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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

Notice concerning the date of entry into force of the Agreement between the European Union and the Kingdom of Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union

The Agreement between the European Union and the Kingdom of Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union ⁽¹⁾, signed in Brussels on 7 May 2021, entered into force on 20 July 2021.

⁽¹⁾ OJ L 274, 30.7.2021, p. 57.

DECISIONS

COUNCIL DECISION (EU) 2021/1312

of 19 July 2021

authorising the opening of negotiations for a cooperation agreement between the European Union and the International Criminal Police Organization (ICPO-INTERPOL)

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16(2), Article 82(1) and Article 87(2) thereof, in conjunction with Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) Negotiations should be opened with a view to concluding a cooperation agreement ('the Agreement') between the Union and the International Criminal Police Organization ('Interpol'). The agreement will aim to regulate cooperation between the Union and Interpol in the area of law enforcement, judicial cooperation in criminal matters, and in the area of border security (as part of border management).
- (2) The Agreement should provide for the necessary safeguards and guarantees to authorise controlled access to Interpol's Stolen and Lost Travel Document ('SLTD') and Travel Document Associated With Notices ('TDAWN') databases via the European Search Portal ('ESP'), by Member States and Union agencies, insofar as this is necessary for the performance of their tasks and in line with their access rights.
- (3) Article 9(5) of Regulation (EU) 2019/818 of the European Parliament and of the Council ⁽¹⁾ provides that queries of Interpol databases are to be performed in such a way that no information is revealed to the owner of the Interpol alert.
- (4) The Agreement should regulate the cooperation between the European Union Agency for Law Enforcement Cooperation established by Regulation (EU) 2016/794 of the European Parliament and of the Council ⁽²⁾ ('Europol') and Interpol, taking into account the latest developments in combating terrorism, cross-border and transnational serious organised crime, as well as current operational needs and Europol's mandate.
- (5) The Agreement should facilitate establishing and regulating cooperation between the European Public Prosecutor's Office established by Council Regulation (EU) 2017/1939 ⁽³⁾ ('the EPPO') and Interpol.
- (6) The Agreement should provide the legal basis for authorising Europol, the European Union Agency for Criminal Justice Cooperation established by Regulation (EU) 2018/1727 of the European Parliament and of the Council ⁽⁴⁾ ('Eurojust') and the EPPO to access relevant Interpol databases for the performance of their tasks.

⁽¹⁾ Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816 (OJ L 135, 22.5.2019, p. 85).

⁽²⁾ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

⁽³⁾ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

⁽⁴⁾ Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138).

- (7) The Agreement should provide the legal basis to authorise Eurojust and the EPPO to exchange operational information with Interpol.
- (8) Article 23(1), (2) and (5) of Regulation (EU) 2016/794 provides for the exchange of personal data between Europol and international organisations to the extent necessary for the accomplishment of Europol's tasks, as defined in Article 4 of that Regulation.
- (9) Articles 80, 99 and 104 of Regulation (EU) 2017/1939 set out in detail the relations between the EPPO and its partners and provide for the exchange of information between the EPPO and international organisations.
- (10) In view of the information contained in recital 33 of Regulation (EU) 2016/794 and recital 46 of Regulation (EU) 2018/1727, it is appropriate to strengthen cooperation between Europol and Interpol, and between Eurojust and Interpol, respectively, by promoting the efficient exchange of personal data.
- (11) Article 47(1), (5) and (6) and Articles 52 and 56 of Regulation (EU) 2018/1727 set out the relations between Eurojust and its partners, and provide for the exchange of personal data between Eurojust and international organisations.
- (12) The European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) established by Regulation (EU) 2018/1726 of the European Parliament and of the Council ⁽⁵⁾ should support the technical implementation of the access to Interpol's databases in the context of Regulations (EC) No 767/2008 ⁽⁶⁾, (EU) 2018/1240 ⁽⁷⁾ and (EU) 2019/817 ⁽⁸⁾ of the European Parliament and of the Council, in line with Regulation (EU) 2018/1726.
- (13) In view of the information contained in recital 96 of Regulation (EU) 2017/1939, it is appropriate to strengthen cooperation between the Union and Interpol by promoting the efficient exchange of personal data.
- (14) Article 94 of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁹⁾ sets out the conditions for the transfers of operational personal data to international organisations.
- (15) The Agreement should comply fully with the provisions on data protection set out in Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽¹⁰⁾, Regulation (EU) 2018/1725 and Directive (EU) 2016/680 of the European Parliament and of the Council ⁽¹¹⁾.

