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Legislation

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Contents

[1] Text with EEA relevance.

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

[1] Text with EEA relevance.

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2017/2307

of 9 October 2017

on the conclusion of the Agreement between the European Union and the Republic of Chile on trade in organic products

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with point (a)(v) of the second subparagraph of Article 218(6) and Article 218(7) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ([1]),

Whereas:

(1) In accordance with Council Decision (EU) 2017/436 ([2]), the Agreement between the European Union and the Republic of Chile on trade in organic products ('the Agreement') was signed on 27 April 2017, subject to its conclusion.

(2) In the Agreement, the Union and the Republic of Chile recognise the equivalence of their respective rules on organic production and control systems as regards organic products.

(3) The Agreement aims at fostering trade in organic products, contributing to the development and expansion of the organic sector in the Union and in the Republic of Chile and achieving a high level of respect for the principles of organic production, of guarantee of the control systems and of integrity of organic products. It also aims at improving protection for the respective organic logos of the Union and the Republic of Chile, and enhancing regulatory cooperation between the Parties on issues related to organic production.

(4) The Joint Committee on Organic Products ('the Joint Committee'), established pursuant to Article 8(1) of the Agreement, deals with certain aspects of the implementation of the Agreement. In particular, the Joint Committee has the power to amend the lists of products in Annexes I and II to the Agreement. The Commission should be authorised to represent the Union in the Joint Committee.

(5) The Commission should be empowered to approve, on behalf of the Union, amendments to the lists of products in Annexes I and II to the Agreement, on the condition that it inform the representatives of the Member States of the amendments for which it intends to give its approval in the Joint Committee and provide the representatives of the Member States with all relevant information that has led it to conclude that equivalence can be accepted.

(6) Furthermore, to allow for a timely reaction where conditions for equivalence are no longer met, the Commission should be empowered to unilaterally suspend the recognition of equivalence, on the condition that it inform the representatives of the Member States prior to doing so.

([1]) Consent of 14 September 2017 (not yet published in the Official Journal).
([2]) Council Decision (EU) 2017/436 of 6 March 2017 on the signing, on behalf of the European Union, of the Agreement between the European Union and the Republic of Chile on trade in organic products (OJ L 67, 14.3.2017, p. 33).

(7) In cases where representatives of the Member States representing a blocking minority object to the position presented by the Commission, the Commission should not be allowed to approve amendments to the lists of products in Annexes I and II or to suspend the recognition of equivalence. In such cases, the Commission should present a proposal for a Council decision on the basis of Article 218(9) of the Treaty.

(8) The Agreement should be approved,

HAS ADOPTED THIS DECISION:

Article 1

1. The Agreement between the European Union and the Republic of Chile on trade in organic products is hereby approved on behalf of the Union.

2. The text of the Agreement is attached to this Decision.

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in the first paragraph of Article 15 of the Agreement ([1]).

Article 3

The Commission shall represent the Union in the Joint Committee.

Article 4

Amendments to the lists of products in Annexes I and II to the Agreement made in accordance with point (b) of Article 8(3) of the Agreement shall be approved by the Commission on behalf of the Union.

Before the Commission approves such amendments, it shall inform the representatives of the Member States of the anticipated position of the Union by providing an information document setting out the results of the equivalence assessment carried out with regard to the new or updated list of products in Annex I or II, including:

(a) the list of products concerned, together with an indication of the expected quantities for export to the Union;

(b) the production rules applied to the products concerned in the Republic of Chile, together with an indication of how any substantial difference with the relevant Union provisions has been resolved;

(c) if relevant, the new or updated control system applied to the products concerned, together with an indication of how any substantial difference with the relevant Union provisions has been resolved;

(d) any other information deemed relevant by the Commission.

Where a number of representatives of the Member States representing a blocking minority in accordance with the second subparagraph of point (a) of Article 238(3) of the Treaty object, the Commission shall make a proposal in accordance with Article 218(9) of the Treaty.

Article 5

Any decision of the Union to unilaterally suspend, in accordance with Article 3(4) and (5) of the Agreement, the recognition of equivalence of the laws and regulations listed in Annex IV to the Agreement, including the updated and consolidated versions of those laws and regulations as referred to in Annex V to the Agreement, shall be taken by the Commission.

Before the Commission takes such a decision, it shall inform the representatives of the Member States in accordance with the procedure laid down in Article 4 of this Decision.

([1]) The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

Article 6

This Decision shall enter into force on 1 January 2018.

Done at Luxembourg, 9 October 2017.

For the Council
The President
S. KIISLER

AGREEMENT

between the European Union and the Republic of Chile on trade in organic products

THE EUROPEAN UNION, hereinafter referred to as 'the Union',

of the one part, and

THE REPUBLIC OF CHILE, hereinafter referred to as 'Chile',

of the other part,

hereinafter referred to collectively as 'the Parties',

RECOGNISING their longstanding and strong trade partnership based on the common principles and values reflected in the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part;

RESOLVED to contribute to the development and expansion of their organic sectors by creating new export opportunities;

DETERMINED to foster trade in organic products and convinced that this Agreement will facilitate trade of organically grown and produced products between the Parties;

SEEKING to achieve a high level of respect for the principles of organic production, of guarantee of the control systems and of integrity of organic products;

COMMITTED to enhancing regulatory cooperation on issues related to organic production;

RECOGNISING the importance of reciprocity and transparency in international trade for the benefit of all stakeholders;

BEARING in mind that the World Trade Organization (WTO) Agreement on Technical Barriers to Trade encourages WTO Members to give positive consideration to accepting as equivalent technical regulations of other Members, even if they differ from their own, provided that they are satisfied that those regulations adequately fulfil the objectives of their own regulations;

NOTING that permanent confidence in the continued reliability of the other Party's assessment procedures and control system is an essential element of such an acceptance of equivalence;

BUILDING on their respective rights and obligations under the Agreement establishing the WTO and other multilateral, regional and bilateral agreements and arrangements to which they are parties;

HAVE AGREED AS FOLLOWS:

Article 1

Purpose

The purpose of this Agreement is to foster trade in organically produced agricultural products and foodstuffs between the Union and Chile, in accordance with the principles of non-discrimination and reciprocity.

Article 2

Definitions

For the purposes of this Agreement, the following definitions shall apply:

(1) 'equivalence' means the capability of different laws and regulations, as well as inspection and certification systems to meet the same objectives;

(2) 'competent authority' means an official agency that has jurisdiction over the laws and regulations listed in Annex III or IV and is responsible for the implementation of this Agreement;

(3) 'control authority' means an authority of a Member State of the Union on which the relevant authority has conferred, in whole or in part, its competence for inspection and certification in the field of organic production in accordance with the laws and regulations listed in Annex III;

(4) 'control body' means an independent private entity carrying out inspection and certification in the field of organic production in accordance with the laws and regulations listed in Annex III or IV.

Article 3

Recognition of equivalence

1. With respect to the products listed in Annex I, the Union recognises the laws and regulations of Chile listed in Annex IV as equivalent to its laws and regulations listed in Annex III.

2. With respect to the products listed in Annex II, Chile recognises the laws and regulations of the Union listed in Annex III as equivalent to its laws and regulations listed in Annex IV.

3. In the event of modification, revocation or replacement of, or addition to, the laws and regulations listed in Annex III or IV, the new rules shall be considered equivalent to the other Party's rules unless the other Party objects in accordance with the procedure set out in paragraph 4.

4. If a Party considers that the laws, regulations or administrative procedures and practices of the other Party no longer meet the requirements for equivalence, it shall issue a reasoned request to the other Party to amend the relevant law, regulation or administrative procedure or practice and provide an adequate timeframe, which shall not be less than three months, for ensuring equivalence. If, following the expiry of that period, the Party concerned still considers that the requirements for equivalence are not met, it may unilaterally suspend the recognition of equivalence of the laws and regulations listed in Annex III or IV as regards the relevant products listed in Annex I or II.

5. A decision to unilaterally suspend the recognition of equivalence of the laws and regulations listed in Annex III or IV as regards the relevant products listed in Annex I or II may also be taken, following the expiry of a notice period of three months, when one Party has not provided the information required under Article 6 or does not agree to a peer review under Article 7.

6. With respect to products not listed in Annex I or II, and in accordance with point (b) of Article 8(3), equivalence shall be examined at the request of one Party by the Joint Committee established pursuant to Article 8(1).

Article 4

Import and placing on the market

1. The Union shall accept the import into its territory, and the placing on the market as organic products, of the products listed in Annex I, provided that those products comply with the laws and regulations of Chile listed in Annex IV and are accompanied by a certificate of inspection, as provided for in Annex V of Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries, issued by a control body recognised by Chile and indicated to the Union in accordance with paragraph 3.

2. Chile shall accept the import into its territory, and the placing on the market as organic products, of the products listed in Annex II, provided that those products comply with the laws and regulations of the Union listed in Annex III and are accompanied by a certificate issued by a control authority or a control body of the Union in accordance with Resolution No 7880 of the National Directorate of the Agricultural and Livestock Service, of 29 November 2011, establishing the minimum content for the organic agriculture certificates, in the framework of Law 20.089.

3. Each Party recognises the control authorities or control bodies indicated by the other Party as responsible for performing the relevant controls as regards organic products covered by the recognition of equivalence as referred to in Article 3 and for issuing the certificate of inspection as referred to in paragraphs 1 and 2 of this Article with a view to their import into and placing on the market in the territory of the other Party.

The importing Party, in cooperation with the other Party, shall assign code numbers to each relevant control authority and control body indicated by the other Party.

Article 5

Labelling

1. Products imported from one Party by the other Party in accordance with this Agreement shall meet the requirements on labelling set out in the laws and regulations of the other Party listed in Annexes III and IV. Those products may bear the Union's organic logo, the Chilean organic logo or both logos, as set out in the relevant laws and regulations, provided that they comply with the labelling requirements for the respective logo or for both logos.

2. The Parties undertake to avoid any misuse of the terms referring to organic production, including derivatives or diminutives such as 'bio' and 'eco', in relation to products that are covered by the recognition of equivalence referred to in Article 3.

3. The Parties undertake to protect the Union's organic logo and the Chilean organic logo set out in the relevant laws and regulations against any misuse or imitation. The Parties shall ensure that the Union's organic logo and the Chilean organic logo are used only for the labelling, advertising or commercial documents of products complying with the laws and regulations listed in Annexes III and IV.

Article 6

Exchange of information

The Parties shall exchange all relevant information with respect to the implementation and application of this Agreement. In particular, by 31 March of the second year following the entry into force of this Agreement, and subsequently by 31 March of each year, each Party shall send to the other:

— a report that contains information with respect to the types and quantities of organic products exported under this Agreement, covering the period from January to December of the previous year; and

— a report on the monitoring and supervisory activities carried out by the competent authority, the results obtained and the corrective measures taken, covering the period from January to December of the previous year.

At any time, each Party shall without delay inform the other Party of:

— any update to the list of its competent authorities, control authorities and control bodies, including the relevant contact details (in particular the address and the internet address);

— any changes or repeals it intends to make in respect of laws or regulations listed in Annexes III and IV, any proposals for new laws or regulations or any relevant changes to administrative procedures and practices related to organic products listed in Annexes I and II;

— any changes or repeals it has adopted in respect of laws or regulations listed in Annexes III and IV, any new legislation or relevant changes to administrative procedures and practices related to organic products listed in Annexes I and II; and

— any changes to the internet addresses set out in Annex V.

Article 7

Peer reviews

1. Following advance notice of at least three months, each Party shall permit officials or experts designated by the other Party to conduct peer reviews in its territory to verify that the relevant control authorities and control bodies are carrying out the controls required under this Agreement.

2. Each Party shall cooperate with and assist the other Party, to the extent permitted under the applicable law, in carrying out the peer reviews referred to in paragraph 1, which may include visits to offices of relevant control authorities and control bodies, processing facilities and certified operators.

Article 8

Joint Committee on Organic Products

1. The Parties hereby establish a Joint Committee on Organic Products ('the Joint Committee') composed of duly appointed representatives of the Union, on the one hand, and representatives of the Government of Chile, on the other hand.

2. Consultations shall be held in the Joint Committee to facilitate the implementation, and to further the purpose, of this Agreement.

3. The functions of the Joint Committee shall be to:

(a) manage this Agreement, taking the decisions necessary for its implementation and its good functioning;

(b) examine any request by one Party to update or extend to new products the list of products in Annex I or II and to adopt a decision to modify Annex I or II if equivalence is recognised by the other Party;

(c) enhance cooperation on laws, regulations, standards and conformity-assessment procedures concerning organic production, to which end it shall discuss any other technical or regulatory issue related to organic production rules and control systems with a view to increasing convergence between laws, regulations and standards;

(d) consider any other issue with respect to the implementation of this Agreement.

4. The Parties shall, in accordance with their respective laws and regulations, implement the decisions adopted by the Joint Committee under point (b) of paragraph 3 and inform each other thereof within three months of their adoption ([1]).

5. The Joint Committee shall operate by consensus. It shall adopt its own rules of procedure. It may establish subcommittees and working groups to deal with specific issues.

6. The Joint Committee shall inform the Committee on Standards, Technical Regulations and Conformity Assessment established pursuant to Article 88 of the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part, of its decisions and work.

7. The Joint Committee shall meet once a year, in the Union and Chile alternately, on a mutually agreed date. If both Parties agree, a meeting of the Joint Committee may be held by means of video- or teleconference.

8. The Joint Committee shall be co-chaired by the two Parties.

Article 9

Settlement of disputes

Any dispute relating to the interpretation or application of this Agreement shall be resolved through consultations between the Parties within the Joint Committee. The Parties shall present to the Joint Committee the relevant information required for a thorough examination of the matter, with a view to resolving the dispute.

Article 10

Confidentiality

Representatives, experts and other agents of the Parties shall be required, even after their duties have ceased, not to disclose any information obtained in the framework of this Agreement that is covered by the obligation of professional secrecy.

Article 11

Review

1. Where either Party seeks a review of this Agreement, it shall submit a reasoned request to the other Party.

2. The Parties may entrust the Joint Committee with the task of considering any such request and, if appropriate, putting forward recommendations, in particular with a view to opening negotiations on parts of this Agreement that cannot be changed in accordance with point (b) of Article 8(3).

Article 12

Implementation of the Agreement

The Parties shall take all steps, whether general or specific, to ensure compliance with the obligations under this Agreement. They shall abstain from any measure that is liable to jeopardise the attainment of the purpose of this Agreement.

([1]) Chile shall implement the decisions of the Joint Committee through *Acuerdos de Ejecución*, in accordance with Article 54, numeral 1, fourth paragraph, of the Political Constitution of the Republic of Chile (*Constitución Política de la República de Chile*).

Article 13

Annexes

The Annexes to this Agreement shall form an integral part thereof.

Article 14

Territorial scope

This Agreement shall apply, on the one hand, to the territories to which the Treaty on the Functioning of the European Union is applied and under the conditions set out in that Treaty and, on the other hand, to the territory of Chile.

Article 15

Entry into force and duration

This Agreement shall enter into force on the first day of the third month following the final notification of the completion of the necessary internal procedures by each Party.

This Agreement is concluded for an initial period of three years. It shall be renewed indefinitely unless the Union or Chile notifies the other Party of its objection to such renewal before the initial period expires.

Either Party may notify the other Party in writing of its intention to denounce this Agreement. The denunciation shall take effect three months after the notification.

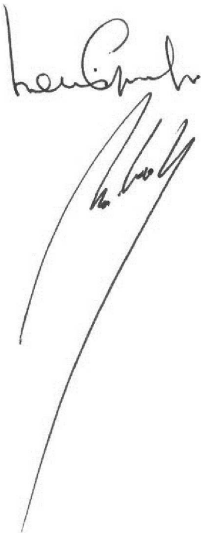
Article 16

Authentic texts

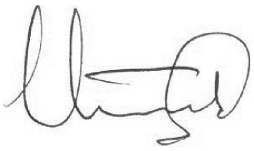
This Agreement is signed in duplicate in English and Spanish, each text being equally authentic.

Done at Brussels on the twenty-seventh day of April in the year two thousand and seventeen.

