 2003/87/EC to continue current limitations of scope for aviation activities and to prepare to implement a global market-based measure from 2021 (OJ L 350, 29.12.2017, p. 7).

## ANNEX I

**Auction shares of the allowances issued pursuant to Chapter III of Directive 2003/87/EC**

| State                             | Auction share  |
|-----------------------------------|----------------|
| Austria                           | 1,549511512 %  |
| Belgium                           | 2,570508102 %  |
| Bulgaria                          | 2,683627316 %  |
| Croatia                           | 0,519852619 %  |
| Cyprus                            | 0,287177271 %  |
| Czech Republic                    | 5,021898139 %  |
| Denmark                           | 1,394176362 %  |
| Estonia                           | 0,853364580 %  |
| Finland                           | 1,861257204 %  |
| France                            | 6,094561928 %  |
| Germany                           | 22,290594909 % |
| Greece                            | 3,815882431 %  |
| Hungary                           | 1,526557204 %  |
| Iceland                           | 0,043450983 %  |
| Ireland                           | 1,041937115 %  |
| Italy                             | 10,521550682 % |
| Latvia                            | 0,200953534 %  |
| Liechtenstein                     | 0,000972381 %  |
| Lithuania                         | 0,433065735 %  |
| Luxembourg                        | 0,122010786 %  |
| Malta                             | 0,111715994 %  |
| Netherlands                       | 3,730700676 %  |
| Norway                            | 0,865251836 %  |
| Poland                            | 13,000319671 % |
| Portugal                          | 1,933850872 %  |
| Romania                           | 4,767806687 %  |
| Slovakia                          | 1,602124134 %  |
| Slovenia                          | 0,485701471 %  |
| Spain                             | 9,519452381 %  |
| Sweden                            | 0,904220479 %  |
| United Kingdom – Northern Ireland | 0,245945006 %  |

## ANNEX II

**Auction shares of the allowances issued pursuant to Chapter II of Directive 2003/87/EC**

| State          | Auction share |
|----------------|---------------|
| Austria        | 2,124352274 % |
| Belgium        | 2,884043556 % |
| Bulgaria       | 0,962095516 % |
| Croatia        | 0,770787777 % |
| Cyprus         | 0,698769072 % |
| Czech Republic | 1,021630732 % |
| Denmark        | 2,589242238 % |
| Estonia        | 0,269340406 % |
| Finland        | 2,141104211 % |
| France         | 11,28357633 % |
| Germany        | 15,85911782 % |
| Greece         | 5,222468391 % |
| Hungary        | 0,97207424 %  |
| Iceland        | 0,912691877 % |
| Ireland        | 1,928162337 % |
| Italy          | 12,29799421 % |
| Latvia         | 0,542686113 % |
| Lithuania      | 0,441761613 % |
| Luxembourg     | 0,354887922 % |
| Malta          | 0,599063928 % |
| Netherlands    | 4,288464549 % |
| Norway         | 4,219779278 % |
| Poland         | 2,95885866 %  |
| Portugal       | 3,885085782 % |
| Romania        | 1,861835804 % |
| Slovakia       | 0,15910511 %  |
| Slovenia       | 0,128561379 % |
| Spain          | 14,8981547 %  |
| Sweden         | 3,724304171 % |

**COMMISSION IMPLEMENTING DECISION (EU) 2020/2167****of 17 December 2020****amending Implementing Decision (EU) 2016/1918 concerning certain safeguard measures in relation to chronic wasting disease by extending its period of application***(notified under document C(2020) 8802)***(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 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies <sup>(1)</sup>, and in particular Article 4(2) thereof,

Whereas:

- (1) Regulation (EC) No 999/2001 lays down rules for the prevention, control and eradication of transmissible spongiform encephalopathies (TSEs) in the Union. It applies to the production and placing on the market of live animals and products of animal origin and in certain specific cases to exports thereof. It also provides, inter alia, for the adoption of safeguard measures in the event of outbreaks of TSEs.
- (2) Commission Implementing Decision (EU) 2016/1918 <sup>(2)</sup> lays down temporary safeguard measures in relation to chronic wasting disease (CWD). It was adopted following the detection of six cases of CWD in cervids in Norway in 2016: four in reindeers and two in moose. That was the first time that CWD had been detected in Europe and the first natural cases in reindeer in the world.
- (3) Between January 2017 and September 2020, Norway informed the Commission and the Member States of sixteen additional cases of CWD in wild reindeers, five additional cases of CWD in wild moose, and one case of CWD in a red deer. In 2018, Finland detected the first case of CWD in the Union and an additional one in November 2020. Sweden detected three cases in 2019 and an additional one in September 2020. All cases of CWD detected in Finland and Sweden were found in wild moose.
- (4) Point A of Part III of Chapter A of Annex III to Regulation (EC) No 999/2001 provides for a three-year monitoring programme for CWD, covering a period from 1 January 2018 to 31 December 2020. However, the collection of data will partly continue throughout 2021 in accordance with the technical specifications of the monitoring programme, with a view to, eventually, gathering a larger dataset. As a result, the scientific assessment of the results of the monitoring programme, which will be necessary to develop future policy options on CWD, is not expected to be available until 2022.
- (5) On 11 November 2019, the European Food Safety Authority published a Scientific Opinion on Update on Chronic Wasting Disease (CWD) III <sup>(3)</sup> (EFSA Opinion). However, more time is necessary to consider how the conclusions and recommendations set out in the EFSA Opinion should be reflected in Union rules.
- (6) Taking into account the detection of new cases of CWD in Norway, Finland and Sweden, and pending the outcome of the three-year monitoring programme for CWD, and pending the scientific assessment of the results of the monitoring programme which is expected in 2022, and considering that additional time is needed to reflect on the EFSA Opinion, the period of application of Implementing Decision (EU) 2016/1918 should be extended until 31 December 2022.
- (7) Implementing Decision (EU) 2016/1918 should therefore be amended accordingly.

<sup>(1)</sup> OJ L 147, 31.5.2001, p. 1.

<sup>(2)</sup> Commission Implementing Decision (EU) 2016/1918 of 28 October 2016 concerning certain safeguard measures in relation to chronic wasting disease (OJ L 296, 1.11.2016, p. 21).

<sup>(3)</sup> <https://doi.org/10.2903/j.efsa.2019.5863>

- (8) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

*Article 1*

In Article 4 of Implementing Decision (EU) 2016/1918, the date '31 December 2020' is replaced by the date '31 December 2022'.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 17 December 2020.

*For the Commission*  
Stella KYRIAKIDES  
*Member of the Commission*

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**COMMISSION IMPLEMENTING DECISION (EU) 2020/2168****of 17 December 2020****on the compliance of the joint proposal submitted by the Member States concerned for the extension of the North Sea-Baltic rail freight corridor with Article 5 of Regulation (EU) No 913/2010 of the European Parliament and of the Council concerning a European rail network for competitive freight***(notified under document C(2020) 8919)***(Only the Czech, Dutch, Estonian, French, German, Latvian, Lithuanian and Polish texts are authentic)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight <sup>(1)</sup>, and in particular Article 5(6) thereof,

Whereas:

- (1) In accordance with Article 5(5) of Regulation (EU) No 913/2010, the ministries responsible for rail transport in Belgium, Czechia, Germany, Estonia, Latvia, Lithuania, the Netherlands and Poland sent the Commission two letters of intent dated 6 December 2019. They included proposals on extension of the North Sea-Baltic rail freight corridor to the Polish-Ukrainian border at Medyka on the one hand, and to the ports of Zeebrugge and Ghent/Terneuzen on the other hand.
- (2) The abovementioned Member States had previously proposed to the Commission to extend the North Sea-Baltic rail freight corridor to the Polish-Ukraine border at Medyka. The Commission confirmed the compliance of the proposal with Article 5 of Regulation (EU) No 913/2010 and adopted Commission Implementing Decision (EU) 2015/1111 <sup>(2)</sup>. However, that Implementing Decision was amended by Commission Implementing Decision (EU) 2017/178 <sup>(3)</sup>, which removed the reference to extending the North Sea-Baltic rail freight corridor to Medyka. The amendment reflected the fact that the railway infrastructure between Katowice and Medyka would not be operational before 2020. As the infrastructure is now operational, it is appropriate to consider again the extension of the North Sea-Baltic rail freight corridor to Medyka.
- (3) The Commission examined the proposals to extend the North Sea-Baltic rail freight corridor to Medyka and to the ports of Ghent/Terneuzen and Zeebrugge pursuant to Article 5(6) of Regulation (EU) No 913/2010, and considers them to be compliant with Article 5 of that Regulation.
- (4) With respect to the extension of the rail freight corridor to Medyka, the considerations laid down in Implementing Decision (EU) 2015/1111 remain valid.
- (5) With respect to the extension to the ports of Zeebrugge and Ghent/Terneuzen, the lines proposed for the extension are already part of the North Sea-Mediterranean rail freight corridor. They form part of the trans-European transport network's core network (Antwerp-Ghent-Zeebrugge) and comprehensive network (Ghent-Terneuzen), with key infrastructure requirements such as electrification, 22,5 t axle load, 100 km/h speed and 740 m train length already partially or entirely fulfilled by the existing infrastructure.