⁽⁵⁾ Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (OJ L 295, 21.11.2018, p. 99).

⁽⁶⁾ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

⁽⁷⁾ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).

⁽⁸⁾ Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA (OJ L 135, 22.5.2019, p. 27).

⁽⁹⁾ 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).

⁽¹⁰⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁽¹¹⁾ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

- (16) The Agreement should fully respect the fundamental rights, and observe the principles, recognised by the Charter of Fundamental Rights of the European Union ('the Charter'), in particular the right to the respect for private and family life, recognised in Article 7 of the Charter, the right to the protection of personal data, recognised in Article 8 of the Charter, and the right to an effective remedy and to a fair trial, recognised by Article 47 of the Charter. The Agreement should be applied in line with all the rights and principles enshrined in the Charter.
- (17) The Agreement should be without prejudice to the rights and obligations of the Member States in their relations with Interpol which fall outside the scope of the Agreement.
- (18) In accordance with Articles 1, 2 and 2a of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU), Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (19) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (20) The European Data Protection Supervisor was consulted, in accordance with Article 41(2) of Regulation (EU) 2018/1725 and delivered an opinion on 25 May 2021 ⁽¹³⁾,

HAS ADOPTED THIS DECISION:

Article 1

1. The Commission is hereby authorised to open negotiations, on behalf of the European Union, for a cooperation agreement between the European Union and the International Criminal Police Organization (ICPO-INTERPOL).
2. The negotiations shall be conducted on the basis of the negotiating directives of the Council set out in the Addendum to this Decision.

Article 2

The Commission is hereby nominated as the Union negotiator.

Article 3

The negotiations shall be conducted in consultation with the Working Party on JHA Information Exchange (IXIM Working Party), subject to any guidance which the Council may subsequently issue to the Commission.

The Commission shall report to the Council on the conduct and the outcome of the negotiations both on a regular basis and whenever requested by the Council. Where appropriate, or where requested by the Council, the Commission shall produce a written report.

Article 4

This Decision is addressed to the Commission.

⁽¹³⁾ OJ C 251, 28.6.2021, p. 7.

Done at Brussels, 19 July 2021.

For the Council
The President
J. PODGORŠEK

COUNCIL DECISION (EU) 2021/1313**of 19 July 2021****authorising the opening of negotiations for a cooperation agreement between the European Union and the International Criminal Police Organization (ICPO-INTERPOL)**

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16(2) and Article 77(1) and (2) thereof, in conjunction with Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) Negotiations should be opened with a view to concluding a cooperation agreement ('the Agreement') between the Union and the International Criminal Police Organization ('Interpol'). The agreement will aim to regulate cooperation between the Union and Interpol in the area of law enforcement, judicial cooperation in criminal matters, and in the area of border security (as part of border management).
- (2) The Agreement should provide for the necessary safeguards and guarantees to authorise controlled access to Interpol's Stolen and Lost Travel Document ('SLTD') and Travel Document Associated With Notices ('TDAWN') databases via the European Search Portal ('ESP'), by Member States and Union agencies, insofar as this is necessary for the performance of their tasks and in line with their access rights.
- (3) The Agreement should provide for the necessary safeguards and guarantees to authorise Member States and the ETIAS Central Unit established within the European Border and Coast Guard Agency as governed by Regulation (EU) 2019/1896 of the European Parliament and of the Council ⁽¹⁾ ('Frontex') pursuant to Regulation (EU) 2018/1240 of the European Parliament and of the Council ⁽²⁾ to access Interpol's SLTD and TDAWN databases via the ESP.
- (4) The Agreement should provide for the safeguards and guarantees needed to implement a revised Visa Information System Regulation that authorises Member States to access Interpol's databases via the ESP when examining applications for visas or residence permits.
- (5) Article 9(5) of Regulation (EU) 2019/817 of the European Parliament and of the Council ⁽³⁾ and Article 12 of Regulation (EU) 2018/1240 provide that queries of Interpol databases are to be performed in such a way that no information is revealed to the owner of the Interpol alert. Article 65 of Regulation (EU) 2018/1240 provides that personal data are not to be transferred or made available to a third country, to an international organisation or to any private party, with the exception of transfers to Interpol for the purpose of carrying out automated queries of Interpol's SLTD and TDAWN databases, and that such transfers are subject to Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁴⁾.
- (6) The Agreement should provide the legal basis for authorising Frontex statutory staff of the standing corps (category 1 staff) to access relevant Interpol databases for the performance of their tasks.