For the European union



For the Republic of Chile



ANNEX I

Organic products from Chile for which the Union recognises equivalence

Codes and description of the Harmonised System nomenclature		Comments
0409	Natural honey	
06	LIVE TREES AND OTHER PLANTS; BULBS, ROOTS AND THE LIKE; CUT FLOWERS AND ORNAMENTAL FOLIAGE	
The following codes of this chapter are included only if unprocessed		
0603	Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared	
0603 90	Other	
0604	Foliage, branches and other parts of plants, without flowers or flower buds, and grasses, mosses and lichens, being goods of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared	
0604 90	Other	
07	EDIBLE VEGETABLES AND CERTAIN ROOTS AND TUBERS	
08	EDIBLE FRUIT AND NUTS; PEEL OF CITRUS FRUIT OR MELONS	
09	COFFEE, TEA, MATÉ* AND SPICES	* Excluded
10	CEREALS	
11	PRODUCTS OF THE MILLING INDUSTRY; MALT; STARCHES; INULIN; WHEAT GLUTEN	
12	OIL SEEDS AND OLEAGINOUS FRUITS; MISCELLANEOUS GRAINS, SEEDS AND FRUIT; INDUSTRIAL OR MEDICINAL PLANTS; STRAW AND FODDER	
The following codes of this chapter are excluded or limited:		
1211	Plants and parts of plants (including seeds and fruits), of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes, fresh, chilled, frozen or dried, whether or not cut, crushed or powdered	Included only if unprocessed or processed for use as food
1212 21	Seaweeds and other algae	Excluded
1212 21	Fit for human consumption	Excluded
1212 29	Other	Excluded
13	LAC; GUMS, RESINS AND OTHER VEGETABLE SAPS AND EXTRACTS	
The following codes of this chapter are excluded or limited:		
1301	Lac; natural gums, resins, gum-resins and oleoresins (for example, balsams)	Excluded

Codes and description of the Harmonised System nomenclature		Comments
1302	Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products	Included only if processed for use as food
1302 11	Opium	Excluded
1302 19	Other	Excluded
14	VEGETABLE PLAITING MATERIALS; VEGETABLE PRODUCTS NOT ELSEWHERE SPECIFIED OR INCLUDED	
15	ANIMAL OR VEGETABLE FATS AND OILS AND THEIR CLEAVAGE PRODUCTS; PREPARED EDIBLE FATS; ANIMAL OR VEGETABLE WAXES	
The following codes of this chapter are excluded or limited:		
1501	Pig fat (including lard) and poultry fat, other than that of heading 0209 or 1503	Included only if processed for use as food
1502	Fats of bovine animals, sheep or goats, other than those of heading 1503	Included only if processed for use as food
1503	Lard stearin, lard oil, oleostearin, oleo-oil and tallow oil, not emulsified or mixed or otherwise prepared	Included only if processed for use as food
1505	Wool grease and fatty substances derived therefrom (including lanolin)	Excluded
1506	Other animal fats and oils and their fractions, whether or not refined, but not chemically modified	Excluded
1515 30	Castor oil and its fractions	Excluded
1515 90	Other	For this subchapter, jojoba oil is excluded. Other products are included only if processed for use as food.
1516 20	Vegetable fats and oils and their fractions	Included only if processed for use as food
1518	Animal or vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included	Excluded
1520	Glycerol, crude; glycerol waters and glycerol lyes	Excluded
1521	Vegetable waxes (other than triglycerides), beeswax, other insect waxes and spermaceti, whether or not refined or coloured	Excluded except vegetable waxes if processed for use as food
17	SUGARS AND SUGAR CONFECTIONERY	
18	COCOA AND COCOA PREPARATIONS	
19	PREPARATIONS OF CEREALS, FLOUR, STARCH OR MILK; PASTRY COOKS' PRODUCTS	

Codes and description of the Harmonised System nomenclature		Comments
20	PREPARATIONS OF VEGETABLES, FRUIT, NUTS OR OTHER PARTS OF PLANTS	
21	MISCELLANEOUS EDIBLE PREPARATIONS	
22	BEVERAGES, SPIRITS AND VINEGAR	
The following codes of this chapter are excluded or limited:		
2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow	Excluded
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009	Excluded
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol.; spirits, liqueurs and other spirituous beverages	Included only if processed from agricultural products, for use as food
3301	Essential oils (terpeneless or not), including concretes and absolutes; resinoids; extracted oleoresins; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by-products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils	Included only if used for food

Conditions:

Organic products listed in this Annex shall be unprocessed agricultural products produced in Chile and processed agricultural products for use as food that have been processed in Chile with organically grown ingredients that have been produced in Chile or that have been imported into Chile either from the Union or from a third country in the framework of a regime that is recognised as equivalent by the Union in accordance with the provisions of Article 33(2) of Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91.

ANNEX II

Organic products from the Union for which Chile recognises equivalence

Codes and description of the Harmonised System nomenclature		Comments
01	LIVE ANIMALS	The products of hunting and fishing of wild animals shall not be considered as organic production.
02	MEAT AND EDIBLE MEAT OFFAL	Meat and edible meat offal from hunting and fishing of wild animals is excluded.
03	FISH AND CRUSTACEANS, MOLLUSCS AND OTHER AQUATIC INVERTEBRATES	Fishing of wild animals is excluded.
04	DAIRY PRODUCE; BIRDS' EGGS; NATURAL HONEY; EDIBLE PRODUCTS OF ANIMAL ORIGIN, NOT ELSEWHERE SPECIFIED OR INCLUDED	
05	PRODUCTS OF ANIMAL ORIGIN, NOT ELSEWHERE SPECIFIED OR INCLUDED	
The following codes of this chapter are excluded:		
0501	Human hair, unworked, whether or not washed or scoured; waste of human hair	
0502	Pigs', hogs' or boars' bristles and hair; badger hair and other brush making hair; waste of such bristles or hair	
0502 10	Pigs', hogs' or boars' bristles and hair and waste thereof	
0502 90	Other	
0505	Skins and other parts of birds, with their feathers or down, feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation; powder and waste of feathers or parts of feathers	
0506	Bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised; powder and waste of these products	
0507	Ivory, tortoiseshell, whalebone and whalebone hair, horns, antlers, hooves, nails, claws and beaks, unworked or simply prepared but not cut to shape; powder and waste of these products	
0510	Ambergris, castoreum, civet and musk; cantharides; bile, whether or not dried; glands and other animal products used in the preparation of pharmaceutical products, fresh, chilled, frozen or otherwise provisionally preserved	
0511 91	Other	
0511 99	Natural sponges of animal origin	

Codes and description of the Harmonised System nomenclature		Comments
06	LIVE TREES AND OTHER PLANTS; BULBS, ROOTS AND THE LIKE; CUT FLOWERS AND ORNAMENTAL FOLIAGE	
The following codes of this chapter are included only if unprocessed:		
0603	Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared	
0603 90	Other	
0604	Foliage, branches and other parts of plants, without flowers or flower buds, and grasses, mosses and lichens, being goods of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared	
0604 90	Other	
07	EDIBLE VEGETABLES AND CERTAIN ROOTS AND TUBERS	
08	EDIBLE FRUIT AND NUTS; PEEL OF CITRUS FRUIT OR MELONS	
09	COFFEE, TEA, MATÉ* AND SPICES	* Excluded
10	CEREALS	
11	PRODUCTS OF THE MILLING INDUSTRY; MALT; STARCHES; INULIN; WHEAT GLUTEN	
12	OIL SEEDS AND OLEAGINOUS FRUITS; MISCELLANEOUS GRAINS, SEEDS AND FRUIT; INDUSTRIAL OR MEDICINAL PLANTS; STRAW AND FODDER	
The following codes of this chapter are excluded or limited:		
1211	Plants and parts of plants (including seeds and fruits), of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes, fresh, chilled, frozen or dried, whether or not cut, crushed or powdered	Included only if unprocessed or processed for use as food or feed
13	LAC; GUMS, RESINS AND OTHER VEGETABLE SAPS AND EXTRACTS	
The following codes of this chapter are excluded or limited:		
1301	Lac; natural gums, resins, gum-resins and oleoresins (for example, balsams)	Excluded
1302	Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products	Included only if processed for use as food or feed
1302 11	Opium	Excluded

Codes and description of the Harmonised System nomenclature		Comments
1302 19	Other	Excluded
14	VEGETABLE PLAITING MATERIALS; VEGETABLE PRODUCTS NOT ELSEWHERE SPECIFIED OR INCLUDED	
15	ANIMAL OR VEGETABLE FATS AND OILS AND THEIR CLEAVAGE PRODUCTS; PREPARED EDIBLE FATS; ANIMAL OR VEGETABLE WAXES	
The following codes of this chapter are excluded or limited:		
1501	Pig fat (including lard) and poultry fat, other than that of heading 0209 or 1503	Included only if processed for use as food or feed
1502	Fats of bovine animals, sheep or goats, other than those of heading 1503	Included only if processed for use as food or feed
1503	Lard stearin, lard oil, oleostearin, oleo-oil and tallow oil, not emulsified or mixed or otherwise prepared	Included only if processed for use as food or feed
1505	Wool grease and fatty substances derived therefrom (including lanolin)	Excluded
1506	Other animal fats and oils and their fractions, whether or not refined, but not chemically modified	Excluded
1515 30	Castor oil and its fractions	Excluded
1515 90	Other	For this subchapter, jojoba oil is excluded. Other products are included only if processed for use as food or feed.
1520	Glycerol, crude; glycerol waters and glycerol lyes	Included only if processed for use as food or feed.
1521	Vegetable waxes (other than triglycerides), beeswax, other insect waxes and spermaceti, whether or not refined or coloured	Only vegetable waxes included if processed for use as food and feed
16	PREPARATIONS OF MEAT, OF FISH OR OF CRUSTACEANS, MOLLUSCS OR OTHER AQUATIC INVERTEBRATES	
17	SUGARS AND SUGAR CONFECTIONERY	
18	COCOA AND COCOA PREPARATIONS	
19	PREPARATIONS OF CEREALS, FLOUR, STARCH OR MILK; PASTRY COOKS' PRODUCTS	
20	PREPARATIONS OF VEGETABLES, FRUIT, NUTS OR OTHER PARTS OF PLANTS	
21	MISCELLANEOUS EDIBLE PREPARATIONS	

Codes and description of the Harmonised System nomenclature		Comments
22	BEVERAGES, SPIRITS AND VINEGAR	
The following codes of this chapter are excluded or limited:		
2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow	Excluded
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009	Excluded
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol.; spirits, liqueurs and other spirituous beverages	Included only if processed from agricultural products, for use as food
23	RESIDUES AND WASTE FROM THE FOOD INDUSTRIES; PREPARED ANIMAL FODDER	
The following code of this chapter is limited:		
2307	Wine lees; argol	Argol is excluded
3301	Essential oils (terpeneless or not), including concretes and absolutes; resinoids; extracted oleoresins; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by-products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils	Included only if used for food
45	CORK AND ARTICLES OF CORK	Included only if unprocessed
53	OTHER VEGETABLE TEXTILE FIBRES; PAPER YARN AND WOVEN FABRICS OF PAPER YARN	Included only if unprocessed

Conditions:

Organic products listed in this Annex shall be unprocessed and processed agricultural products that are produced or processed in the Union.

ANNEX III

Organic legislation applicable in the Union

Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91, as last amended by Council Regulation (EC) No 517/2013.

Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control, as last amended by Commission Implementing Regulation (EU) No 1358/2014.

Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries, as amended by Commission Implementing Regulation (EU) 2015/931.

ANNEX IV

Organic legislation applicable in Chile

Law 20.089, of 17 January 2006, that creates a National Certification System for Agricultural Organic Products.

Decree nº 03 of 29 January 2016, of the Ministry of Agriculture, that approves the Regulation of Law 20.089 that creates a National Certification System for Agricultural Organic Products.

Decree nº 02 of 22 January 2016, of the Ministry of Agriculture, that approves the Technical Rules of Law 20.089 that creates a National Certification System for Agricultural Organic Products.

Resolution nº 569 of the National Directorate of the Agricultural and Livestock Service, of 7 February 2007, establishing standards for registration of organic products' certification bodies.

Resolution nº 1110 of the National Directorate of the Agricultural and Livestock Service, of 4 March 2008, approving the official label for organic products and equivalents.

Resolution nº 7880 of the National Directorate of the Agricultural and Livestock Service, of 29 November 2011, establishing the minimum content for the organic agriculture certificates, in the framework of Law 20.089.

ANNEX V

Internet addresses where the laws and regulations listed in Annexes III and IV including any modification, revocation, replacement or addition, as well as consolidated versions, and any new legislation for products that have been listed in Annex I or II in accordance with point (b) of Article 8(3) can be consulted:

Union:	http://eur-lex.europa.eu
Chile:	http://www.sag.gob.cl/ambitos-de-accion/certificacion-de-productos-organicos-agricolas/132/normativas

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2308

of 13 December 2017

concerning the authorisation of the preparation of *Bacillus subtilis* (DSM 5750) and *Bacillus licheniformis* (DSM 5749) as a feed additive for suckling piglets (holder of authorisation Chr. Hansen A/S)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ([1]), and in particular Article 9(2) thereof,

Whereas:

(1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation. Article 10 of that Regulation provides for the re-evaluation of additives authorised pursuant to Council Directive 70/524/EEC ([2]).

(2) The preparation of *Bacillus subtilis* (DSM 5750) and *Bacillus licheniformis* (DSM 5749) was authorised without a time limit in accordance with Directive 70/524/EEC as a feed additive, for pigs for fattening and piglets by Commission Regulation (EC) No 2148/2004 ([3]). That preparation was subsequently entered in the Register of feed additives as an existing product, in accordance with Article 10(1) of Regulation (EC) No 1831/2003. That preparation was authorised for 10 years for weaned piglets, pigs for fattening, sows, calves for rearing and turkeys for fattening by Commission Implementing Regulation (EU) 2017/447 ([4]).

(3) In accordance with Article 10(2) of Regulation (EC) No 1831/2003 in conjunction with Article 7 of that Regulation, an application was submitted for the re-evaluation of the preparation of *Bacillus subtilis* (DSM 5750) and *Bacillus licheniformis* (DSM 5749) as a feed additive for piglets. The application was also for the assessment of this preparation for a new use in water for drinking. The applicant requested that additive to be classified in the additive category 'zootechnical additives'. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.

(4) The European Food Safety Authority ('the Authority') concluded in its opinion of 12 July 2016 ([5]) that, under the proposed conditions of use, the preparation of *Bacillus subtilis* (DSM 5750) and *Bacillus licheniformis* (DSM 5749) does not have an adverse effect on animal health, human health or the environment. The Authority considered that the additive has the potential to improve weight gain in suckling piglets when used in feed or in water for drinking. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.

(5) The assessment of the preparation of *Bacillus subtilis* (DSM 5750) and *Bacillus licheniformis* (DSM 5749) shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised as specified in the Annex to this Regulation.

([1]) OJ L 268, 18.10.2003, p. 29.
([2]) Council Directive 70/524/EEC of 23 November 1970 concerning additives in feeding-stuffs (OJ L 270, 14.12.1970, p. 1).
([3]) Commission Regulation (EC) No 2148/2004 of 16 December 2004 concerning the permanent and provisional authorisations of certain additives and the authorisation of new uses of an additive already authorised in feedingstuffs (OJ L 370, 17.12.2004, p. 24).
([4]) Commission Implementing Regulation (EU) 2017/447 of 14 March 2017 concerning the authorisation of the preparation of *Bacillus subtilis* (DSM 5750) and *Bacillus licheniformis* (DSM 5749) as a feed additive for sows, weaned piglets, pigs for fattening, calves for rearing and turkeys for fattening and amending Regulations (EC) No 1453/2004, (EC) No 2148/2004 and (EC) No 600/2005 (holder of authorisation Chr. Hansen A/S) (OJ L 69, 15.3.2017, p. 19).
([5]) *EFSA Journal* 2016; 14(9):4558.

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

HAS ADOPTED THIS REGULATION:

Article 1

Authorisation

The preparation specified in the Annex, belonging to the additive category 'zootechnical additives' and to the functional group 'gut flora stabilisers', is authorised as an additive in animal nutrition, subject to the conditions laid down in that Annex.

Article 2

Entry into force

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

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

Done at Brussels, 13 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Minimum content	Maximum content	Other provisions	End of period of authorisation
						CFU/kg of complete feedingstuff with a moisture content of 12 %		CFU/l of water for drinking			
Category of zootechnical additives. Functional group: gut flora stabilisers											
4b1700i	Chr.Hansen A/S	*Bacillus subtilis* (DSM 5750) and *Bacillus licheniformis* (DSM 5749)	*Additive composition* Preparation of *Bacillus subtilis* (DSM 5750) and *Bacillus licheniformis* (DSM 5749) containing a minimum of $3,2 \times 10^{10}$ CFU/g of additive (1:1 ratio) Solid form *Characterisation of the active substance* Viable spores of *Bacillus subtilis* (DSM 5750) and *Bacillus licheniformis* (DSM 5749) *Analytical method* (1) Identification and enumeration of *Bacillus subtilis* (DSM 5750) and *Bacillus licheniformis* (DSM 5749) in the feed additive, premixtures, feedingstuffs and water: — Identification: Pulsed Field Gel Electrophoresis (PFGE)	Suckling piglets	—	$1,3 \times 10^9$	—	$6,5 \times 10^8$	—	1. In the directions for use of the additive and premixture, the storage conditions and stability to heat treatment shall be indicated. 2. The additive may be used in water for drinking. 3. For use of the additive in water for drinking a homogeneous dispersion of the additive shall be ensured. 4. Indicate in the instructions for use: 'The additive shall be fed to lactating sows and suckling piglets simultaneously'	3 January 2028

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Minimum content	Maximum content	Other provisions	End of period of authorisation
						CFU/kg of complete feedingstuff with a moisture content of 12 %		CFU/l of water for drinking			
			— Enumeration: Spread plate method using tryptone soya agar — EN 15784.							5. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks resulting from their use. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including breathing protection and skin protection.	

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

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2309

of 13 December 2017

operating deductions from fishing quotas available for certain stocks in 2017 on account of overfishing of other stocks in the previous years and amending Implementing Regulation (EU) 2017/1345

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 ([1]), and in particular Article 105(1), (2), (3) and (5) thereof,

Whereas:

(1) Fishing quotas for the year 2016 have been established by:

— Council Regulation (EU) No 1367/2014 ([2]),

— Council Regulation (EU) 2015/2072 ([3]),

— Council Regulation (EU) 2016/72 ([4]), and

— Council Regulation (EU) 2016/73 ([5]).

(2) Fishing quotas for the year 2017 have been established by:

— Council Regulation (EU) 2016/1903 ([6]),

— Council Regulation (EU) 2016/2285 ([7]),

— Council Regulation (EU) 2016/2372 ([8]), and

— Council Regulation (EU) 2017/127 ([9]).

(3) According to Article 105(1) of Regulation (EC) No 1224/2009, when the Commission has established that a Member State has exceeded the fishing quotas which have been allocated to it, the Commission is to operate deductions from future fishing quotas of that Member State.

(4) Commission Implementing Regulation (EU) 2017/1345 ([10]) has established deductions from fishing quotas for certain stocks in 2017 on account of overfishing in the previous years.

([1]) OJ L 343, 22.12.2009, p. 1.

([2]) Council Regulation (EU) No 1367/2014 of 15 December 2014 fixing for 2015 and 2016 the fishing opportunities for Union fishing vessels for certain deep-sea fish stocks (OJ L 366, 20.12.2014, p. 1).