<sup>(1)</sup> OJ L 276, 20.10.2010, p. 22.

<sup>(2)</sup> Commission Implementing Decision (EU) 2015/1111 of 7 July 2015 on the compliance of the joint proposal submitted by the Member States concerned for the extension of the North Sea-Baltic rail freight corridor with Article 5 of Regulation (EU) No 913/2010 of the European Parliament and of the Council concerning a European rail network for competitive freight (OJ L 181, 9.7.2015, p. 82).

<sup>(3)</sup> Commission Implementing Decision (EU) 2017/178 of 31 January 2017 amending Implementing Decision (EU) 2015/1111 on the compliance of the joint proposal of the Member States concerned to extend the North Sea-Baltic rail freight corridor with Article 5 of Regulation (EU) No 913/2010 of the European Parliament and of the Council concerning a European rail network for competitive freight (OJ L 28, 2.2.2017, p. 71).

- (6) The ports of Zeebrugge, Ghent and Terneuzen are the origin or destination of a number of existing regular rail freight services running along the route of North Sea-Baltic rail freight corridor with origins and destinations in Germany, Czechia and Scandinavia (including via the Scandinavian-Mediterranean rail freight corridor). The port of Zeebrugge reported freight train traffic to numerous destinations in the Union, which is underpinned by the fact that one of the port's main commodities is new vehicles. The port authorities of Ghent and Terneuzen have identified also the potential for new rail freight traffic to Schkopau (Germany) and Outokumpu (Finland), as well as to third countries, namely China, passing via Šeštokai, Lithuania.
- (7) Moreover, the proposed extension offers the advantage of making the services provided by the existing one-stop shop of the North Sea-Baltic rail freight corridor as referred to in Article 13 of Regulation (EU) No 913/2010, including pre-arranged train paths, available to operators of rail freight corridors serving the ports of Zeebrugge and Ghent/Terneuzen. This will provide more transparency to applicants and it could simplify the process of capacity allocation by removing the need to coordinate some train paths with one-stop shops of other rail freight corridors. The extension to Zeebrugge will provide a direct access to the port, which is an important transshipment point for the automotive industry of all Member States along the corridor, in particular Czechia, Germany and Poland.
- (8) The extension will contribute to improving rail freight on the North Sea-Baltic rail freight corridor with interconnections with maritime transport.
- (9) In accordance with paragraphs 5 and 6 of Article 5 of Regulation (EU) No 913/2010, the assessment of the Commission took into consideration the relevant criteria for extensions of the rail freight corridors laid down in Article 4 thereof.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Committee established under Article 62 of Directive 2012/34/EU of the European Parliament and of the Council (\*),

HAS ADOPTED THIS DECISION:

#### *Article 1*

The letters of intent of 6 December 2019 concerning extensions of the North Sea-Baltic rail freight corridor from Antwerp to the ports of Zeebrugge and Ghent/Terneuzen and from Katowice to the Polish-Ukrainian border at Medyka, sent to the Commission by the ministries responsible for rail transport in Belgium, Czechia, Germany, Estonia, Latvia, Lithuania, the Netherlands and Poland, and together proposing the route

Wilhelmshaven/Bremerhaven/Hamburg/Amsterdam/Rotterdam/Zeebrugge – Ghent (Terneuzen) – Antwerp – Aachen – Hannover/Berlin – Warsaw – Terespol (Poland-Belarus border)/Kaunas – Riga – Tallinn/Falkenberg – Prague/Wroclaw – Katowice – Medyka (Poland-Ukraine border)

as the principal route for the North Sea-Baltic rail freight corridor comply with Article 5 of Regulation (EU) No 913/2010.

#### *Article 2*

This Decision is addressed to the Kingdom of Belgium, the Czech Republic, the Federal Republic of Germany, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Kingdom of the Netherlands and the Republic of Poland.

(\*) Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32).

Done at Brussels, 17 December 2020.

*For the Commission*  
Adina VĂLEAN  
*Member of the Commission*

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# RECOMMENDATIONS

## COUNCIL RECOMMENDATION (EU) 2020/2169

of 17 December 2020

### **amending Recommendation (EU) 2020/912 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(b) and (e) and Article 292, first and second sentence thereof,

Whereas:

- (1) On 30 June 2020, the Council adopted a Recommendation on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction <sup>(1)</sup> ('Council Recommendation'). On 16 July 2020, the Council adopted Recommendation (EU) 2020/1052 of 16 July 2020 amending Council Recommendation (EU) 2020/912 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction <sup>(2)</sup>. On 30 July 2020, the Council adopted Recommendation (EU) 2020/1144 of 30 July 2020 amending Council Recommendation (EU) 2020/912 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction <sup>(3)</sup>. On 7 August 2020, the Council adopted Recommendation (EU) 2020/1186 of 7 August 2020 amending Council Recommendation (EU) 2020/912 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction <sup>(4)</sup>. On 22 October 2020, the Council adopted Recommendation (EU) 2020/1551 of 22 October 2020 amending Council Recommendation (EU) 2020/912 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction <sup>(5)</sup>.
- (2) The Council Recommendation provides that Member States should gradually lift the temporary restriction on non-essential travel to the EU as from 1 July 2020 in a coordinated manner with regard to the residents of the third countries listed in Annex I to the Council Recommendation. Every two weeks, the list of third countries referred to in Annex I should be reviewed, and as the case may be updated, by the Council, after close consultation with the Commission and the relevant EU agencies and services following an overall assessment based on the methodology, criteria and information referred to in the Council Recommendation.
- (3) Discussions have since then taken place within the Council, in close consultation with the Commission and the relevant EU agencies and services, on the review of the list of third countries set out in Annex I to the Council Recommendation and in application of the criteria and methodology laid down in the Council Recommendation. As a result of these discussions, the list of third countries set out in Annex I should be amended. In particular, Uruguay should be deleted from the list.
- (4) Border control is in the interest not only of the Member State at whose external borders it is carried out but of all Member States which have abolished internal border control. Member States should therefore ensure that measures taken at the external borders are coordinated in order to ensure a well-functioning Schengen area. To that end, as of 16 December 2020, Member States should continue lifting the temporary restriction on non-essential travel into the EU in a coordinated manner with regard to the residents of the third countries listed in Annex I of the Council Recommendation as amended by this Recommendation.

<sup>(1)</sup> OJ L 208 I, 1.7.2020, p. 1

<sup>(2)</sup> OJ L 230, 17.7.2020, p. 26.

<sup>(3)</sup> OJ L 248, 31.7.2020, p. 26.

<sup>(4)</sup> OJ L 261, 11.8.2020, p. 83.

<sup>(5)</sup> OJ L 354, 26.10.2020, p. 19.

- (5) In accordance with Articles 1 and 2 of Protocol No 22 on the Position of Denmark annexed to the Treaty on European Union and to the TFEU, Denmark is not taking part in the adoption of this Recommendation and is not bound by it or subject to its application. Given that this Recommendation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of the said Protocol, decide within a period of six months after the Council has decided on this Recommendation whether it will implement it.
- (6) This Recommendation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC <sup>(6)</sup>; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (7) As regards Iceland and Norway, this Recommendation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point A, of Council Decision 1999/437/EC <sup>(7)</sup>.
- (8) As regards Switzerland, this Recommendation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC <sup>(8)</sup> read in conjunction with Article 3 of Council Decision 2008/146/EC <sup>(9)</sup>.
- (9) As regards Liechtenstein, this Recommendation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1 point A, of Decision 1999/437/EC <sup>(10)</sup> read in conjunction with Article 3 of Decision 2011/350/EU <sup>(11)</sup>,

HAS ADOPTED THIS RECOMMENDATION:

Council Recommendation (EU) 2020/912, as amended by Recommendation (EU) 2020/1052, by Recommendation (EU) 2020/1144 and by Recommendation (EU) 2020/1186, on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction is amended as follows:

- (1) the first paragraph of point 1 of the Council Recommendation is replaced by the following:

‘1. As from 16 December 2020, Member States should gradually lift the temporary restriction on non-essential travel to the EU in a coordinated manner with regard to the residents of the third countries listed in Annex I.’;

<sup>(6)</sup> Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

<sup>(7)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(8)</sup> OJ L 53, 27.2.2008, p. 52.

<sup>(9)</sup> Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

<sup>(10)</sup> OJ L 160, 18.6.2011, p. 21.

<sup>(11)</sup> Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

(2) Annex I to the Recommendation is replaced by the following:

‘ANNEX I

Third countries and Special Administrative Regions, whose residents should not be affected by temporary external borders restriction on non-essential travel into the EU:

I. STATES

1. AUSTRALIA
2. JAPAN
3. NEW ZEALAND
4. RWANDA
5. SINGAPORE
6. SOUTH KOREA
7. THAILAND
8. CHINA (\*)

II. SPECIAL ADMINISTRATIVE REGIONS OF THE PEOPLE'S REPUBLIC OF CHINA

Hong Kong SAR (\*)

Macao SAR (\*)

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(\*) Subject to confirmation of reciprocity.’

Done at Brussels, 17 December 2020.

*For the Council*  
*The President*  
M. ROTH

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