⁽¹⁾ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

⁽²⁾ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).

⁽³⁾ Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA (OJ L 135, 22.5.2019, p. 27).

⁽⁴⁾ 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).

- (7) Article 68(1) of Regulation (EU) 2019/1896 provides for the possibility of Frontex cooperating with international organisations, which specifically include Interpol. Under Article 82(1) of Regulation (EU) 2019/1896 the members of teams from the standing corps of Frontex are to have the capacity to perform tasks and exercise powers for border control set out in Regulation (EU) 2016/399 of the European Parliament and of the Council ⁽⁵⁾ ('the Schengen Borders Code'). Pursuant to Article 6(1), point (e), and to Article 8(3), points (a)(i) and (a)(ii) of Regulation (EU) 2016/399, this includes checking third-country nationals against Interpol databases (in particular Interpol's SLTD database) at the external borders of the Member States and third countries associated with the implementation, application and development of the Schengen *acquis* in relation to control on persons at the external borders.
- (8) The European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) established by Regulation (EU) 2018/1726 of the European Parliament and of the Council ⁽⁶⁾ should support the technical implementation of the access to Interpol's databases in the context of Regulation (EC) No 767/2008 of the European Parliament and of the Council ⁽⁷⁾ and Regulations (EU) 2018/1240 and (EU) 2019/817, in line with Regulation (EU) 2018/1726.
- (9) Article 94 of Regulation (EU) 2018/1725 sets out the conditions for the transfers of operational personal data to international organisations.
- (10) The Agreement should comply fully with the provisions on data protection set out in Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽⁸⁾, Regulation (EU) 2018/1725 and Directive (EU) 2016/680 of the European Parliament and of the Council ⁽⁹⁾.
- (11) The Agreement should fully respect the fundamental rights, and observe the principles, recognised by the Charter of Fundamental Rights of the European Union ('the Charter'), in particular the right to the respect for private and family life, recognised in Article 7 of the Charter, the right to the protection of personal data, recognised in Article 8 of the Charter, and the right to an effective remedy and to a fair trial, recognised by Article 47 of the Charter. The Agreement should be applied in line with all the rights and principles enshrined in the Charter.
- (12) The Agreement should be without prejudice to the rights and obligations of the Member States in their relations with Interpol which fall outside the scope of the Agreement.
- (13) In accordance with Articles 1, 2 and 2a 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 (TFEU), Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (14) 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 ⁽¹⁰⁾; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.

⁽⁵⁾ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

⁽⁶⁾ Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (OJ L 295, 21.11.2018, p. 99).

⁽⁷⁾ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

⁽⁸⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁽⁹⁾ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

⁽¹⁰⁾ 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).

- (15) The European Data Protection Supervisor was consulted in accordance with Article 41(2) of Regulation (EU) 2018/1725 and delivered an opinion on 25 May 2021 ⁽¹⁾,

HAS ADOPTED THIS DECISION:

Article 1

1. The Commission is hereby authorised to open negotiations, on behalf of the European Union, for a cooperation agreement between the European Union and the International Criminal Police Organization (ICPO-INTERPOL).
2. The negotiations shall be conducted on the basis of the negotiating directives of the Council set out in the Addendum to this Decision.

Article 2

The Commission is hereby nominated as the Union negotiator.

Article 3

The negotiations shall be conducted in consultation with the Working Party on JHA Information Exchange (IXIM Working Party), subject to any guidance which the Council may subsequently issue to the Commission.

The Commission shall report to the Council on the conduct and the outcome of the negotiations both on a regular basis and whenever requested by the Council. Where appropriate, or where requested by the Council, the Commission shall produce a written report.

Article 4

This Decision is addressed to the Commission.

Done at Brussels, 19 July 2021.

For the Council
The President
J. PODGORŠEK

⁽¹⁾ OJ C 251, 28.6.2021, p. 7.