([3]) Council Regulation (EU) 2015/2072 of 17 November 2015 fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulations (EU) No 1221/2014 and (EU) No 2015/104 (OJ L 302, 19.11.2015, p. 1).

([4]) Council Regulation (EU) 2016/72 of 22 January 2016 fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2015/104 (OJ L 22, 28.1.2016, p. 1).

([5]) Council Regulation (EU) 2016/73 of 18 January 2016 fixing for 2016 the fishing opportunities for certain fish stocks in the Black Sea (OJ L 16, 23.1.2016, p. 1).

([6]) Council Regulation (EU) 2016/1903 of 28 October 2016 fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation (EU) 2016/72 (OJ L 295, 29.10.2016, p. 1).

([7]) Council Regulation (EU) 2016/2285 of 12 December 2016 fixing for 2017 and 2018 the fishing opportunities for Union fishing vessels for certain deep-sea fish stocks and amending Council Regulation (EU) 2016/72 (OJ L 344, 17.12.2016, p. 32).

([8]) Council Regulation (EU) 2016/2372 of 19 December 2016 fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks in the Black Sea (OJ L 352, 23.12.2016, p. 26).

([9]) Council Regulation (EU) 2017/127 of 20 January 2017 fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters (OJ L 24, 28.1.2017, p. 1).

([10]) Commission Implementing Regulation (EU) 2017/1345 of 18 July 2017 operating deductions from fishing quotas available for certain stocks in 2017 on account of overfishing in the previous years (OJ L 186, 19.7.2017, p. 6).

(5) However, for certain Member States, no deductions could be operated by Implementing Regulation (EU) 2017/1345 from quotas allocated for the overfished stocks because such quotas are not available for those Member States in the year 2017.

(6) Article 105(5) of Regulation (EC) No 1224/2009 provides that, if it is not possible to operate deductions on the overfished stock in the year following the overfishing because the Member State concerned has no available quota, deductions may be operated on other stocks in the same geographical area or with the same commercial value. According to Commission Communication 2012/C 72/07 ([1]) such deductions should be preferably operated from quotas allocated for stocks fished by the same fleet as the fleet that overfished the quota, taking into account the need to avoid discards in mixed fisheries.

(7) The Member States concerned have been consulted with regard to the proposed deductions from quotas allocated for stocks other than those which have been overfished.

(8) In 2016, Spain overfished its quota for white marlin in the Atlantic Ocean (WHM/ATLANT). The deduction due has been applied following Implementing Regulation (EU) 2017/1345 to the full extent of the quota available for white marlin in 2017, in line with the guidelines set up in Communication 2012/C 72/07. Since the available 2017 quota for white marlin in the Atlantic Ocean is not sufficient, by letter of 9 August 2017, Spain requested to apply the remaining deduction, including outstanding deductions from previous years, on the 2017 quota for swordfish in the Atlantic Ocean, North of 5° N (SWO/AN05N). That request should be accepted in line with Article 105(5) of Regulation (EC) No 1224/2009.

(9) In 2016, Spain overfished its quota for albacore in the Atlantic Ocean, North of 5° N (ALB/AN05N). By letter of 20 July 2017, Spain requested to spread the deduction due over three years. In view of the information provided and considering that paragraph 5 of ICCAT Supplemental Recommendation 13-05, concerning the North Atlantic albacore rebuilding program ([2]), establishes that overfishing is to be deducted within a maximum of two years, an exceptional equal spreading of the deduction over two years may alternatively be accepted.

(10) Moreover, the Spanish fisheries authorities discovered that the 2016 catch figures transmitted to the Commission for albacore in the Atlantic Ocean, North of 5° N, were incorrect. On the basis of the corrected data transmitted by Spain on 4 August 2017, it appears that the Spanish quota for albacore in the Atlantic Ocean, North of 5° N, was exceeded by a lower amount than that taken into account for the deductions established by Implementing Regulation (EU) 2017/1345. The deduction from the 2017 Spanish quota for albacore in the Atlantic Ocean, North of 5° N, should therefore be adjusted.

(11) Following the publication of Implementing Regulation (EU) 2017/1345, the Portuguese fisheries authorities discovered that the 2016 catch figures transmitted to the Commission for swordfish in the Atlantic Ocean, North of 5° N, (SWO/AN05N) were incorrect. On the basis of the corrected data transmitted by Portugal on 22 August 2017, it appears that the Portuguese quota for swordfish in the Atlantic Ocean, North of 5° N, was exceeded by a lower amount than that taken into account for the deductions established by Implementing Regulation (EU) 2017/1345. The deduction from the 2017 Portuguese quota for swordfish in the Atlantic Ocean, North of 5° N, should therefore be adjusted.

(12) On 17 May 2017, Lithuania requested to update its catch declarations regarding mackerel in Union waters of IIa; Union and Norwegian waters of IVa (MAC/*4A-EN). On the basis of the updated data transmitted by Lithuania on the same date, it appears that the Lithuanian 2016 quota was exceeded for mackerel in Union waters of IIa; Union and Norwegian waters of IVa as well as for the parent stock, namely mackerel in areas VI, VII, VIIIa, VIIIb, VIIId and VIIIe; Union and international waters of Vb; international waters of IIa, XII and XIV (MAC/2CX14-). The corresponding deductions should consequently be added to the Annex to Implementing Regulation (EU) 2017/1345.

(13) On 10 August 2017, the United Kingdom informed the Commission that the by-catches of picked dogfish in Union and international waters of I, V, VI, VII, VIII, XII and XIV (DGS/*15X14) had been erroneously reported. Following corrections submitted on 30 August 2017 by the United Kingdom in the aggregated catch data reporting system, it appears that the by-catch uptake for picked dogfish in Union and international waters of I, V, VI, VII, VIII, XII and XIV remains below the allocated quota for 2016. Therefore, the corresponding deductions should be deleted from the Annex to Implementing Regulation (EU) 2017/1345.

([1]) Communication from the Commission – Guidelines for deduction of quotas under article 105(1), (2) and (5) of Regulation (EC) No 1224/2009 (2012/C 72/07) (OJ C 72, 10.3.2012, p. 27).

([2]) https://www.iccat.int/Documents/Recs/compendiopdf-e/2013-05-e.pdf

(14) In October 2017, a correction in the algorithms of the aggregated catch data reporting system revealed the overfishing by Denmark of Northern prawn in Greenland waters of NAFO 1 (PRA/N1GRN.). The Annex to Implementing Regulation (EU) 2017/1345 should therefore be amended accordingly.

(15) Following changes in the stock area definitions set up in Regulation (EU) 2017/127 in order to allow for accurate reporting of catches, the deduction applicable to the Netherlands for overfishing of saithe in areas III and IV; Union waters of IIa, IIIb, IIIc and subdivisions 22-32 (POK/2A34) in the year 2016 should now be applied to the 2017 quota for saithe in areas IIIa and IV; Union waters of IIa (POK/2C3A4).

(16) In 2017, the International Council for the Exploration of the Sea (ICES), in its advice and following the 2016 benchmark, amended the sandeel management areas. Therefore, deductions due by Denmark and the United Kingdom following overfishing of sandeel in Union waters of sandeel management area 1 (SAN/234_1) in 2016 are operated on the 2017 quota for sandeel in Union waters of sandeel management area 1r (SAN234_1R).

(17) Moreover, certain deductions required by Implementing Regulation (EU) 2017/1345 appear to be larger than the adapted quota available in the year 2017 and, as a consequence, cannot be entirely operated in that year. According to Communication No 2012/C 72/07, the remaining amounts should be deducted from the adapted quotas available in subsequent years until the full overfished amount is paid back.

(18) Implementing Regulation (EU) 2017/1345 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The fishing quotas fixed in Regulations (EU) 2016/1903, (EU) No 2016/2285, (EU) 2016/2372 and (EU) 2017/127 for the year 2017 referred to in Annex I to this Regulation shall be reduced by applying the deductions on the alternative stocks set out in that Annex.

Article 2

The Annex to Implementing Regulation (EU) 2017/1345 is replaced by the text in Annex II to this Regulation.

Article 3

This Regulation shall enter into force on the seventh 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, 13 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

DEDUCTIONS FROM QUOTAS FOR ALTERNATIVE STOCKS

Member State	Species code	Area code	Species name	Area name	Permitted landings 2016 (Total adapted quantity in kilograms) (1)	Total catches 2016 (qty in kilograms)	Quota consumption (%)	Overfishing related to permitted landing (qty in kilograms)	Multiplying factor (2)	Additional multiplying factor (3) (4)	Outstanding deduction from previous years (5) (qty in kilograms)	Deductions 2017 (qty in kilograms)	Deductions already applied in 2017 on the same stock (qty in kilograms) (6)	Remaining quantity to be deducted on alternative stock (qty in kilograms)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
DE	DGS	2AC4-C	Picked dogfish	Union waters of IIa and IV	0	2 118	N/A	2 118	/	/	/	2 118	0	2 118
Deduction to be made on the following stock														
DE	ARU	34-C.	Greater silver smelt	Union waters of III and IV	/	/	/	/	/	/	/	/	/	2 118
DK	DGS	2AC4-C	Picked dogfish	Union waters of IIa and IV	0	1 350	N/A	1 350	/	/	/	1 350	0	1 350
Deduction to be made on the following stock														
DK	NEP	2AC4-C	Norway lobster	Union waters of IIa and IV	/	/	/	/	/	/	/	/	/	1 350
DK	NOP	04-N.	Norway pout	Norwegian waters of IV	0	22 880	N/A	22 880	/	/	/	22 880	/	22 880
Deduction to be made on the following stock														
DK	NOP	2A3A4.	Norway pout	IIIa; Union waters of IIa and IV	/	/	/	/	/	/	/	/	/	22 880
DK	POK	1N2AB.	Saithe	Norwegian waters of I and II	0	3 920	N/A	3 920	/	/	/	3 920	/	3 920

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
Deduction to be made on the following stock														
DK	POK	2C3A4	Saithe	IIIa and IV; Union waters of IIa	/	/	/	/	/	/	/	/	/	3 920
DK	SAN	04-N.	Sandeel	Norwegian waters of IV	0	19 860	N/A	19 860	/	/	/	19 860	/	19 860
Deduction to be made on the following stock														
DK	SAN	234_2R	Sandeel	Union waters of IIa, IIIa and IV (sandeel management area 2)	/	/	/	/	/	/	/	/	/	19 860
ES	BUM	ATLANT	Blue marlin	Atlantic Ocean	0	13 396	N/A	13 396	/	A	/	20 094	/	20 094
Deduction to be made on the following stock														
ES	SWO	AN05N	Swordfish	Atlantic Ocean, North of 5° N	/	/	/	/	/	/	/	/	/	20 094
ES	GHL	1N2AB.	Greenland halibut	Norwegian waters of I and II	9 000	27 600	306,67 %	18 600	1.0	A	/	27 900	/	27 900
Deduction to be made on the following stock														
ES	RED	1N2AB	Redfish	Norwegian waters of I and II	/	/	/	/	/	/	/	/	/	27 900
ES	WHM	ATLANT	White marlin	Atlantic Ocean	2 460	9 859	400,77 %	7 399	1.0	A	138 994	150 092	2 427	147 665
Deduction to be made on the following stock														
ES	SWO	AN05N	Swordfish	Atlantic Ocean, North of 5° N	/	/	/	/	/	/	/	/	/	147 665

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
FR	POK	1/2/INT	Saithe	International waters of I and II	0	2 352	N/A	2 352	/	/	/	2 352	/	2 352
Deduction to be made on the following stock														
FR	POK	2C3A4	Saithe	IIIa and IV; Union waters of IIa					/	/	/	/	/	2 352
FR	RED	51214S	Redfish (shallow pelagic)	Union and international waters of V; international waters of XII and XIV	0	29 827	N/A	29 827	/	/	/	29 827	/	29 827
Deduction to be made on the following stock														
FR	BLI	5B67-	Blue ling	Union and international waters of Vb, VI, VII					/	/	/	/	/	29 827
IE	POK	1N2AB.	Saithe	Norwegian waters of I and II	0	5 969	N/A	5 969	/	/	/	5 969	/	5 969
Deduction to be made on the following stock														
IE	HER	1/2-	Herring	Union, Faroese, Norwegian and international waters of I and II					/	/	/	/	/	5 969
NL	DGS	2AC4-C	Picked dogfish	Union waters of IIa and IV	0	1 260	N/A	1 260	/	/	/	1 260	/	1 260
Deduction to be made on the following stock														
NL	COD	2A3AX4	Cod	IV; Union waters of IIa; that part of IIIa not covered by the Skagerrak and Kattegat	/	/	/	/	/	/	/	/	/	1 260

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
NL	HAD	7X7A34	Haddock	VIIIb-k, VIII, IX and X; Union waters of CECAF 34.1.1	559	26 220	N/A	25 661	/	/	/	25 661	/	25 661
Deduction to be made on the following stock														
NL	HAD	2AC4.	Haddock	IV; Union waters of IIa	/	/	/	/	/	/	/	/	/	25 661
PT	GHL	1N2AB.	Greenland Halibut	Norwegian waters of I and II	0	18 487	N/A	18 487	/	/	/	18 487	/	18 487
Deduction to be made on the following stock														
PT	RED	1N2AB	Redfish	Norwegian waters of I and II	/	/	/	/	/	/	/	/	/	18 487
UK	DGS	2AC4-C	Picked dogfish	Union waters of IIa and IV	0	17 776	N/A	17 776	/	/	/	17 776	/	17 776
Deduction to be made on the following stock														
UK	PLE	2A3AX4	Plaice	IV; Union waters of IIa; that part of IIIa not covered by the Skagerrak and the Kattegat	/	/	/	/	/	/	/	/	/	17 776

(1) Quotas available to a Member State pursuant to the relevant fishing opportunities Regulations after taking into account exchanges of fishing opportunities in accordance with Article 16(8) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council (OJ L 354, 28.12.2013, p. 22), quota transfers from 2015 to 2016 in accordance with Article 4(2) of Council Regulation (EC) No 847/96 (OJ L 115, 9.5.1996, p. 3), with Article 5a of Council Regulation (EU) No 1221/2014 (OJ L 330, 15.11.2014, p. 16), with Article 18a of Council Regulation (EU) 2015/104 (OJ L 22, 28.1.2015, p. 1) or reallocation and deduction of fishing opportunities in accordance with Articles 37 and 105 of Council Regulation (EC) No 1224/2009.

(2) As set out in Article 105(2) of Regulation (EC) No 1224/2009. Deduction equal to the overfishing * 1,00 shall apply in all cases of overfishing equal to, or less than, 100 tonnes.

(3) As set out in Article 105(3) of Regulation (EC) No 1224/2009 and provided that the extent of overfishing exceeds 10 %.

(4) Letter 'A' indicates that an additional multiplying factor of 1.5 has been applied due to consecutive overfishing in the years 2014, 2015 and 2016. Letter 'C' indicates that an additional multiplying factor of 1.5 has been applied as the stock is subject to a multiannual plan.

(5) Remaining quantities that could not be deducted in 2016 pursuant to Regulation (EU) 2016/2226 as amended by Regulation (EU) 2017/162 because there was no or not sufficient quota available

(6) Quantities that could be deducted on the same stock thanks to exchange of fishing opportunities concluded in accordance with Article 16(8) of Regulation (EU) No 1380/2013.

ANNEX II

'ANNEX

DEDUCTIONS FROM QUOTAS FOR STOCKS WHICH HAVE BEEN OVERFISHED

Member State	Species code	Area code	Species name	Area name	Initial quota 2016 (in kilograms)	Permitted landings 2016 (Total adapted quantity in kilograms) (1)	Total catches 2016 (quantity in kilograms)	Quota consumption related to permitted landings	Overfishing related to permitted landing (quantity in kilograms)	Multiplying factor (2)	Additional Multiplying factor (3) (4)	Outstanding deductions from previous years (5) (quantity in kilograms)	Deductions to apply in 2017 (quantity in kilograms) (6)	Deductions already applied in 2017 (qty in kilograms) (7)	To be deducted in 2018 and following year(s) (qty in kilograms)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
BE	SOL	7FG.	Common sole	VIIf and VIIg	487 000	549 565	563 401	102,52 %	13 836	/	/	/	13 836	13 836	/
BE	SOL	8AB.	Common sole	VIIIa and VIIIb	42 000	281 638	287 659	102,14 %	6 021	/	C (8)	/	6 021	6 021	/
BE	SRX	07D.	Skates and rays	Union waters of VIId	87 000	86 919	91 566	105,35 %	4 647	/	/	/	4 647	4 647	/
BE	T/B	2AC4-C	Turbot and brill	Union waters of IIa and IV	329 000	481 000	514 275	106,92 %	33 275 (9)	/	/	/	33 275	33 275	/
DE	DGS	2AC4-C	Picked dogfish	Union waters of IIa and IV	0	0	2 118	N/A	2 118	/	/	/	2 118	2 118	/
DE	MAC	2CX14-	Mackerel	VI, VII, VIIIa, VIIIb, VIIId and VIIIe; Union and international waters of Vb; international waters of IIa, XII and XIV	22 751 000	21 211 759	22 211 517	104,71 %	999 758	/	/	/	999 758	999 758	/
DK	DGS	2AC4-C	Picked dogfish	Union waters of IIa and IV	0	0	1 350	N/A	1 350	/	/	/	1 350	1 350	/
DK	HER	1/2-	Herring	Union, Faroese, Norwegian and international waters of I and II	7 069 000	10 331 363	10 384 320	100,51 %	52 957	/	/	/	52 957	52 957	/
DK	JAX	4BC7D	Horse mackerel and associated	Union waters of IVb, IVc and VIId	5 519 000	264 664	265 760	100,42 %	1 096	/	/	/	1 096	1 096	/

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
DK	MAC	2A34.	Mackerel	IIIa and IV; Union waters of IIa, IIIb, IIIc and Subdivisions 22-32	19 461 000	13 354 035	14 677 440	109,91 %	1 323 405	/	/	/	1 323 405	1 323 405	/
DK	MAC	2A4A-N	Mackerel	Norwegian waters of IIa and IVa	14 043 000	14 886 020	16 351 930	109,85 %	1 465 910	/	/	/	1 465 910	1 465 910	/
DK	NOP	04-N.	Norway pout	Norwegian waters of IV	0	0	22 880	N/A	22 880	/	/	/	22 880	22 880	/
DK	OTH	*2AC4C	Other species	Union waters of IIa and IV	6 018 300	3 994 920	4 508 050	112,84 %	513 130	1.2	/	/	615 756	615 756	/
DK	POK	1N2AB.	Saithe	Norwegian waters of I and II	/	0	3 920	N/A	3 920	/	/	/	3 920	3 920	/
DK	PRA	N1GRN.	Northern prawn	Greenland waters of NAFO 1	1 300 000	2 700 000	2 727 690	101,03 %	27 690	/	/	/	27 690	27 690	/
DK	SAN	04-N.	Sandeel	Norwegian waters of IV	0	0	19 860	N/A	19 860	/	/	/	19 860	19 860	/
DK	SAN	234_1 [11]	Sandeel	Union waters of sandeel management area 1	12 263 000	12 517 900	12 525 750	100,06 %	7 850	/	/	/	7 850	7 850	/
ES	ALB	AN05N	Northern albacore	Atlantic Ocean, north of 5° N	14 917 370	14 754 370	16 645 498	112,82 %	1 891 128	1.2	/	/	2 269 354	1 134 677 [12]	1 134 677 [12]
ES	ALF	3X14-	Alfonsinos	Union and international waters of III, IV, V, VI, VII, VIII, IX, X, XII and XIV	67 000	86 159	79 185	91,90 %	– 6 974	/	/	817	0	0	/
ES	BSF	8910-	Black scabbard-fish	Union and international waters of VIII, IX and X	12 000	24 004	16 419	68,41 %	– 7 585	/	/	2 703	0	0	/
ES	BUM	ATLANT	Blue marlin	Atlantic Ocean	0	0	13 396	N/A	13 396	/	A	/	20 094	20 094	/

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
ES	COD	1/2B.	Cod	I and IIb	13 192 000	9 730 876	9 731 972	100,01 %	1 096	/	/	/	1 096	1 096	/
ES	GHL	1N2AB.	Greenland halibut	Norwegian waters of I and II	/	9 000	27 600	306,67 %	18 600	1.0	A	/	27 900	27 900	/
ES	GHL	N3LMNO	Greenland halibut	NAFO 3LMNO	4 067 000	4 070 000	4 072 999	100,07 %	2 999	/	C [8]	/	2 999	2 999	/
ES	SRX	67AKXD	Skates and rays	Union waters of VIa, VIb, VIIa-c and VIIe-k	876 000	459 287	469 586	102,24 %	10 299	/	/	/	10 299	10 299	/
ES	SRX	89-C.	Skates and rays	Union waters of VIII and IX	1 057 000	925 232	956 878	103,42 %	31 646	/	A	131 767	179 236	179 236	/
ES	WHM	ATLANT	White marlin	Atlantic Ocean	2 460	2 460	9 859	400,77 %	7 399	1.0	A	138 994	150 092	150 092 [13]	/
FR	LIN	04-C.	Ling	Union waters of IV	162 000	262 351	304 077	115,91 %	41 726	1.0	/	/	41 726	41 726	/
FR	POK	1/2/INT	Saithe	International waters of I and II	0	0	2 352	N/A	2 352	/	/	/	2 352	2 352	/
FR	RED	51214S	Redfish (shallow pelagic)	Union and international waters of V; international waters of XII and XIV	0	0	29 827	N/A	29 827	/	/	/	29 827	29 827	/
FR	SBR	678-	Red seabream	Union and international waters of VI, VII and VIII	6 000	28 817	31 334	108,72 %	2 517	/	/	/	2 517	2 517	/
FR	SRX	07D.	Skates and rays	Union waters of VIId	663 000	630 718	699 850	110,96 %	69 132	1.0	A	/	103 698	103 698	/
FR	SRX	67AKXD	Skates and rays	Union waters of VIa, VIb, VIIa-c and VIIe-k	3 255 000	3 641 000	39 254	101,08 %	39 254	/	/	/	39 254	39 254	/

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
FR	WHG	08.	Whiting	VIII	1 524 000	2 406 000	2 441 333	101,47 %	35 333	/	/	/	35 333	35 333	/
IE	PLE	7FG.	Plaice	VIIf and VIIg	200 000	66 332	67 431	101,66 %	1 099	/	/	/	1 099	1 099	/
IE	POK	1N2AB.	Saithe	Norwegian waters of I and II	/	0	5 969	N/A	5 969	/	/	/	5 969	5 969	/
IE	SRX	67AKXD	Skates and rays	Union waters of VIa, VIb, VIIa-c and VIIe-k	1 048 000	949 860	980 960	103,27 %	31 056	/	A ([8])	/	31 056	31 056	/
LT	MAC	*4A-EN	Mackerel	Union waters of IIa; Union and Norwegian waters of IVa.	0	900 000	901 557	100,17 %	1 557	/	/	/	1 557	1 557	/
LT	MAC	2CX14-	Mackerel	VI, VII, VIIIa, VIIIb, VIIId and VIIIe; Union and international waters of Vb; international waters of IIa, XII and XIV	140 000	2 027 000	2 039 332	100,61 %	12 332	/	/	/	12 332	12 332	/
NL	DGS	2AC4-C	Picked dogfish	Union waters of IIa and IV	0	0	1 260	N/A	1 260	/	/	/	1 260	1 260	/
NL	HAD	7X7A34	Haddock	VIIb-k, VIII, IX and X; Union waters of CECAF 34.1.1	/	559	26 220	N/A	25 661	/	/	/	25 661	25 661	/
NL	HER	*25B-F	Herring	II, Vb north of 62° N (Faroes waters)	736 000	477 184	476 491	99,86 %	– 693	/	/	23 551	22 858	22 858	/
NL	OTH	*2A-14	Associate by-catches to horse mackerel (boarfish, whiting and mackerel)	Union waters of IIa, IVa, VI, VIIa-c, VIIe-k, VIIIa, VIIIb, VIIId and VIIIe; Union and international waters of Vb; international waters of XII and XIV	1 663 800	1 777 300	2 032 689	114,37 %	255 389	1.2	/	/	306 467	306 467	/

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
NL	POK	2A34. ([14])	Saithe	IIIa and IV; Union waters of IIa, IIIb, IIIc and Subdivisions 22-32	68 000	110 846	110 889	100,04 %	43 ([10])	/	/	1 057	1 057	1 057	/
NL	T/B	2AC4-C	Turbot and brill	Union waters of IIa and IV	2 493 000	2 551 261	2 737 636	107,31 %	186 375	/	/	/	186 375	186 375	/
PT	BUM	ATLANT	Blue marlin	Atlantic ocean	49 550	49 550	50 611	102,14 %	1 061	/	/	/	1 061	1 061	/
PT	GHL	1N2AB	Greenland Halibut	Norwegian waters of I and II	/	0	18 487	N/A	18 487	/	/	/	18 487	18 487	/
PT	MAC	8C3411	Mackerel	VIIIc, IX and X; Union waters of CECAF 34.1.1	6 971 000	6 313 658	6 823 967	108,08 %	510 309	/	/	/	510 309	510 309	/
PT	SRX	89-C.	Skates and rays	Union waters of VIII and IX	1 051 000	1 051 000	1 068 676	101,68 %	17 676	/	/	/	17 676	17 676	/
PT	SWO	AN05N	Swordfish	Atlantic Ocean, North of 5° N	1 161 950	1 541 950	1 560 248	101,19 %	18 298	/	/	/	18 298	18 298	/
UK	DGS	2AC4-C	Picked dogfish	Union waters of IIa and IV	0	0	17 776	N/A	17 776	/	/	/	17 776	17 776	/
UK	HER	4AB.	Herring	Union and Norwegian waters of IV north of 53° 30′ N	70 348 000	70 710 390	73 419 998	103,83 %	2 709 608	/	/		2 709 608	2 709 608	/
UK	MAC	2CX14-	Mackerel	VI, VII, VIIIa, VIIIb, VIIId and VIIIe; Union and international waters of Vb; international waters of IIa, XII and XIV	208 557 000	195 937 403	209 143 232	106,74 %	13 205 829	/	A ([8])	/	13 205 829	13 205 829	/
UK	SAN	234_1 ([11])	Sandeel	Union waters of sandeel management area 1	268 000	0	0	N/A	0	/	/	1 466 168	1 466 168	1 466 168	/

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
UK	SRX	67AKXD	Skates and rays	Union waters of VIa, VIb, VIIa-c and VIIe-k	2 076 000	2 006 000	2 008 431	100,12 %	2 431	/	/	/	2 431	2 431	/
UK	T/B	2AC4-C	Turbot and brill	Union waters of IIa and IV	693 000	522 000	544 680	104,34 %	22 680	/	/	/	22 680	22 680	/

(1) Quotas available to a Member State pursuant to the relevant fishing opportunities Regulations after taking into account exchanges of fishing opportunities in accordance with Article 16(8) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council (OJ L 354, 28.12.2013, p. 22), quota transfers from 2015 to 2016 in accordance with Article 4(2) of Council Regulation (EC) No 847/96 (OJ L 115, 9.5.1996, p. 3), with Article 5a of Council Regulation (EU) No 1221/2014 (OJ L 330, 15.11.2014, p. 16), with Article 18a of Council Regulation (EU) 2015/104 (OJ L 22, 28.1.2015, p. 1), with Article 15(9) of Regulation (EU) No 1380/2013 or reallocation and deduction of fishing opportunities in accordance with Articles 37 and 105 of Regulation (EC) No 1224/2009.
(2) As set out in Article 105(2) of Regulation (EC) No 1224/2009. Deduction equal to the overfishing * 1,00 shall apply in all cases of overfishing equal to, or less than, 100 tonnes.
(3) As set out in Article 105(3) of Regulation (EC) No 1224/2009 and provided that the extent of overfishing exceeds 10 %.
(4) Letter 'A' indicates that an additional multiplying factor of 1.5 has been applied due to consecutive overfishing in the years 2014, 2015 and 2016. Letter 'C' indicates that an additional multiplying factor of 1.5 has been applied as the stock is subject to a multiannual plan.
(5) Remaining quantities that could not be deducted in 2016 pursuant to Regulation (EU) 2016/2226 as amended by Regulation (EU) 2017/162 because there was no or not sufficient quota available.
(6) Deductions to operate in 2017
(7) Deductions to operate in 2017 that could be actually applied considering the available quota on the day of entry into force of this Regulation.
(8) Additional multiplying factor not applicable because the overfishing does not exceed 10 % of the permitted landings.
(9) At Belgium`s request, additional landings up to 10 % of the T/B quota is permitted according to Article 3(3) of Regulation (EC) No 847/96.
(10) Quantities below 1 tonne are not considered.
(11) To be deducted from (SAN/234_1R) (sandeel management area 1r).
(12) At Spain's request, the deduction of 2 269 354 kilos due in 2017 is equally spread over two years (2017 and 2018).
(13) Of which 2 427 kilos are deducted on the 2017 WHM/ATLANT quota and 147 665 kilos are alternatively deducted on the SWO/AN05N quota for 2017.
(14) To be deducted from POK/2C3A4.

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2310

of 13 December 2017

opening a tariff quota for the year 2018 for the import into the Union of certain goods originating in Norway resulting from the processing of agricultural products covered by Regulation (EU) No 510/2014 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products and repealing Council Regulations (EC) No 1216/2009 and (EC) No 614/2009 ([1]), and in particular Article 16(1)(a) thereof,

Having regard to Council Decision 2004/859/EC of 25 October 2004 concerning the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Kingdom of Norway on Protocol 2 to the bilateral Free Trade Agreement between the European Economic Community and the Kingdom of Norway ([2]), and in particular Article 3 thereof,

Whereas:

(1) Protocol 2 to the Agreement between the European Economic Community and the Kingdom of Norway of 14 May 1973 ([3]) ('the bilateral Free Trade Agreement between the European Economic Community and the Kingdom of Norway') and Protocol 3 to the EEA Agreement ([4]) determine the trade arrangements for certain agricultural and processed agricultural products between the Contracting Parties.

(2) Protocol 3 to the EEA Agreement provides for a zero rate of duty for waters containing added sugar or other sweetening matter or flavoured, classified under CN code 2202 10 00, and other non-alcoholic beverages, not containing products of headings 0401 to 0404 or fat obtained from products of headings 0401 to 0404, classified under CN codes 2202 91 00 and 2202 99.

(3) The EU zero rate of duty for those waters and those other beverages has temporarily, for an unlimited period of time, been suspended for Norway by the Agreement in the form of an Exchange of Letters between the European Community and the Kingdom of Norway concerning Protocol 2 to the bilateral Free Trade Agreement between the European Economic Community and the Kingdom of Norway ([5]) (hereinafter referred to as 'the Agreement in the form of an Exchange of Letters') approved by Decision 2004/859/EC. In accordance with the Agreement in the form of an Exchange of Letters, duty-free imports of goods with CN codes 2202 10 00, ex 2202 91 00 and ex 2202 99 that originate in Norway are to be allowed only within the limits of a duty-free quota. A duty is to be paid for imports that exceed the quota allocation.

(4) Commission Implementing Regulation (EU) 2016/2034 ([6]) opened a tariff quota for the year 2017 for the import into the Union of goods under CN codes 2202 10 00, ex 2202 91 00 and ex 2202 99 originating in Norway.

(5) The Agreement in the form of an Exchange of Letters requires that if the above mentioned tariff quota has been exhausted by 31 October of 2017, the tariff quota applicable from 1 January of the following year will be increased by 10 %. According to data provided to the Commission, the annual quota for 2017 for the waters and beverages in question opened by Implementing Regulation (EU) 2016/2034 was exhausted on 5 September 2017.

(6) Therefore, an increased tariff quota shall be opened for the waters and beverages in question from 1 January to 31 December 2018 in accordance with the Agreement in the Form of an Exchange of Letters. The annual quota opened for 2017 by Implementing Regulation (EU) 2016/2034 was of a volume of 17,303 million litres. Hence, a quota for 2018 will be opened for a 10 % higher volume of 19,033 million litres.

([1]) OJ L 150, 20.5.2014, p. 1.
([2]) OJ L 370, 17.12.2004, p. 70.
([3]) OJ L 171, 27.6.1973, p. 2.
([4]) OJ L 1, 3.1.1994, p. 3.
([5]) OJ L 370, 17.12.2004, p. 72.
([6]) Commission Implementing Regulation (EU) 2016/2034 of 21 November 2016 opening a tariff quota for the year 2017 for the import into the Union of certain goods originating in Norway resulting from the processing of agricultural products covered by Regulation (EU) No 510/2014 of the European Parliament and of the Council (OJ L 314, 21.11.2016, p. 4).

(7) Commission Implementing Regulation (EU) 2015/2447 ([1]) lays down rules for managing tariff quotas. The tariff quota opened by this Regulation should be managed in accordance with those rules.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex I,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January to 31 December 2018, the duty free tariff quota set out in the Annex is open for goods originating in Norway which are listed in that Annex, under the conditions specified therein.

2. The rules of origin laid down in Protocol 3 to the Agreement between the European Economic Community and the Kingdom of Norway of 14 May 1973 shall apply to the goods listed in the Annex to this Regulation.

3. For quantities imported above the quota volume set out in the Annex, a preferential duty of 0,047 EUR/litre shall apply.

Article 2

The duty free tariff quota referred to in Article 1(1) shall be managed by the Commission in accordance with Articles 49 to 54 of Implementing Regulation (EU) 2015/2447.

Article 3

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

It shall apply from 1 January 2018.

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

Done at Brussels, 13 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

([1]) 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).

ANNEX

Duty free tariff quota for 2018 applicable to imports into the Union of certain goods originating in Norway

Order No	CN code	TARIC code	Description of goods	Quota Volume
09.0709	2202 10 00		— Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	19,033 million litres
	ex 2202 91 00	10	— Non-alcoholic beer containing sugar	
	ex 2202 99 11	11 19	— Soya-based beverages with a protein content of 2,8 % or more by weight containing sugar (sucrose or invert sugar)	
	ex 2202 99 15	11 19	— Soya-based beverages with a protein content of less than 2,8 % by weight; beverages based on nuts of Chapter 8, cereals of Chapter 10 or seeds of Chapter 12 containing sugar (sucrose or invert sugar)	
	ex 2202 99 19	11 19	— Other non-alcoholic beverages containing sugar (sucrose or invert sugar)	

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2311

of 13 December 2017

setting the weighted average of maximum mobile termination rates across the Union and repealing Implementing Regulation (EU) 2016/2292

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union ([1]), and in particular Article 6e(2) thereof,

Whereas:

(1) In accordance with Regulation (EU) No 531/2012, from 15 June 2017 domestic providers should not levy any surcharge in addition to the domestic retail price on roaming customers in any Member State, for any regulated roaming call received, within the limits allowed by fair use policy.

(2) Regulation (EU) No 531/2012 allows domestic providers to apply, after 15 June 2017, a surcharge, in addition to the domestic retail price, for the consumption of regulated retail roaming services in excess of any limit set under a fair use policy.

(3) Regulation (EU) No 531/2012 limits any surcharge applied for receiving regulated roaming calls to the weighted average of maximum mobile termination rates across the Union.

(4) Commission Implementing Regulation (EU) 2016/2292 ([2]) set out the weighted average of maximum mobile termination rates across the Union to be applied in 2017 on the basis of the values of the data of 1 July 2016.