COMMISSION IMPLEMENTING DECISION (EU) 2021/1314**of 6 August 2021****concerning the extension of the action taken by the Italian Ministry of Health permitting the making available on the market and use of the biocidal product Biobor JF in accordance with Article 55(1) of Regulation (EU) No 528/2012 of the European Parliament and of the Council***(notified under document C(2021) 5822)***(Only the Italian text is authentic)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ⁽¹⁾, and in particular Article 55(1), third subparagraph, thereof,

Whereas:

- (1) On 12 October 2020 the Italian Ministry of Health ('the competent authority') adopted a decision to permit, in accordance with Article 55(1), first subparagraph, of Regulation (EU) No 528/2012, the making available on the market for, and use by, professional users of the biocidal product Biobor JF for the antimicrobial treatment of aircraft fuel tanks and fuel systems until 30 April 2021 ('the action'). The competent authority informed the Commission and the competent authorities of the other Member States of its action and the justification for it, in accordance with Article 55(1), second subparagraph, of that Regulation.
- (2) According to the information provided by the competent authority, the action was necessary in order to protect public health, as the microbiological contamination of aircraft fuel tanks and fuel systems can lead to malfunctions of the aircraft engine and endanger its airworthiness, thus putting at risk the safety of passengers and crew. The COVID-19 pandemic and the ensuing flight restrictions led to numerous aircraft being temporarily parked. The immobility of aircraft is an aggravating factor of microbiological contamination.
- (3) Biobor JF contains 2,2'-(1-methyltrimethylenedioxy)bis-(4-methyl-1,3,2-dioxaborinane) (CAS number 2665-13-6) and 2,2'-oxybis (4,4,6-trimethyl-1,3,2-dioxaborinane) (CAS number 14697-50-8), active substances for use in biocidal products of product-type 6 as preservatives for products during storage as defined in Annex V to Regulation (EU) No 528/2012. As those active substances are not listed in Annex II to Commission Delegated Regulation (EU) No 1062/2014 ⁽²⁾, they are not included in the work programme for the systematic examination of all existing active substances contained in biocidal products, referred to in Regulation (EU) No 528/2012. Article 89 of that Regulation therefore does not apply to them and they have to be assessed and approved before biocidal products containing them can be authorised also at national level.
- (4) On 26 March 2021, the Commission received a reasoned request from the competent authority to allow the extension of the action in accordance with the Article 55(1), third subparagraph, of Regulation (EU) No 528/2012. The reasoned request was made on the basis of concerns that air transport safety might continue to be endangered by microbiological contamination of aircraft fuel tanks and fuel systems after 30 April 2021 and the claim that Biobor JF is essential in order to control such microbiological contamination.
- (5) According to the information provided by the competent authority, the only alternative biocidal product recommended by aircraft and engine manufacturers for the treatment of microbiological contamination (Kathon™ FP 1.5) was withdrawn from the market in March 2020 due to severe engine behaviour anomalies noticed after the treatment with that product.

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294 10.10.2014, p. 1).

- (6) As indicated by the competent authority, there are no alternatives for the treatment of microbiological contamination of aircraft fuel tanks and fuel systems.
- (7) According to the information available to the Commission, the manufacturer of Biobor JF has taken steps towards the regular authorisation of the product and an application for approval of the active substances it contains is expected to be submitted in mid-2022. The approval of the active substances and subsequent authorisation of the biocidal product would constitute a permanent solution for the future, but a significant amount of time would be needed for the completion of those procedures.
- (8) The lack of control of microbiological contamination of aircraft fuel tanks and fuel systems might endanger the air transport safety and that danger cannot be adequately contained by using another biocidal product or by other means. It is therefore appropriate to allow the competent authority to extend the action.
- (9) Considering that the action expired on 30 April 2021, this Decision should have retroactive effect.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

Article 1

The Italian Ministry of Health may extend the action to permit the making available on the market for, and use by, professional users of the biocidal product Biobor JF for the antimicrobial treatment of aircraft fuel tanks and fuel systems until 1 November 2022.

Article 2

This Decision is addressed to the Italian Ministry of Health.

It shall apply from 1 May 2021.

Done at Brussels, 6 August 2021.