(5) The Body of European Regulators for Electronic Communications has provided the Commission with updated information gathered from Member States' national regulatory authorities on the maximum level of mobile termination rates they imposed, in accordance with Articles 7 and 16 of Directive 2002/21/EC of the European Parliament and of the Council ([3]) and Article 13 of Directive 2002/19/EC of the European Parliament and of the Council ([4]), in each national market for wholesale voice call termination on individual mobile networks; and on the total number of subscribers in the Member States.

(6) Pursuant to Regulation (EU) No 531/2012, the Commission has calculated the weighted average of the maximum mobile termination rates across the Union by: (i) multiplying the maximum mobile termination rate permitted in a given Member State by the total number of subscribers in that Member State; (ii) summing this product over all Member States; and (iii) dividing the total obtained by the total number of subscribers in all Member States, on the basis of the values of the data of 1 July 2017. For non-euro Member States, the relevant exchange rate is the average for the second quarter of 2017 obtained from the European Central Bank's database.

(7) It is therefore necessary to update the value of the weighted average of maximum mobile termination rates across the Union laid down in Implementing Regulation (EU) 2016/2292.

(8) Implementing Regulation (EU) 2016/2292 should therefore be repealed.

(9) Pursuant to Regulation (EU) No 531/2012 the Commission is to review the weighted average of maximum mobile termination rates across the Union annually.

([1]) OJ L 172, 30.6.2012, p. 10.

([2]) Commission Implementing Regulation (EU) 2016/2292 of 16 December 2016 setting out the weighted average of maximum mobile termination rates across the Union and repealing Implementing Regulation (EU) 2015/2352 (OJ L 344, 17.12.2016, p. 77).

([3]) Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).

([4]) Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (OJ L 108, 24.4.2002, p. 7).

(10) The measures provided for in this Regulation are in accordance with the opinion of the Communications Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The weighted average of maximum mobile termination rates across the Union is set at EUR 0,0091 per minute.

Article 2

Implementing Regulation (EU) 2016/2292 is repealed.

Article 3

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

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

Done at Brussels, 13 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2312

of 13 December 2017

concerning the authorisation of a new use of the preparation of *Bacillus subtilis* C-3102 (DSM 15544) as a feed additive for sows, suckling piglets and dogs (holder of the authorisation Asahi Calpis Wellness Co. Ltd, represented by Asahi Calpis Wellness Co. Ltd Europe Representative Office)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ([1]), and in particular Article 9(2) thereof,

Whereas:

(1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.

(2) In accordance with Article 7 of Regulation (EC) No 1831/2003, applications were submitted for a new use of the preparation *Bacillus subtilis* C-3102 (DSM 15544). Those applications were accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.

(3) The applications concern the authorisation of a new use of the preparation of *Bacillus subtilis* C-3102 (DSM 15544) as a feed additive for sows, suckling piglets and dogs to be classified in the additive category 'zootechnical additives'.

(4) The preparation of *Bacillus subtilis* C-3102 (DSM 15544), belonging to the additive category of 'zootechnical additives', was authorised for 10 years as a feed additive for chickens for fattening by Commission Regulation (EC) No 1444/2006 ([2]); for weaned piglets by Commission Regulation (EU) No 333/2010 ([3]); for chickens reared for laying, turkeys, minor avian species and other ornamental and game birds by Commission Regulation (EU) No 184/2011 ([4]), and for laying hens and ornamental fish by Commission Implementing Regulation (EU) 2016/897 ([5]).

(5) The European Food Safety Authority ('the Authority') concluded in its opinions of 21 March 2017 ([6]) that, under the proposed conditions of use, the preparation of *Bacillus subtilis* C-3102 (DSM 15544) does not have an adverse effect on animal health, human health and the environment. It also concluded that the additive has the potential to improve the zootechnical performance parameters of sows and suckling piglets and to increase the faecal dry matter in dogs. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.

(6) The assessment of the preparation of *Bacillus subtilis* C-3102 (DSM 15544) shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised as specified in the Annex to this Regulation.

([1]) OJ L 268, 18.10.2003, p. 29.
([2]) Commission Regulation (EC) No 1444/2006 of 29 September 2006 concerning the authorisation of *Bacillus subtilis* C-3102 (Calsporin) as a feed additive (OJ L 271, 30.9.2006, p. 19).
([3]) Commission Regulation (EU) No 333/2010 of 22 April 2010 concerning the authorisation of a new use of Bacillus subtilis C-3102 (DSM 15544) as a feed additive for weaned piglets (holder of authorisation Calpis Co. Ltd Japan, represented in the European Union by Calpis Co. Ltd Europe Representative Office (OJ L 102, 23.4.2010, p. 19).
([4]) Commission Regulation (EU) No 184/2011 of 25 February 2011 concerning the authorisation of Bacillus subtilis C-3102 (DSM 15544) as a feed additive for chickens reared for laying, turkeys, minor avian species and other ornamental and game birds (holder of authorisation Calpis Co. Ltd Japan, represented by Calpis Co. Ltd Europe Representative Office) (OJ L 53, 26.2.2011, p. 33).
([5]) Commission Implementing Regulation (EU) 2016/897 of 8 June 2016 concerning the authorisation of a preparation of Bacillus subtilis (C-3102) (DSM 15544) as a feed additive for laying hens and ornamental fish (holder of authorisation Asahi Calpis Wellness Co. Ltd) and amending Regulations (EC) No 1444/2006, (EU) No 333/2010 and (EU) No 184/2011 as regards the holder of the authorisation (OJ L 152, 9.6.2016, p. 7).
([6]) *EFSA Journal* 2017; 15(4):4760 and *EFSA Journal* 2017; 15(4):4761.

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

HAS ADOPTED THIS REGULATION:

Article 1

The preparation specified in the Annex, belonging to the additive category 'zootechnical additives' and to the functional group 'gut flora stabilisers', is authorised as an additive in animal nutrition subject to the conditions laid down in that 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*.

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

Done at Brussels, 13 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						CFU/kg of complete feedingstuff with a moisture content of 12 %			
Category of zootechnical additives. Functional group: gut flora stabilisers									
4b1820	Asahi Calpis Wellness Co. Ltd, represented by Asahi Calpis Wellness Co. Ltd Europe Representative Office	*Bacillus subtilis* DSM 15544	*Additive composition* Preparation of *Bacillus subtilis* C-3102 DSM 15544 containing a minimum of 1×10^{10} CFU/g additive in solid form *Characterisation of the active substance* Viable cells of Bacillus subtilis DSM 15544 *Analytical method* Enumeration: spread plate method using tryptone soya agar in all target matrices (EN 15784:2009) Identification: pulsed-field gel electrophoresis (PFGE).	Sows Suckling piglets Dogs	—	3×10^8 1×10^9	—	1. In the directions for use of the additive and premixture, the storage conditions and stability to heat treatment shall be indicated. 2. Indicate in the instruction for the use: 'The additive shall be fed to lactating sows and suckling piglets simultaneously' 3. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks resulting from their use. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including breathing protection.	3 January 2028

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2313

of 13 December 2017

setting out the format specifications of the plant passport for movement within the Union territory and the plant passport for introduction into, and movement within, a protected zone

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC [1], and in particular Article 83(7) thereof,

Whereas:

(1) Article 83(7) of Regulation (EU) 2016/2031 empowers the Commission to adopt the format specifications of plant passports for movement within the Union territory and of plant passports for introduction into, and movement within, a protected zone. In order to ensure easy visibility and clear legibility, it is important for plant passports to have standardised formats. This also ensures that plant passports are clearly distinguishable from any other information or label.

(2) Due to the differences in size and characteristics of plants, plant products or other objects for which a plant passport is required, a certain degree of flexibility should be ensured as regards format specifications of plant passports. Therefore, within each category of plant passports set out in Parts A to D of the Annex, various alternative models should be available which allow for taking into account the said differences of plants, plant products or other objects for which a plant passport is required. Moreover, those models should not specifically provide for the size of the plant passports, the use of a border line, the proportion of the size of their elements, and the fonts used therein.

(3) The elements of the plant passport should be arranged within a rectangular or square shape, and should be clearly separated from any other written or pictorial matter by a border line or otherwise. As experience has shown, this is important to enhance the visibility of plant passports and their distinctiveness from any other information or label.

(4) For reasons of legal certainty, this Regulation should apply from the same date as Regulation (EU) 2016/2031.

(5) Many plants, plant products and other objects for which plant passports will be issued in accordance with Commission Directive 92/105/EEC [2] before the date of application of this Regulation will still be on the market or moved after that date. As no health concern requires the immediate change of the format specifications, plant passports issued before 14 December 2019 should remain valid until 14 December 2023.

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

HAS ADOPTED THIS REGULATION:

Article 1

Models for plant passports

1. Plant passports for movement within the Union territory shall comply with one of the models provided for in Part A of the Annex.

2. Plant passports for introduction into, and movement within, a protected zone, shall comply with one of the models provided for in Part B of the Annex.

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[1] OJ L 317, 23.11.2016, p. 4.

[2] Commission Directive 92/105/EEC of 3 December 1992 establishing a degree of standardization for plant passports to be used for the movement of certain plants, plant products or other objects within the Community, and establishing the detailed procedures related to the issuing of such plant passports and the conditions and detailed procedures for their replacement (OJ L 4, 8.1.1993, p. 22).

3. Plant passports for movement within the Union territory, combined with a certification label pursuant to the second subparagraph of Article 83(5) of Regulation (EU) 2016/2031, shall comply with one of the models provided for in Part C of the Annex.

4. Plant passports for introduction into, and movement within, a protected zone, combined with a certification label pursuant to the third subparagraph of Article 83(5) of Regulation (EU) 2016/2031, shall comply with one of the models provided for in Part D of the Annex.

Article 2

Requirements for the elements of the plant passports

The elements of the plant passport, as set out in Annex VII to Regulation (EU) 2016/2031, shall be arranged within a rectangular or square shape, and shall be legible without the use of a visual aid.

They shall be contained within a border line, or otherwise clearly separated from any written or pictorial matter, so as to be easily visible and clearly distinguishable.

Article 3

Entry into force

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

Article 4

Date of application

This Regulation shall apply from 14 December 2019.

Plant passports issued before 14 December 2019, in accordance with Directive 92/105/EEC, shall remain valid until 14 December 2023.

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

Done at Brussels, 13 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Technical specification: The size of the plant passports, the use of a border line, the proportions of the size of their elements, and the fonts used in the models are only examples.

The flag of the Union may be printed in colour, or in black and white, either with white stars on black background, or vice versa.

Legend

1. The words 'Plant Passport' or 'Plant Passport — PZ' in English and, if relevant, in one other official language of the Union, to be separated by a slash.

2. The botanical name(s) of the plant(s) species or taxon(s) concerned, in the case of plants and plant products, or, where appropriate, the name of the object concerned, and, optionally, the name of the variety.

3. The two-letter code indicated in norm ISO 3166-1-alpha-2 ([1]), referred to in point (a) of Article 67 of Regulation (EU) 2016/2031, for the Member State in which the professional operator issuing the plant passport is registered.

4. The alphabetical, numerical or alphanumerical national registration number of the professional operator concerned.

5. Where applicable, the traceability code of the plant, plant product or the other object concerned.

6. Where applicable, the unique barcode, QR-code, hologram, chip or other data carrier, supplementing the traceability code.

7. Where applicable, the two-letter code indicated in norm ISO 3166-1-alpha-2, referred to in point (a) of Article 67 of Regulation (EU) 2016/2031, of the Member State(s) of origin.

8. Where applicable, the name(s) of the third country/countries of origin or its/their two-letter code indicated in norm ISO 3166-1-alpha-2.

9. Scientific name(s) of protected zone quarantine pest(s) or, alternatively, the codes specifically attributed to those pests, referred to in Article 32(3) of Regulation (EU) 2016/2031.

10. Information required for an official label for seeds or other propagative material referred to respectively in Article 10(1) of Council Directive 66/401/EEC ([2]), Article 10(1) of Council Directive 66/402/EEC ([3]), Article 10(1) of Council Directive 68/193/EEC ([4]), Article 12 of Council Directive 2002/54/EC ([5]), Article 28(1) of Council Directive 2002/55/EC ([6]), Article 13(1) of Council Directive 2002/56/EC ([7]), Article 12(1) of Council Directive 2002/57/EC ([8]), or the label for pre-basic, basic or certified material as referred to in point (b) of Article 9(1) of Council Directive 2008/90/EC ([9]).

([1]) ISO 3166-1:2006, Codes for the representation of names of countries and their subdivisions — Part 1: Country codes. International Organisation for Standardisation, Geneva.
([2]) Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed (OJ 125, 11.7.1966, p. 2298/66).
([3]) Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed (OJ 125, 11.7.1966, p. 2309/66).
([4]) Council Directive 68/193/EEC of 9 April 1968 on the marketing of material for the vegetative propagation of the vine (OJ L 93, 17.4.1968, p. 15).
([5]) Council Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed (OJ L 193, 20.7.2002, p. 2).
([6]) Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed (OJ L 193, 20.7.2002, p. 33).
([7]) Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes (OJ L 193, 20.7.2002, p. 60).
([8]) Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants (OJ L 193, 20.7.2002, p. 74).
([9]) Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production (OJ L 267, 8.10.2008, p. 8).

PART A

Models for the plant passports for the movement within the Union territory, referred to in Article 1(1)

xxxxx / Plant Passport[1]

A xxxxx[2]

B XX[3] – xxxxx[4]

C xxxxx[5]

D XX[7 or 8]

xxxxx/ Plant Passport[1]

A xxxxx[2]

B XX[3] – xxxxx[4]

C [5,6]

D XX[7 or 8]

xxxxx / Plant Passport[1]

A xxxxx[2] **B** XX[3] – xxxxx[4] **C** xxxxx[5] **D** XX[7 or 8]

6

xxxxx / Plant Passport[1]

A xxxxx[2] **B** XX[3] – xxxxx[4] **C** xxxxx[5] **D** XX[7 or 8]

xxxxx / Plant Passport[1]

A xxxxx[2]

B XX[3] – xxxxx[4]

C xxxxx[5]

D XX[7 or 8]

[6]

xxxxx / Plant Passport[1]

A xxxxx[2]
B XX[3] – xxxxx[4]
C xxxxx[5]
D XX[7 or 8]

xxxxx / Plant Passport[1]

A xxxxx[2] **B** XX[3] – xxxxx[4]

C xxxxx[5] **D** XX[7 or 8]

[6]

xxxxx / Plant Passport[1]

A xxxxx[2] **C** xxxxx[5]

B XX[3] – xxxxx[4] **D** XX[7 or 8]

PART B

Models for the plant passports for the introduction into, and movement within, a protected zone, referred to in Article 1(2)

xxxxx – XX /Plant Passport – PZ[1]

xxx[9]

A xxxxx[2]

B XX[3] – xxxxx[4]

C xxxxx[5]

D XX[7 or 8]

6

xxxxx – XX /Plant Passport – PZ[1]

xxx[9]

A xxxxx[2]

B XX[3] – xxxxx[4]

C 5,6

D XX[7 or 8]

xxxxx – XX / Plant Passport – PZ[1]

xxx[9]

A xxxxx[2] **B** XX[3] – xxxxx[4] **C** xxxxx[5] **D** XX[7 or 8]

xxxxx – XX / Plant Passport – PZ[1]

xxx[9]

A xxxxx[2] **B** XX[3] – xxxxx[4] **C** xxxxx[5] **D** XX[7 or 8] 6

xxxxx–XX/
Plant
Passport – PZ[1]

xxx[9]

A xxxxx[2]
B XX[3] – xxxxx[4]
C xxxxx[5]
D XX[7 or 8]

6

xxxxx–XX/
Plant
Passport – PZ[1]

xxx[9]

A xxxxx[2]

B XX[3] – xxxxx[4]

C xxxxx[5]

D XX[7 or 8]

xxxxx – XX /
Plant
Passport – PZ[1]

xxx[9]

A xxxxx[2] **B** XX[3] – xxxxx[4]

C xxxxx[5] **D** XX[7 or 8]

xxxxx – XX /
Plant
Passport – PZ[1]

xxx[9]

A xxxxx[2] **C** xxxxx[5]

B XX[3] – xxxxx[4] **D** XX[7 or 8]

6

PART C

Models for the plant passports for the movement within the Union territory, combined with a certification label, referred to in Article 1(3)

xxxxx/Plant Passport[1]

xxxxxxxxxxxxxx[10]

xxxxx/Plant Passport[1]

xxxxxxxxxxxxxx[10]

6

xxxxx / Plant Passport[1]

xxxxxxxxxxxxxx[10]

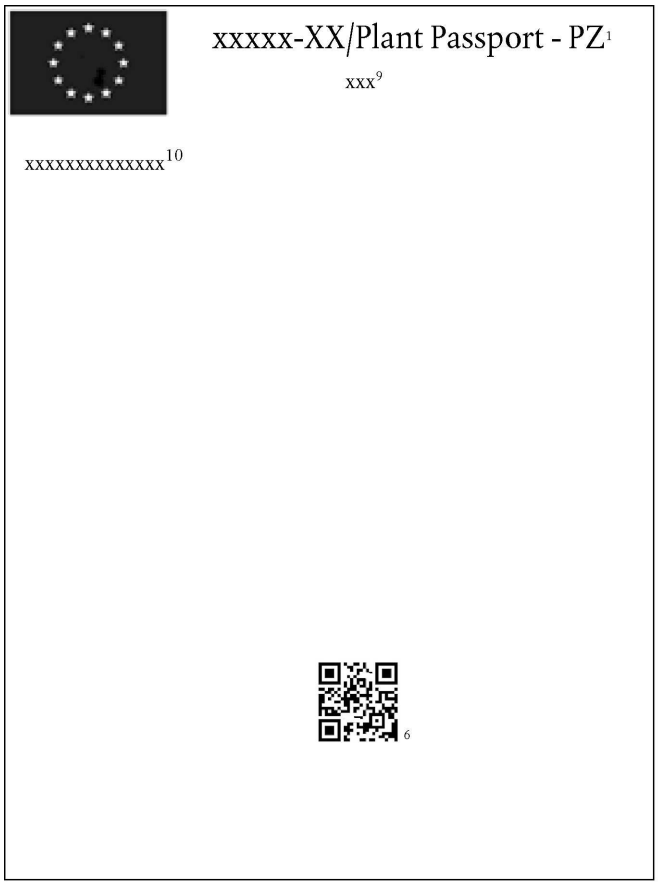
6

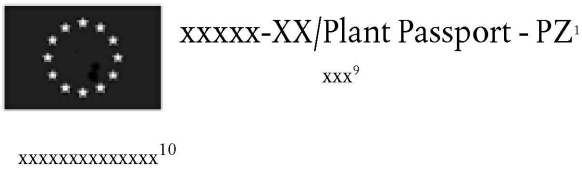
xxxxx / Plant Passport[1]