For the Commission
Stella KYRIAKIDES
Member of the Commission

COMMISSION IMPLEMENTING DECISION (EU) 2021/1315**of 6 August 2021**

concerning the extension of the action taken by the Polish Office for Registration of Medicinal Products, Medical Devices and Biocidal Products permitting the making available on the market and use of the biocidal product Biobor JF in accordance with Article 55(1) of Regulation (EU) No 528/2012 of the European Parliament and of the Council

(notified under document C(2021) 5821)

(Only the Polish text is authentic)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ⁽¹⁾, and in particular Article 55(1), third subparagraph, thereof,

Whereas:

- (1) On 6 November 2020, the Polish Office for Registration of Medicinal Products, Medical Devices and Biocidal Products ('the competent authority') adopted a decision to permit, in accordance with Article 55(1), first subparagraph, of Regulation (EU) No 528/2012, the making available on the market for, and use by, professional users of the biocidal product Biobor JF for the preventive and curative antimicrobial treatment of aircraft fuel tanks and fuel systems until 5 May 2021 ('the action'). The competent authority informed the Commission and the competent authorities of the other Member States of its action and the justification for it, in accordance with Article 55(1), second subparagraph, of that Regulation.
- (2) According to the information provided by the competent authority, the action was necessary in order to protect public health, as the microbiological contamination of aircraft fuel tanks and fuel systems can lead to malfunctions of the aircraft engine and endanger its airworthiness, thus putting at risk the safety of passengers and crew. The COVID-19 pandemic and the ensuing flight restrictions led to numerous aircraft being temporarily parked. The immobility of aircraft is an aggravating factor of microbiological contamination.
- (3) Biobor JF contains 2,2'-(1-methyltrimethylenedioxy)bis-(4-methyl-1,3,2-dioxaborinane) (CAS number 2665-13-6) and 2,2'-oxybis (4,4,6-trimethyl-1,3,2-dioxaborinane) (CAS number 14697-50-8), active substances for use in biocidal products of product-type 6 as preservatives for products during storage as defined in Annex V to Regulation (EU) No 528/2012. As those active substances are not listed in Annex II to Commission Delegated Regulation (EU) No 1062/2014 ⁽²⁾, they are not included in the work programme for the systematic examination of all existing active substances contained in biocidal products, referred to in Regulation (EU) No 528/2012. Article 89 of that Regulation therefore does not apply to them and they have to be assessed and approved before biocidal products containing them can be authorised also at national level.
- (4) On 8 March 2021, the Commission received a reasoned request from the competent authority to allow the extension of the action in accordance with the Article 55(1), third subparagraph, of Regulation (EU) No 528/2012. The reasoned request was made on the basis of concerns that air transport safety might continue to be endangered by microbiological contamination of aircraft fuel tanks and fuel systems after 5 May 2021 and the claim that Biobor JF is essential in order to control such microbiological contamination.

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294 10.10.2014, p. 1).

- (5) According to the information provided by the competent authority, the only alternative biocidal product recommended by aircraft and engine manufacturers for the treatment of microbiological contamination (Kathon™ FP 1.5) was withdrawn from the market in March 2020 due to severe engine anomalies noticed after the treatment with that product.
- (6) As indicated by the competent authority, the alternative procedure for treating an existing microbiological contamination is manual removal in-tank, following defueling and purging of the aircraft. Manual removal may however not always be possible alongside other maintenance actions that are required when an aircraft is parked or stored for long periods. Moreover, the manual cleaning of contaminated tanks would expose workers to toxic gases and should therefore be avoided.
- (7) According to the information available to the Commission, the manufacturer of Biobor JF has taken steps towards the regular authorisation of the product and an application for approval of the active substances it contains is expected to be submitted in mid-2022. The approval of the active substances and subsequent authorisation of the biocidal product would constitute a permanent solution for the future, but a significant amount of time would be needed for the completion of those procedures.
- (8) The lack of control of microbiological contamination of aircraft fuel tanks and fuel systems might endanger the air transport safety and that danger cannot be adequately contained by using another biocidal product or by other means. It is therefore appropriate to allow the competent authority to extend the action.
- (9) Considering that the action expired on 5 May 2021, this Decision should have retroactive effect.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

Article 1

The Polish Office for Registration of Medicinal Products, Medical Devices and Biocidal Products may extend the action to permit the making available on the market for, and use by, professional users of the biocidal product Biobor JF for the preventive and curative antimicrobial treatment of aircraft fuel tanks and fuel systems until 6 November 2022.

Article 2

This Decision is addressed to the Polish Office for Registration of Medicinal Products, Medical Devices and Biocidal Products.

It shall apply from 6 May 2021.

Done at Brussels, 6 August 2021.

For the Commission
Stella KYRIAKIDES
Member of the Commission

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2021 OF THE ESA-EU CUSTOMS COOPERATION COMMITTEE

of 2 August 2021

on a derogation from the rules of origin laid down in Protocol 1 to the Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, of the one part, and the European Community and its Member States, of the other part, to take account of the special situation of Mauritius with regard to salted snoek [2021/1316]

THE CUSTOMS COOPERATION COMMITTEE,

Having regard to the Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States ('ESA'), of the one part, and the European Community and its Member States, of the other part, and in particular Article 43(4) of Protocol 1 thereto,

Whereas:

- (1) The Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, of the one part, and the European Community and its Member States, of the other part ⁽¹⁾ ('the interim EPA') applies provisionally as from 14 May 2012 between the Union and the Republic of Madagascar, the Republic of Mauritius, the Republic of Seychelles and the Republic of Zimbabwe. It applies as well, provisionally, as from 7 February 2019 between the European Union and the Union of Comoros.
- (2) Protocol 1 to the EU-ESA interim EPA, concerning the definition of the concept of 'originating products' and methods of administrative cooperation, has been amended by Decision No 1/2020 of the EPA Committee of 14 January 2020, with effect on 31 March 2020 ⁽²⁾.
- (3) Pursuant to Article 44(1) of Protocol 1, the ESA-EU Customs Cooperation Committee may adopt a Decision granting a derogation from the rules of origin set out in that Protocol.
- (4) On 2 October 2017 the ESA-EU Customs Cooperation Committee adopted Decision No 2/2017, granting a derogation from the rules of origin with regard to 120 tonnes of salted snoek imported into the European Union from 2 October 2017 to 1 October 2018.
- (5) On 14 January 2019 the ESA-EU Customs Cooperation Committee adopted Decision No 1/2019, granting a second derogation from the rules of origin with regard to 100 tonnes of salted snoek imported into the European Union from 14 January 2019 to 13 January 2020.
- (6) On 5 May 2020 the ESA-EU Customs Cooperation Committee adopted Decision No 1/2020, granting a third derogation from the rules of origin with regard to 100 tonnes of salted snoek imported into the European Union from 5 May 2020 to 4 May 2021.
- (7) On 31 March 2021, Mauritius has submitted, in accordance with Article 44(1) of Protocol 1 to the interim EPA, a fourth request for derogation from the rules of origin with regard to 120 tonnes of salted snoek of HS Heading 0305 69 to be imported into the Union from June 2021 to June 2022. On 17 May 2021, in response to a letter from the Commission, Mauritius provided additional information.

⁽¹⁾ OJ L 111, 24.4.2012, p. 2.

⁽²⁾ OJ L 93, 27.3.2020, p. 1.