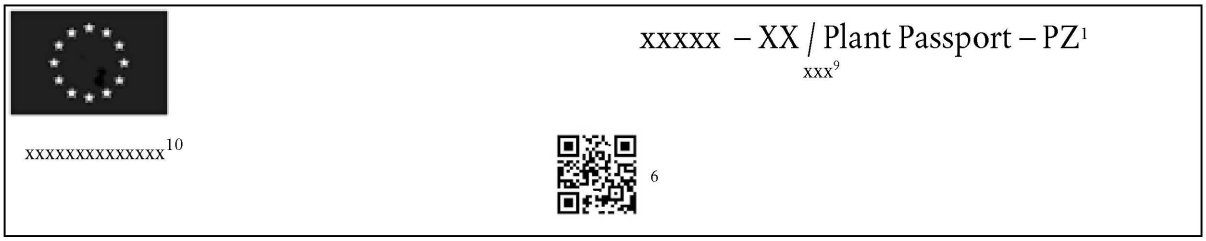
xxxxxxxxxxxxxx[10]

PART D

Models for the plant passports, for the introduction into, and movement within, a protected zone, combined with a certification label, referred to in Article 1(4)







COMMISSION IMPLEMENTING REGULATION (EU) 2017/2314

of 13 December 2017

fixing the allocation coefficient to be applied to the quantities covered by the applications for import licences lodged from 20 November 2017 to 30 November 2017 and determining the quantities to be added to the quantity fixed for the subperiod from 1 July 2018 to 31 December 2018 under the tariff quotas opened by Regulation (EC) No 2535/2001 in the milk and milk products sector

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([1]), and in particular Article 188 thereof,

Whereas:

(1) Commission Regulation (EC) No 2535/2001 ([2]) opened annual tariff quotas for imports of products of the milk and milk products sector.

(2) For some quotas, the quantities covered by the applications for import licences lodged from 20 November 2017 to 30 November 2017 for the subperiod from 1 January 2018 to 30 June 2018 exceed those available. The extent to which import licences may be issued should therefore be determined by establishing the allocation coefficient to be applied to the quantities requested, calculated in accordance with Article 7(2) of Commission Regulation (EC) No 1301/2006 ([3]).

(3) The quantities covered by the applications for import licences lodged from 20 November 2017 to 30 November 2017 for the subperiod from 1 January 2018 to 30 June 2018 are, for some quotas, less than those available. The quantities for which applications have not been lodged should therefore be determined and these should be added to the quantity fixed for the following quota subperiod.

(4) In order to ensure the efficient management of the measure, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

1. The quantities covered by the applications for import licences lodged under Regulation (EC) No 2535/2001 for the subperiod from 1 January 2018 to 30 June 2018 shall be multiplied by the allocation coefficient set out in the Annex to this Regulation.

2. The quantities for which import licence applications have not been lodged pursuant to Regulation (EC) No 2535/2001, to be added to the subperiod from 1 July 2018 to 31 December 2018, are set out in the Annex to this Regulation.

Article 2

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

([1]) OJ L 347, 20.12.2013, p. 671.
([2]) Commission Regulation (EC) No 2535/2001 of 14 December 2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas (OJ L 341, 22.12.2001, p. 29).
([3]) Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences (OJ L 238, 1.9.2006, p. 13).

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

Done at Brussels, 13 December 2017.

For the Commission,
On behalf of the President,
Jerzy PLEWA
Director-General
Directorate-General for Agriculture and Rural Development

ANNEX

I.A

Order No	Allocation coefficient — applications lodged for the subperiod from 1.1.2018 to 30.6.2018 (%)	Quantities not applied for, to be added to the quantities available for the subperiod from 1.7.2018 to 31.12.2018 (kg)
09.4590	—	—
09.4599	—	—
09.4591	—	—
09.4592	—	—
09.4593	—	—
09.4594	—	—
09.4595	—	—
09.4596	—	—

I.F

Products originating in Switzerland		
Order No	Allocation coefficient — applications lodged for the subperiod from 1.1.2018 to 30.6.2018 (%)	Quantities not applied for, to be added to the quantities available for the subperiod from 1.7.2018 to 31.12.2018 (kg)
09.4155	—	—

I.H

Products originating in Norway		
Order No	Allocation coefficient — applications lodged for the subperiod from 1.1.2018 to 30.6.2018 (%)	Quantities not applied for, to be added to the quantities available for the subperiod from 1.7.2018 to 31.12.2018 (kg)
09.4179	—	2 707 600

I.I

Products originating in Iceland		
Order No	Allocation coefficient — applications lodged for the subperiod from 1.1.2018 to 30.6.2018 (%)	Quantities not applied for, to be added to the quantities available for the subperiod from 1.7.2018 to 31.12.2018 (kg)
09.4205	—	—
09.4206	—	—

I.K

Products originating in New Zealand		
Order No	Allocation coefficient — applications lodged for the subperiod from 1.1.2018 to 30.6.2018 (%)	Quantities not applied for, to be added to the quantities available for the subperiod from 1.7.2018 to 31.12.2018 (kg)
09.4514	—	7 000 000
09.4515	—	4 000 000
09.4182	—	16 806 000
09.4195	—	20 540 500

I.L

Products originating in Ukraine		
Order No	Allocation coefficient — applications lodged for the subperiod from 1.1.2018 to 30.6.2018 (%)	Quantities not applied for, to be added to the quantities available for the subperiod from 1.7.2018 to 31.12.2018 (kg)
09.4600	—	3 777 000
09.4601	—	1 250 000
09.4602	0,608872	—

DECISIONS

COUNCIL DECISION (CFSP) 2017/2315

of 11 December 2017

establishing permanent structured cooperation (PESCO) and determining the list of participating Member States

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, in particular Article 46(2) thereof,

Having regard to Protocol No 10 on permanent structured cooperation established by Article 42 of the Treaty on European Union attached to the Treaty on European Union and to the Treaty on the Functioning of European Union,

Having regard to the proposal from the Federal Republic of Germany, the Kingdom of Spain, the French Republic and the Italian Republic,

Having regard to the opinion of the High Representative of the Union for Foreign Affairs and Security Policy (the High Representative),

Whereas:

(1) Article 42(6) of the Treaty on European Union (TEU) provides that those Member States whose military capabilities fulfil higher criteria, and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation (PESCO) within the Union framework.

(2) On 13 November 2017, the Council and the High Representative received a joint notification in accordance with Article 46(1) of the TEU from 23 Member States, and on 7 December 2017 from two other Member States, that all those Member States have the intention to participate in PESCO on the basis that they satisfy the abovementioned requirements and that they have made the more binding commitments to one another in this area as set out in the Annex to this Decision and on the basis of all the other elements in the notification, including the preamble and the guiding principles of PESCO set out in Annex I to the notification, to which they remain committed in its entirety, and also recalling Article 42 of the TEU, including Article 42(7) ([1]).

(3) The more binding commitments set out in the Annex to this Decision, are consistent with the achievement of the objectives set out in Article 1 of Protocol No 10 to the Treaties and the undertakings referred to in Article 2 of that Protocol.

(4) The decision of Member States to participate in PESCO is voluntary and does not in itself affect national sovereignty or the specific character of the security and defence policy of certain Member States. Contributions by the participating Member States to fulfil the more binding commitments under PESCO will be made in accordance with their applicable constitutional provisions.

(5) Increasing joint and collaborative defence capability development projects is among the binding commitments under PESCO. Such projects may be supported by contributions from the Union budget in compliance with the Treaties and in accordance with relevant Union instruments and programmes.

(6) The participating Member States have set out in their respective National Implementation Plans their ability to meet the more binding commitments they have made to one another.

(7) The necessary conditions having been met, it is therefore appropriate for the Council to adopt a decision establishing PESCO.

(8) Any other Member State which wishes at a later stage to participate in PESCO may notify its intention to do so to the Council and to the High Representative in accordance with Article 46(3) of the TEU.

([1]) The notification is published together with this Decision (see page 65 of this Official Journal).

(9) The High Representative will be fully involved in proceedings relating to PESCO.

(10) There should be consistency between actions undertaken within the framework of PESCO and other CFSP actions and other Union policies. The Council and, within their respective areas of responsibility, the HR and the Commission, should cooperate in order to maximise synergies where applicable.

(11) In accordance with Article 5 of Protocol No 22 on the position of Denmark annexed to the TEU and to the Treaty on the Functioning of the European Union, Denmark does not participate in the elaboration and the implementation of decisions and actions of the Union which have defence implications. Denmark is therefore not bound by this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Establishment of permanent structured cooperation

Permanent structured cooperation (PESCO) within the Union framework is hereby established between those Member States whose military capabilities fulfil higher criteria as referred to in Article 1 of Protocol No 10, and which have made commitments to one another in this area as referred to in Article 2 of that Protocol, with a view to the most demanding missions, and contributing to the fulfilment of the Union level of ambition.

Article 2

Participating Member States

The Member States participating in PESCO shall be the following:

— Belgium,

— Bulgaria,

— Czech Republic,

— Germany,

— Estonia,

— Ireland,

— Greece,

— Spain,

— France,

— Croatia,

— Italy,

— Cyprus,

— Latvia,

— Lithuania,

— Luxembourg,

— Hungary,

— Netherlands,

— Austria,

— Poland,

— Portugal,

— Romania,

— Slovenia,

— Slovakia,

— Finland,

— Sweden.

Article 3

More binding commitments in accordance with Protocol No 10

1. To achieve the objectives set out in Article 1 of Protocol No 10 and the undertakings referred to in Article 2 of that Protocol, the participating Member States shall make contributions which fulfil the more binding commitments which they have made to one another as set out in the Annex.

2. For this purpose, participating Member States shall review annually, and shall update as appropriate, their National Implementation Plans, in which they are to outline how they will meet the more binding commitments, specifying how they will fulfil the more precise objectives that are to be set at each phase. The updated National Implementation Plans shall be communicated annually to the European External Action Service (EEAS) and the European Defence Agency (EDA), and shall be made available to all participating Member States.

Article 4

PESCO Governance

1. The governance of PESCO shall be organised:

— at the level of the Council, and

— in the framework of projects implemented by groups of those participating Member States which have agreed among themselves to undertake such projects.

2. Acting in accordance with Article 46(6) of the TEU, the Council shall adopt decisions and recommendations:

(a) providing strategic direction and guidance for PESCO;

(b) sequencing the fulfilment of the more binding commitments set out in the Annex in the course of the two consecutive initial phases (the years 2018-2020 and 2021-2025) and specifying at the beginning of each phase the more precise objectives for the fulfilment of the more binding commitments set out in the Annex;

(c) updating, and enhancing if necessary, the more binding commitments set out in the Annex in light of achievements made through PESCO, in order to reflect the Union's evolving security environment. Such decisions shall be taken in particular at the end of the phases referred to in point (b) of paragraph 2, based on a strategic review process assessing the fulfilment of the PESCO commitments;

(d) assessing the contributions of participating Member States to fulfil the agreed commitments, according to the mechanism described in Article 6;

(e) establishing the list of projects to be developed under PESCO, reflecting both support for capability development and the provision of substantial support within means and capabilities to Common Security and Defence Policy operations and missions;

(f) establishing a common set of governance rules for projects, which the participating Member States taking part in an individual project could adapt as necessary for that project;

(g) establishing, in due time, in accordance with Article 9(1), the general conditions under which third States could exceptionally be invited to participate in individual projects; and determining in accordance with Article 9(2) whether a given third State satisfies these conditions; and

(h) providing for any other measures required to further implement this Decision.

Article 5

PESCO Projects

1. Following proposals by the participating Member States which intend to take part in an individual project, the High Representative may make a recommendation concerning the identification and evaluation of PESCO projects, on the basis of assessments provided in accordance with Article 7, for Council decisions and recommendations to be adopted in accordance with Article 4(2)(e), following military advice by the Military Committee of the European Union (EUMC).

2. Participating Member States which intend to propose an individual project shall inform the other participating Member States in due time before presenting their proposal, in order to gather support and give them the opportunity to join in collectively submitting the proposal.

The project members shall be the participating Member States which submitted the proposal. The list of the project members of each individual project shall be attached to the Council decision referred to in Article 4(2)(e).

The participating Member States taking part in a project may agree among themselves to admit other participating Member States which subsequently wish to take part in the project.

3. The participating Member States taking part in a project shall agree among themselves on the arrangements for, and the scope of, their cooperation, and the management of that project. The participating Member States taking part in a project shall regularly inform the Council about the development of the project, as appropriate.

Article 6

Supervision, assessment and reporting arrangements

1. The Council, within the framework of Article 46(6) TEU, shall ensure the unity, consistency and effectiveness of PESCO. The High Representative shall also contribute to those objectives.

2. The High Representative shall be fully involved in proceedings relating to PESCO, in accordance with Protocol No 10.

3. The High Representative shall present an annual report on PESCO to the Council. This report shall be based on the contributions by the EDA, in accordance with Article 7(3)(a), and by the EEAS, in accordance with Article 7(2)(a). The High Representative's report shall describe the status of PESCO implementation, including the fulfilment, by each participating Member State, of its commitments, in accordance with its National Implementation Plan.

The EUMC shall provide the Political and Security Committee with military advice and recommendations regarding to the annual PESCO assessment process.

On the basis of the annual report on PESCO presented by the High Representative, the Council shall review once a year whether the participating Member States continue to fulfil the more binding commitments referred to in Article 3.

4. Any decision concerning the suspension of the participation of a Member State shall be adopted in accordance with Article 46(4) TEU only after the Member State has been given a clearly defined timeframe for individual consultation and reaction measures.

Article 7

Support by the EEAS and the EDA

1. Under the responsibility of the High Representative, also in his or her capacity as the Head of the EDA, the EEAS, including the EU Military Staff (EUMS), and the EDA shall jointly provide the necessary secretariat functions for PESCO other than at the level of the Council, and in this regard a single point of contact.

2. The EEAS, including the EUMS, shall support the functioning of PESCO in particular by:

(a) contributing to the High Representative's assessment, in his or her annual report on PESCO, of participating Member States' contributions with regard to operational aspects, in accordance with Article 6;

(b) coordinating the assessment of project proposals envisaged in Article 5, notably in the areas of availability, interoperability, flexibility and deployability of forces. In particular, the EEAS, including the EUMS, shall assess proposed projects' compliance with, and their contribution to, operational needs.

3. The EDA shall support PESCO in particular by:

(a) contributing to the High Representative's assessment, in his or her annual report on PESCO, of participating Member States' contributions, in accordance with Article 6, with regard to capabilities, in particular contributions made in accordance with the more binding commitments referred to in Article 3;

(b) facilitating capability development projects, in particular coordinating the assessment of projects proposals envisaged in Article 5, notably in the area of capability development. In particular, EDA shall support Member States in ensuring that there is no unnecessary duplication with existing initiatives also in other institutional contexts.

Article 8

Financing

1. Administrative expenditure of the Union institutions and the EEAS arising from the implementation of this Decision shall be charged to the Union budget. Administrative expenditure of the EDA shall be subject to the relevant financing rules of the EDA in accordance with Council Decision (CFSP) 2015/1835 ([1]).

2. Operating expenditure arising from projects undertaken within the framework of PESCO shall be supported primarily by the participating Member States that take part in an individual project. Contributions from the general budget of the Union may be made to such projects in compliance with the Treaties and in accordance with the relevant Union instruments.

Article 9

Participation of third States in individual projects

1. The general conditions for the participation of third States in individual projects shall be specified in a Council decision adopted in accordance with Article 4(2), which may include a template for administrative arrangements with third States.

2. The Council shall decide in accordance with Article 46(6) TEU whether a third State, which the participating Member States taking part in a project wish to invite to take part in that project, meets the requirements set out in the decision referred to in paragraph 1.

3. Following a positive decision as referred to in paragraph 2, the participating Member States taking part in a project may enter into administrative arrangements with the third State concerned for the purpose of its taking part in that project. Such arrangements shall respect the procedures and the decision-making autonomy of the Union.

Article 10

Security rules

The provisions set out in Council Decision 2013/488/EU ([2]) shall apply in the context of PESCO.

Article 11

Entry into force

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

Done at Brussels, 11 December 2017.

For the Council
The President
F. MOGHERINI

([1]) Council Decision (CFSP) 2015/1835 of 12 October 2015 defining the statute, seat and operational rules of the European Defence Agency (OJ L 266, 13.10.2015, p. 55).
([2]) Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

ANNEX

List of ambitious and more binding common commitments undertaken by participating Member States in the five areas set out by Article 2 of Protocol 10

'(a) cooperate, as from the entry into force of the Treaty of Lisbon, with a view to achieving approved objectives concerning the level of investment expenditure on defence equipment, and regularly review these objectives, in the light of the security environment and of the Union's international responsibilities.'

Based on the collective benchmarks identified in 2007, participating Member States subscribe to the following commitments:

1. Regularly increasing defence budgets in real terms, in order to reach agreed objectives.

2. Successive medium-term increase in defence investment expenditure to 20 % of total defence spending (collective benchmark) in order to fill strategic capability gaps by participating in defence capabilities projects in accordance with CDP and Coordinated Annual Review (CARD).

3. Increasing joint and 'collaborative' strategic defence capabilities projects. Such joint and collaborative projects should be supported through the European Defence Fund if required and as appropriate.

4. Increasing the share of expenditure allocated to defence research and technology with a view to nearing the 2 % of total defence spending (collective benchmark).

5. Establishment of a regular review of these commitments (with the aim of endorsement by the Council).

'(b) bring their defence apparatus into line with each other as far as possible, particularly by harmonising the identification of their military needs, by pooling and, where appropriate, specialising their defence means and capabilities, and by encouraging co-operation in the fields of training and logistics.'

6. Playing a substantial role in capability development within the EU, including within the framework of CARD, in order to ensure the availability of the necessary capabilities for achieving the level of ambition in Europe.

7. Commitment to support the CARD to the maximum extent possible acknowledging the voluntary nature of the review and individual constraints of participating Member States.

8. Commitment to the intensive involvement of a future European Defence Fund in multinational procurement with identified EU added value.

9. Commitment to drawing up harmonised requirements for all capability development projects agreed by participating Member States.

10. Commitment to considering the joint use of existing capabilities in order to optimise the available resources and improve their overall effectiveness.

11. Commitment to ensure increasing efforts in the cooperation on cyber defence, such as information sharing, training and operational support.

'(c) take concrete measures to enhance the availability, interoperability, flexibility and deployability of their forces, in particular by identifying common objectives regarding the commitment of forces, including possibly reviewing their national decision-making procedures.'

12. With regard to availability and deployability of the forces, the participating Member States are committed to:

    — Making available formations, that are strategically deployable, for the realisation of the EU LoA, in addition to a potential deployment of an EUBG. This commitment does neither cover a readiness force, a standing force nor a stand by force.

— Developing a solid instrument (e.g. a data base) which will only be accessible to participating Member States and contributing nations to record available and rapidly deployable capabilities in order to facilitate and accelerate the Force Generation Process.

— Aiming for fast-tracked political commitment at national level, including possibly reviewing their national decision-making procedures.

— Providing substantial support within means and capabilities to CSDP operations (e.g. EUFOR) and missions (e.g. EU Training Missions) - with personnel, materiel, training, exercise support, infrastructure or otherwise - which have been unanimously decided by the Council, without prejudice to any decision on contributions to CSDP operations and without prejudice to any constitutional constraints,

— Substantially contributing to EU BG by confirmation of contributions in principle at least four years in advance, with a stand-by period in line with the EU BG concept, obligation to carry out EU BG exercises for the EU BG force package (framework nation) and/or to participate in these exercises (all EU Member States participating in EU BG).

— Simplifying and standardising cross border military transport in Europe for enabling rapid deployment of military materiel and personnel.

13. With regard to interoperability of forces, the participating Member States are committed to:

— Developing the interoperability of their forces by:

— Commitment to agree on common evaluation and validation criteria for the EU BG force package aligned with NATO standards while maintaining national certification.

— Commitment to agree on common technical and operational standards of forces acknowledging that they need to ensure interoperability with NATO.

— Optimising multinational structures: participating Member States could commit to joining and playing an active role in the main existing and possible future structures partaking in European external action in the military field (EUROCORPS, EUROMARFOR, EUROGENDFOR, MCCE/ATARES/SEOS).

14. Participating Member States will strive for an ambitious approach to common funding of military CSDP operations and missions, beyond what will be defined as common cost according to the Athena council decision.

'(d) work together to ensure that they take the necessary measures to make good, including through multinational approaches, and without prejudice to undertakings in this regard within the North Atlantic Treaty Organisation, the shortfalls perceived in the framework of the "Capability Development Mechanism".'

15. Help to overcome capability shortcomings identified under the Capability Development Plan (CDP) and CARD. These capability projects shall increase Europe's strategic autonomy and strengthen the European Defence Technological and Industrial Base (EDTIB).

16. Consider as a priority a European collaborative approach in order to fill capability shortcomings identified at national level and, as a general rule, only use an exclusively national approach if such an examination has been already carried out.

17. Take part in at least one project under the PESCO which develops or provides capabilities identified as strategically relevant by Member States.

'(e) take part, where appropriate, in the development of major joint or European equipment programmes in the framework of the European Defence Agency.'

18. Commitment to the use of EDA as the European forum for joint capability development and consider the OCCAR as the preferred collaborative program managing organisation.

19. Ensure that all projects with regard to capabilities led by participating Member States make the European defence industry more competitive via an appropriate industrial policy which avoids unnecessary overlap.

20. Ensure that the cooperation programmes - which must only benefit entities which demonstrably provide added value on EU territory - and the acquisition strategies adopted by the participating Member States will have a positive impact on the EDTIB.

Notification on permanent structured cooperation (PESCO) to the Council And to the high representative of the Union for foreign affairs and security policy

Preamble

The participating Member States,

Recalling that the Union is pursuing a common foreign and security policy based on the achievement of 'an ever-increasing degree of convergence of Member States' actions' (Art. 24(2) TEU) and that the common security and defence policy (CSDP) is an integral part of the common foreign and security policy;

Considering that the common security and defence policy provides the Union with operational capacity drawing on civil and military assets and that the strengthening of the security and defence policy will require efforts by Member States in the area of capabilities;

Recalling also the commitment of the European Union and its Member States to the promotion of a rules-based global order with multilateralism as its key principle and the United Nations at its core;

Recalling Article 42(6) of the Treaty on European Union (TEU) according to which those 'Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a' view to the most demanding missions 'shall establish permanent structured cooperation (PESCO) within the Union framework';

Considering that PESCO could significantly contribute to fulfilling the EU's Level of Ambition including with a view to the most demanding missions and operations and that it could facilitate the development of Member States' defence capabilities through an intensive involvement in multinational procurement projects and with appropriate industrial entities including small and medium sized enterprises, and strengthen European defence cooperation, while making full use of the Treaties;

Taking into account the objectives of permanent structured cooperation and Member States' undertakings to achieve them as laid out in Protocol No. 10 on Permanent Structured Cooperation and referred to in Article 46 of the TEU;

Noting that the European Council held on 15 December 2016 concluded that Europeans must take greater responsibility for their security and that, in order to strengthen Europe's security and defence in a challenging geopolitical environment and to better protect its citizens, confirming previous commitments in this respect, the European Council stressed the need to do more, including by committing sufficient additional resources, while taking into account national circumstances, legal commitments, and for Member States which are also members of NATO, relevant NATO guidelines on defence expenditure;

Recalling further that the European Council also called for reinforcing cooperation in the development of required capabilities as well as committing to making such capabilities available when necessary, and that it maintained that the European Union and its Member States must be able to contribute decisively to collective efforts, as well as to act autonomously when and where necessary and with partners wherever possible;

Considering that the European Council of June 2017 called for the joint development of capability projects commonly agreed by Member States to fill the existing major shortfalls and develop the technologies of the future is crucial to fulfil the level of ambition of the EU approved by the European Council in December 2016; welcomed the Commission's communication on a European Defence Fund, composed of a research window and a capability window; and called on Member States to identify suitable capability projects for the European Defence Fund and for the European Defence Industrial Development Programme;

Recalling in particular that the European Council asked the High Representative to present proposals as regards elements and options for an inclusive Permanent Structured Cooperation based on a modular approach and outlining possible projects;

Recalling that the Foreign Affairs Council on 6 March 2017 agreed on the need to continue work on an inclusive Permanent Structured Cooperation based on a modular approach, which should be open to all Member States who are willing to make the necessary binding commitments and meet the criteria, based on articles 42 (6) and 46 and Protocol 10 of the Treaty;

Determined to reach a new level in the progressive framing of a common Union defence policy as called for in Article 42(2) of the TEU through the establishment of permanent structured cooperation within the Union framework; while taking into consideration the specific character of the security and defence policy of all Member States;

Recalling the obligation under Article 42(7) TEU of mutual aid and assistance;

Recalling that in line with Article 42(7) of the Treaty on European Union commitments and cooperation in the area of Common Security and Defence Policy 'shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation';

Emphasizing that the European Council on 22/23 June 2017 agreed on the need to launch an inclusive and ambitious Permanent Structured Cooperation (PESCO)' and responding to the European Council's mandate to draw up within three months 'a common list of criteria and binding commitments fully in line with Articles 42(6) and 46 TEU and Protocol 10 to the Treaty - including with a view to the most demanding missions […], with a precise timetable and specific assessment mechanisms, in order to enable Member States which are in a position to do so to notify their intentions to participate without delay';

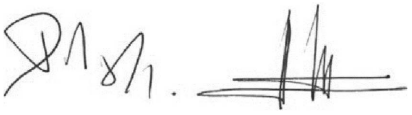
HEREBY NOTIFY the Council and the High Representative of the European Union for Foreign Affairs and Security Policy of their intention to participate in Permanent Structured Cooperation;

CALL UPON the Council to adopt a decision establishing permanent structured cooperation, in accordance with the relevant provisions of the Treaty on European Union and Protocol 10 to the Treaty, and on the basis of the principles specified in Annex I, the common more binding commitments contained in Annex II as well as the proposals for governance contained in Annex III;

SHALL SUBMIT, before the adoption by the Council of the decision establishing PESCO, a national implementation plan demonstrating their ability how to meet the more binding commitments contained in Annex II.

Done at Brussels on the thirteenth day of November in the year two thousand and seventeen.

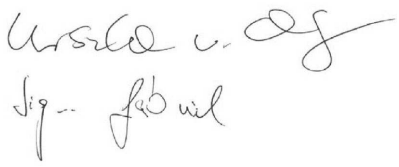
Voor het Koninkrijk België
Pour le Royaume de Belgique
Für das Königreich Belgien



За Република България

Za Českou republiku

Für die Bundesrepublik Deutschland



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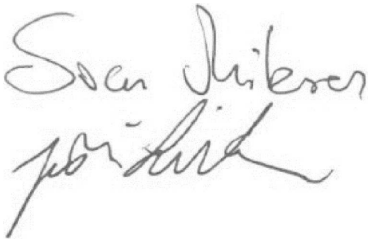

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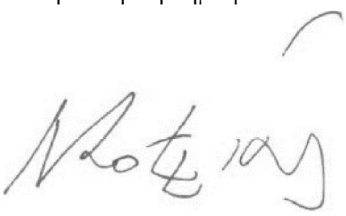
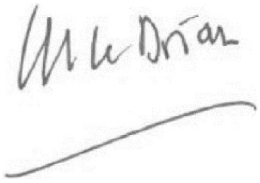


Por el Reino de España

Pour la République française



Za Republiku Hrvatsku

Per la Repubblica italiana

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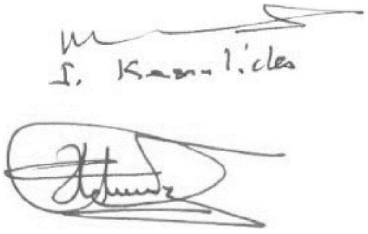

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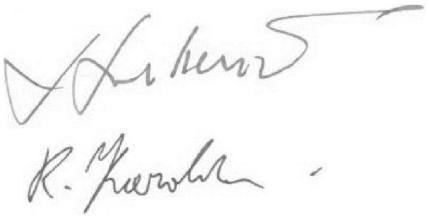
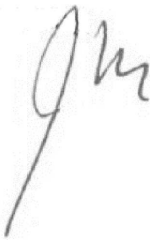
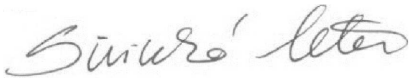


Pour le Grand-Duché de Luxembourg



Magyarország részéről



Voor het Koninkrijk der Nederlanden

Für die Republik Österreich

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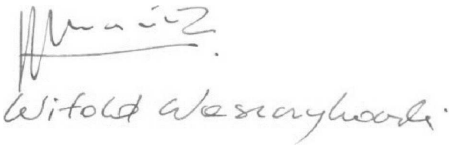
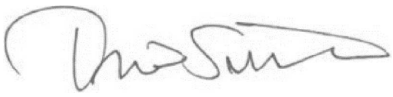


Pentru România

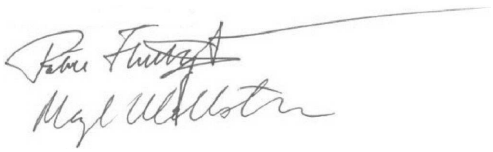
Za Republiko Slovenijo

Za Slovenskú republiku

Suomen tasavallan puolesta
För Republiken Finland



För Konungariket Sverige



* Ireland notified on 7 December 2017 its intention to the Council and the High Representative to participate in PESCO and associated itself with this joint Notification.

* The Portuguese Republic notified on 7 December 2017 its intention to the Council and the High Representative to participate in PESCO and associated itself with this joint Notification.

ANNEX I - PRINCIPLES OF PESCO

'Permanent Structured Cooperation' is provided for in Articles 42 and 46 of the Treaty on European Union and Protocol No 10 to the Treaty. It can only be activated once and is established by a Council decision to be adopted by qualified majority, in order to bring together all willing Member States in the area of defence, 'whose military capabilities fulfil higher criteria' and which have made 'more binding commitments with a view to the most demanding missions' and operations.

PESCO is an ambitious, binding and inclusive European legal framework for investments in the security and defence of the EU's territory and its citizens. PESCO also provides a crucial political framework for all Member States to improve their respective military assets and defence capabilities through well-coordinated initiatives and concrete projects based on more binding commitments. Enhanced defence capabilities of EU Member States will also benefit NATO. They will strengthen the European pillar within the Alliance and respond to repeated demands for stronger transatlantic burden sharing.

PESCO is a crucial step towards strengthening the common defence policy. It could be an element of a possible development towards a common defence should the Council by unanimous vote decide so (as provided for in article 42.2 TEU). A long term vision of PESCO could be to arrive at a coherent full spectrum force package - in complementarity with NATO, which will continue to be the cornerstone of collective defence for its members.

We consider an inclusive PESCO as the most important instrument to foster common security and defence in an area where more coherence, continuity, coordination and collaboration are needed. European efforts to this end must be united, coordinated, and meaningful and must be based on commonly agreed political guidelines.

PESCO offers a reliable and binding legal framework within the EU institutional framework. Participating Member States will meet their binding commitments, confirming that the establishment and implementation of Permanent Structured Cooperation will be undertaken in full compliance with the provisions of the TEU and the protocols attached thereto and respecting constitutional provisions of the member States.

The binding nature of PESCO commitments will be ensured by an annual regular assessment conducted by the High Representative of the Union for Foreign Affairs and Security Policy and supported, in particular, by the European Defence Agency (EDA), for the capability development aspects (notably described in Article 3 of Protocol 10), and EEAS, including EUMS and other CSDP structures, for the operational aspects of PESCO. Through PESCO, the Union could work towards a coherent full spectrum force package as PESCO would add top-down coordination and guidance to existing or future bottom-up structures and lines of efforts.

PESCO would provide opportunities for Member States to improve defence capabilities through participation in well-coordinated initiatives and concrete common projects, potentially capitalising on existing regional clusters. Participation in PESCO is voluntary and leaves national sovereignty untouched.

An inclusive PESCO is as a strong political signal towards our citizens and the outside world: governments of EU Member States are taking common security and defence seriously and pushing it forward. For EU citizens it means more security and a clear sign of willingness of all Member States to foster common security and defence to achieve the goals set by EU Global Strategy.

PESCO will be output oriented and should enable tangible progress on the level of investment expenditure on defence equipment, collaborative capability development goals and the availability of deployable defence capabilities for combined missions and operations acknowledging the single set of forces principle. The main driver of PESCO capability development will be the fulfilments of the capability shortfalls related to the EU Level of Ambition and Common Security and Defence Policy objectives and priorities.

The 'inclusive' and 'modular' nature of the PESCO, as described by the European Council in December 2016, must not lead to cooperation being levelled down. The objective of an 'ambitious' PESCO underlines the need for all PESCO participating Member States to comply with a common list of objectives and commitments. As recalled by the June 2017 European Council, PESCO is 'inclusive and ambitious'.

The following list of commitments must help to reach the level of ambition of the EU as defined in the Council conclusions of 14 November 2016, endorsed by the December 2016 European Council, and thus strengthen the strategic autonomy of both Europeans and the EU.

ANNEX II - LIST OF AMBITIOUS AND MORE BINDING COMMON COMMITMENTS IN THE FIVE AREAS SET OUT BY ARTICLE 2 OF PROTOCOL NO 10

'(a) cooperate, as from the entry into force of the Treaty of Lisbon, with a view to achieving approved objectives concerning the level of investment expenditure on defence equipment, and regularly review these objectives, in the light of the security environment and of the Union's international responsibilities.'

Based on **the collective benchmarks identified in 2007**, participating Member States subscribe to the following commitments:

1. Regularly increasing defence budgets in real terms, in order to reach agreed objectives.

2. Successive medium-term increase in defence investment expenditure to 20 % of total defence spending (collective benchmark) in order to fill strategic capability gaps by participating in defence capabilities projects in accordance with CDP and Coordinated Annual Review (CARD).

3. Increasing joint and 'collaborative' strategic defence capabilities projects. Such joint and collaborative projects should be supported through the European Defence Fund if required and as appropriate.

4. Increasing the share of expenditure allocated to defence research and technology with a view to nearing the 2 % of total defence spending (collective benchmark).

5. Establishment of a regular review of these commitments (with the aim of endorsement by the Council).

'(b) bring their defence apparatus into line with each other as far as possible, particularly by harmonising the identification of their military needs, by pooling and, where appropriate, specialising their defence means and capabilities, and by encouraging co-operation in the fields of training and logistics.'