- (8) In its request, Mauritius reiterates recurrent sourcing problems to meet the rules of origin. It invokes notably, the unavailability of barracoota originating in the Union or in Mauritius and the unprofitability of investing in vessels to meet the conditions set up by Article 6(2) of Protocol 1 for fishing barracoota. Mauritius submits that barracoota from other African, Caribbean and Pacific EPA States ('other ACP EPA States'), with whom cumulation is possible, is too expensive (e.g. barracoota from Namibia) or does not meet the requirements regarding quality and regular supply. Mauritius concludes that it cannot but continue sourcing non-originating raw materials for its processing industry, more specifically barracoota imported from New Zealand. According to the figures submitted by Mauritius, the value added in Mauritius accounts for only 17,5 % of the value of the finished products .
- (9) Article 44(1) of Protocol 1 provides that derogations from the Protocol may be adopted by the Customs Cooperation Committee where the development of existing industries or the creation of new industries in the ESA States justifies them, and that the Union should respond positively to all the ESA States' requests which are duly justified in conformity with this Article and which cannot cause serious injury to an established Union industry.
- (10) Articles 44(3) and (5) of Protocol 1 adds that the examination of requests shall in particular take into account: the geographical situation of the ESA State concerned, with a favourable bias for island ESA States; and cases where the application of the existing rules of origin would significantly affect the ability of an existing industry in an ESA State to continue its exports to the Union.
- (11) Following analysis, it was concluded that the application of the existing rules of origin for the products at stake would affect the ability of the existing small industry of production of salted snoek in Mauritius to continue its exports to the Union; the geographical situation of Mauritius, being a small island remote from its export markets and sources of imports, should be taken into account; the requested derogation would not cause serious injury to an established Union industry; and the derogations previously granted did not exceed five years.
- (12) Derogations foreseen by in Article 44 of Protocol 1 should however remain temporary solutions and should not be used as a way to permanently altering the agreed rules of origin.
- (13) Nonetheless, the request and the further clarifications provided by Mauritius do not indicate any concrete steps which have been taken to overcome the existing situation and permanently meet the agreed rules of origin. Mauritius indicates that developing their own fleet to catch barracoota is not feasible, and that meeting the rule of origin in the future relies on the possibility of eventually concluding business agreements with Namibian suppliers or to convince the EU fleet operating in the region to fish barracoota.
- (14) This derogation should for those reasons be the last one granted for the same products and under the same terms.
- (15) Mauritius requested the derogation for an amount of 120 tonnes of salted snoek for the year 2021/2022. Based on the actual use of the previous derogation resulting from Decision 1/2020, it does not appear appropriate to increase the quota for the requested period as compared to the quota granted for the year 2020/2021. Mauritius should therefore be provided with a derogation for 100 tonnes of salted snoek of HS Heading 0305 69, which respects the ability of the existing industry to continue its exports to the Union, for one additional year.
- (16) Commission Implementing Regulation (EU) 2015/2447 ⁽³⁾ lays down rules for the management of tariff quotas. Those rules should be applied to the management of the quantity in respect of which the derogation is granted by this decision.
- (17) In order to allow efficient monitoring of the operation of the derogation, the Mauritian authorities should communicate regularly to the Commission details of the EUR.1 movement certificates issued or invoice declarations made out for the products concerned,

⁽³⁾ 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).

HAS DECIDED AS FOLLOWS:

Article 1

By way of derogation from Protocol 1 to the interim EPA and in accordance with Article 44(1) of that Protocol, salted snoek of HS Heading 0305 69 (CN code 0305 69 80) manufactured from non-originating snoek (barracoota) of HS Heading 0303 89 shall be regarded as originating in Mauritius in accordance with the terms set out in Articles 2 to 5 of this Decision.

Article 2

The derogation provided for in Article 1 shall apply to the product and the quantity set out in the Annex to this Decision, declared for release for free circulation into the Union from Mauritius for a period limited to one year from the date of adoption of this Decision.

Article 3

The quantity set out in the Annex shall be managed in accordance with Articles 49 to 54 of Commission Implementing Regulation (EU) 2015/2447.

Article 4

The customs authorities of Mauritius shall carry out quantitative checks on exports of the products referred to in Article 1.

Before the end of the month following each quarter, the customs authorities of Mauritius shall forward to the Commission, via the Secretariat of the Customs Cooperation Committee, a statement of the quantities in respect of which movement certificates EUR.1 have been issued or invoices declarations made out pursuant to this Decision and the serial numbers of those certificates or references of those invoice declarations.

Article 5

Box 7 of movement certificates EUR.1 issued or invoice declarations made out under this Decision shall contain one of the following indications:

“Derogation - Decision No 1/2021 of the ESA-EU Customs Cooperation Committee of 2 August 2021”;

“Dérégation - Décision n° 1/2021 du Comité de Coopération Douanière AfoA-UE du 2 août 2021”.

Article 6

1. Mauritius and the Union shall take the measures necessary on their part to implement this Decision.
2. Where the Union has made a finding, on the basis of objective information, of irregularities or fraud or of a repeated failure to respect the obligations laid down in Article 4, the Union may seek temporary suspension of the derogation referred to in Article 1 in accordance with the procedure provided for in Article 22(5) and (6) of the interim EPA.

Article 7

The derogation provided for in Article 1 shall not be renewed.

Article 8

This Decision shall enter into force on 2 August 2021.

Done at Brussels, 2 August 2021.

Beryl Shirley SAMSON
*ESA States Representative
on behalf of the ESA States*

Jean-Michel GRAVE
*European Commission
on behalf of the European Union*

ANNEX

Order No.	CN Code	TARIC code	Description of goods	Period	Net weight (in tonnes)
09.1611	ex 0305 69 80	25	snoek (barracoota), salted	7.8.2021 – 6.8.2022	100

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