6. Playing a substantial role in capability development within the EU, including within the framework of CARD, in order to ensure the availability of the necessary capabilities for achieving the level of ambition in Europe.

7. Commitment to support the CARD to the maximum extent possible acknowledging the voluntary nature of the review and individual constraints of participating Member States.

8. Commitment to the intensive involvement of a future European Defence Fund in multinational procurement with identified EU added value.

9. Commitment to drawing up harmonised requirements for all capability development projects agreed by participating Member States.

10. Commitment to considering the joint use of existing capabilities in order to optimize the available resources and improve their overall effectiveness.

11. Commitment to ensure increasing efforts in the cooperation on cyber defence, such as information sharing, training and operational support.

'(c) take concrete measures to enhance the availability, interoperability, flexibility and deployability of their forces, in particular by identifying common objectives regarding the commitment of forces, including possibly reviewing their national decision-making procedures.'

12. With regard to availability and deployability of the forces, the participating Member States are committed to:

— **Making available formations, that are strategically deployable, for the realization of the EU LoA, in addition to a potential deployment of an EUBG. This commitment does neither cover a readiness force, a standing force nor a stand by force.**

— **Developing a solid instrument (e.g. a data base) which will only be accessible to participating Member States and contributing nations to record available and rapidly deployable capabilities in order to facilitate and accelerate the Force Generation Process.**

— **Aiming for fast-tracked political commitment at national level, including possibly reviewing their national decision-making procedures.**

— **Providing substantial support within means and capabilities to CSDP operations (e.g. EUFOR) and missions (e.g. EU Training Missions) - with personnel, materiel, training, exercise support, infrastructure or otherwise - which have been unanimously decided by the Council, without prejudice to any decision on contributions to CSDP operations and without prejudice to any constitutional constraints.**

— **Substantially contributing to EU BG by confirmation of contributions in principle at least four years in advance, with a stand-by period in line with the EU BG concept, obligation to carry out EU BG exercises for the EU BG force package (framework nation) and/or to participate in these exercises (all EU Member States participating in EU BG).**

— **Simplifying and standardizing cross border military transport in Europe for enabling rapid deployment of military materiel and personnel.**

13. With regard to interoperability of forces, the participating Member States are committed to:

— **Developing the interoperability of their forces by:**

— **Commitment to agree on common evaluation and validation criteria for the EU BG force package aligned with NATO standards while maintaining national certification.**

— **Commitment to agree on common technical and operational standards of forces acknowledging that they need to ensure interoperability with NATO.**

— **Optimizing multinational structures: participating Member States could commit to joining and playing an active role in the main existing and possible future structures partaking in European external action in the military field (EUROCORPS, EUROMARFOR, EUROGENDFOR, MCCE/ATARES/SEOS).**

14. Participating Member States will strive for an ambitious approach to common funding of military CSDP operations and missions, beyond what will be defined as common cost according to the Athena council decision.

'(d) work together to ensure that they take the necessary measures to make good, including through multinational approaches, and without prejudice to undertakings in this regard within the North Atlantic Treaty Organisation, the shortfalls perceived in the framework of the 'Capability Development Mechanism."

15. Help to overcome capability shortcomings identified under the Capability Development Plan (CDP) and CARD. These capability projects shall increase Europe's strategic autonomy and strengthen the European Defence Technological and Industrial Base (EDTIB).

16. Consider as a priority a European collaborative approach in order to fill capability shortcomings identified at national level and, as a general rule, only use an exclusively national approach if such an examination has been already carried out.

17. Take part in at least one project under the PESCO which develops or provides capabilities identified as strategically relevant by Member States.

'(e) take part, where appropriate, in the development of major joint or European equipment programmes in the framework of the European Defence Agency.'

18. Commitment to the use of EDA as the European forum for joint capability development and consider the OCCAR as the preferred collaborative program managing organization.

19. Ensure that all projects with regard to capabilities led by participating Member States make the European defence industry more competitive via an appropriate industrial policy which avoids unnecessary overlap.

20. Ensure that the cooperation programmes - which must only benefit entities which demonstrably provide added value on EU territory - and the acquisition strategies adopted by the participating Member States will have a positive impact on the EDTIB.

ANNEX III – GOVERNANCE

1. Participating Member States remain at the center of the decision making process while coordinating with the High Representative

PESCO is a framework driven by participating Member States and remains primarily within their remit. Transparency is ensured for non-participating EU Member States.

To ensure a proper coordination of PESCO with the overall common security and defence policy (CSDP), of which it is an integral part, the High Representative of the Union for Foreign Affairs and Security Policy will be fully involved in proceedings relating to PESCO. The High Representative will be in charge of managing the annual assessment called for by the European Council and laid out in part 4 below. The EEAS, including the EU Military Staff (EUMS), and the EDA will ensure the Secretariat of the PESCO in close coordination with the European External Action Service (EEAS) Deputy Secretary General on CSDP and Crisis Response.

In accordance with the TEU, Article 3 of Protocol 10 and the Council Decision establishing the European Defence Agency, the EDA will support the High representative as regards the capability development aspects of PESCO. The EEAS will support the High Representative, in particular on the operational aspects of PESCO, including through the EU Military Staff and other CSDP structures.

It is noted that according to Art 41 (1) of the TEU the 'administrative expenditure to which the implementation of this Chapter gives rise for the institutions shall be charged to the Union budget'.

2. The governance comprises of two levels of governance with an overarching level in charge of maintaining the coherence and the ambition of the PESCO, complemented by specific governance procedures for PESCO projects

2.1. The overarching level will be in charge of the coherence and credible implementation of the PESCO.

It will be based on existing structures. When the EU Foreign and Defence ministers are gathering in a joint Foreign Affairs Council /Defence meeting (usually twice per year), they could deal with PESCO issues. When the Council convenes to deal with PESCO issues, voting rights are reserved to the representatives of the participating Member States. On this occasion, participating Member States might adopt new projects by unanimity (in accordance with Article 46(6) TEU), receive assessments of participating Member States efforts, in particular those detailed in part 3 of this Annex, and could confirm the participation of another Member State by qualified majority after consulting the High Representative, in accordance with Article 46(3) TEU.

As a last resort, the Council may suspend the participation of a Member State who no longer fulfils the criteria, given beforehand a clearly defined timeframe for individual consultation and reaction measures, or is no longer able or willing to meet the PESCO commitments and obligations, in accordance with Article 46(4) TEU.

Relevant existing Council preparatory bodies will gather in 'PESCO format', that is with all EU Member States present, but with arrangement reflecting that only participating Member States have voting rights in the Council. PSC meetings in 'PESCO format' could be convened to address common matters of interest among the participating Member States, to plan and discuss projects, or to discuss new memberships in PESCO. Its work will be supported by PMG meetings in PESCO format. The EU Military Committee will also be convened in PESCO format and in particular asked for military advice. In addition informal meetings can take place with the participating Member States only.

2.2. The governance of projects

2.2.1. PESCO project scrutiny will be based on an assessment by the High Representative, relying on EEAS, including EUMS, and EDA, projects selection will require a council decision

Participating Member States are free to submit any project they deem useful for the purposes of PESCO. They will publicize their intention in order to gather support and collectively submit projects to the PESCO Secretariat, and share them simultaneously with all participating Member States.

Projects should help to fulfill the commitments referred to in Annex II of the notification, many of which are calling for the development, or provision, of capabilities identified by Member States as strategically relevant and with commonly agreed EU added value as well as asking for providing substantial support within means and capabilities to CSDP operations (EUFOR) and missions (e.g. EU Training missions) in accordance with Article 42.6 TEU.

To ensure coherence and consistency of diverse PESCO projects we suggest a limited number of specifically mission and operation focused projects in line with the EU level of ambition. Other projects would support these projects by playing a facilitating and enabling role. The projects should be grouped accordingly.

The PESCO Secretariat will coordinate the assessment of projects proposals. With regard to capability development projects, the EDA will ensure that there is no duplication with existing initiatives also in other institutional contexts. For the operation and mission focused projects, the EUMS will assess compliance with and contribution to the operational needs of the EU and its Member States. On this basis, the High Representative will provide a recommendation identifying those projects' proposals that are the most ambitious, contribute to the EU LoA and are best suited to further Europe's strategic autonomy. The project portfolio shall reflect an appropriate balance between projects which are more in the area of capability development and those who are more in the area of operations and missions.

The High Representative recommendation will provide inputs for the Council to decide on the list of PESCO projects within the PESCO framework following a military advice by the EUMC in PESCO format and through PSC in PESCO format. The Council shall decide by unanimity, as constituted by the votes of the representatives of the participating Member States, according to Article 46(6) TEU.

Non-participating EU Member States can always indicate their intention to participate in projects by pledging to the commitments and joining PESCO.

Third States may exceptionally be invited by project participants, in accordance with general arrangements to be decided in due time by the Council in accordance with Article 46(6) TEU. They would need to provide substantial added value to the project, contribute to strengthening PESCO and the CSDP and meet more demanding commitments. This will not grant decision powers to such Third States in the governance of PESCO. Moreover, the Council in PESCO format will decide if the conditions set out in the general arrangements are met by each Third State invited by the respective project participants.

2.2.2. Project governance lies first with the participating Member States

When deciding on the list of PESCO projects by the Council a list of the participating Member States associated to a project must be attached. Those Member States participating in a project will have collectively submitted the project in beforehand.

Participating Member States associated to a project will agree among themselves, by unanimity, the modalities and the scope of their cooperation, including the necessary contribution needed to join the project. They will establish the governance rules of the project and will decide on the admission of further participating Member States during the project cycle, with participating or observer status. However a common set of governance rules should be developed which could be adapted within individual projects. This would ensure a form of standardization in the governance across all projects and ease their initiation. For capability development projects in particular, project management (specifications, acquisition strategy, choice of the executive agency, selection of the industrial companies, etc.) will remain the exclusive responsibility of the participating Member States associated to the project.

Participating Member States shall inform non-participating Member States about projects as appropriate.

3. A precise phased approach with realistic and binding objectives for each phase

The commitments undertaken by the participating Member States will be fulfilled through national efforts, and concrete projects.

A realistic phased approach is key to preserve the participation of a vanguard of Member States in PESCO and thus, to preserve the principles of ambition and inclusiveness. While participating Member States will work towards achieving all of their commitments as soon as PESCO is officially launched, some commitments can be fulfilled sooner than others. To that end, a phased approach has to be agreed by the participating Member States.

The phases will take into account other existing calendar items (such as the implementation of the EDAP, the launch of the next Multiannual Financial Framework in 2021, and commitments already undertaken by Member States in other frameworks). Two respective phases (2018-2021 and 2021-2025) will allow for the sequencing of commitments. After 2025, a review process will take place. To that end participating Member States will assess the fulfillment of all PESCO commitments and decide on new commitments, with a view to embark on a new stage towards European security and defence integration.

4. The Governance of PESCO requires a well-designed and ambitious assessment mechanism based on national Implementation plans

All participating Member States stand guarantor and the High Representative will report on the fulfillment of the commitments, in line with the principle of regular assessment set by the Protocol 10 (Article 3). The binding nature and the credibility of the commitments agreed upon will be ensured through a two layer assessment mechanism:

4.1. The 'National Implementation Plan'

To demonstrate the capability and willingness of each participating Member State to fulfill agreed commitments, they commit to submit before the adoption of the Council decision establishing PESCO, a national Implementation Plan outlining their ability how to meet the binding commitments. As a matter of transparency, access to those Implementation Plans will be granted to all participating Member States.

Assessment of the provision of participating Member States to fulfill the agreed commitments will be conducted on an annual basis based on the national Implementation Plans, through the PESCO Secretariat under the High Representative's authority (supported by the EDA as regards the defense investments and capability development and by the EEAS, including the EUMS, as regards the operational aspects). Under the responsibility of the council, this assessment shall be sent to the PSC (in PESCO format) as well as to the EUMC (in PESCO format) for its advice.

The assessors will focus on the credibility of PESCO commitments by screening Member States National Implementation Plans, factual provisions and contributions to projects.

After PESCO has been launched, the participating Member States will update their national Implementation Plans as appropriate based on the phased approach requirement.

At the beginning of every phase, commitments will be detailed through more precise objectives set among participating Member States in order to facilitate the assessment process.

4.2. An annual and a Strategic Review at the end of every phase

At least once per year, the joint FAC/Defence will receive a report from the High Representative, based on the contributions of EDA (in accordance with Article 3 of Protocol 10) and the EEAS, including the EUMS. This report will detail the status of PESCO implementation, including the respect, by each participating Member State, of its commitments, in coherence with its National Implementation Plan. This report, after an EUMC advice, will serve as a basis for Council recommendations and decisions adopted in accordance with Article 46 of the TEU.

At the end of every phase (2021; 2025) a Strategic Review exercise will be conducted assessing the respect of the commitments foreseen to have been fulfilled during that phase, deciding on the launching of the next phase and updating, if needed, the commitments for the next phase.

COMMISSION IMPLEMENTING DECISION (EU) 2017/2316

of 12 December 2017

repealing Decision 92/176/EEC concerning maps to be provided for use for the Animo network

(notified under document C(2017) 8316)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning the veterinary and zootechnical checks applicable in intra-community trade in certain live animals and products with a view to the completion of the internal market ([1]) and in particular Article 20(3) thereof,

Whereas:

(1) To introduce a computerised system linking the veterinary authorities (Animo network) the Commission adopted Decisions 91/398/EEC ([2]) 92/175/EEC ([3]), and 92/176/EEC ([4]).

(2) Decision 91/398/EEC and Decision 92/175/EEC have been repealed and the Animo network has been replaced by the Trade Control and Expert System (Traces) online management tool covering all sanitary requirements on intra-EU trade and importation of animals, semen and embryo, food, feed and plants.

(3) Decision 92/176/EEC should therefore be repealed.

(4) 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

Decision 92/176/EEC is repealed.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 12 December 2017.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

([1]) OJ L 224, 18.8.1990, p. 29.
([2]) Commission Decision 91/398/EEC of 19 July 1991 on a computerised network linking veterinary authorities (Animo) (OJ L 221, 9.8.1991, p. 30).
([3]) Commission Decision 92/175/EEC of 21 February 1992 establishing the list and identity of the units in the computerized network Animo (OJ L 80, 25.3.1992, p. 1).
([4]) Commission Decision 92/176/EEC of 2 March 1992 concerning maps to be provided for use for the Animo network (OJ L 80, 25.3.1992, p. 33).

COMMISSION IMPLEMENTING DECISION (EU) 2017/2317

of 13 December 2017

on recognition of the 'Red Tractor Farm Assurance Combinable Crops & Sugar Beet' voluntary scheme for demonstrating compliance with the sustainability criteria under Directives 98/70/EC and 2009/28/EC of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

Having regard to Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC ([1]), and in particular the second subparagraph of Article 7c(4) thereof,

Having regard to Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC ([2]), and in particular the second subparagraph of Article 18(4) thereof,

Whereas:

(1) Articles 7b and 7c of, and Annex IV to, Directive 98/70/EC and Articles 17 and 18 of, and Annex V to, Directive 2009/28/EC lay down similar sustainability criteria for biofuels and bioliquids, and similar procedures for verifying that biofuels and bioliquids comply with those criteria.

(2) Where biofuels and bioliquids are to be taken into account for the purposes referred to in Article 17(1)(a), (b) and (c) of Directive 2009/28/EC, Member States should require economic operators to show that biofuels and bioliquids comply with the sustainability criteria set out in Article 17(2) to (5) of that Directive.

(3) The Commission may decide that voluntary national or international schemes setting standards for the production of biomass products contain accurate data for the purposes of Article 17(2) of Directive 2009/28/EC, and/or demonstrate that consignments of biofuel or bioliquid comply with the sustainability criteria set out in Article 17(3), (4) and (5), and/or that no materials have been intentionally modified or discarded so that the consignment or part thereof would fall under Annex IX. Where an economic operator provides proof or data obtained in accordance with a voluntary scheme that has been recognised by the Commission, to the extent covered by the recognition decision, a Member State should not require the supplier to provide further evidence of compliance with the sustainability criteria.

(4) The request for recognition that the 'Red Tractor Farm Assurance Combinable Crops & Sugar Beet' voluntary scheme demonstrates that consignments of biofuel comply with the sustainability criteria set out in Directives 98/70/EC and 2009/28/EC was submitted to the Commission on 27 September 2017. The scheme that is based in 5-11 Lavington Street, London SE1 0NZ, United Kingdom, covers cereals, oil seeds and sugar beet produced in the United Kingdom up to the first point of delivery of these crops. The recognised scheme documents should be made available at the transparency platform established under Directive 2009/28/EC.

(5) In assessing the 'Red Tractor Farm Assurance Combinable Crops & Sugar Beet' voluntary scheme, the Commission found that it covers adequately the sustainability criteria set out in Directives 98/70/EC and 2009/28/EC, as well as applies a mass balance methodology in accordance with the requirements of Article 7c(1) of Directive 98/70/EC and Article 18(1) of Directive 2009/28/EC.

(6) The assessment of the 'Red Tractor Farm Assurance Combinable Crops & Sugar Beet' voluntary scheme found that it meets adequate standards of reliability, transparency and independent auditing and also complies with the methodological requirements set out in Annex IV to Directive 98/70/EC and in Annex V to Directive 2009/28/EC.

(7) The measures provided for in this Decision are in accordance with the opinion of the Committee on the Sustainability of Biofuels and Bioliquids,

([1]) OJ L 350, 28.12.1998, p. 58.
([2]) OJ L 140, 5.6.2009, p. 16.

HAS ADOPTED THIS DECISION:

Article 1

The 'Red Tractor Farm Assurance Combinable Crops & Sugar Beet' voluntary scheme ('the scheme'), submitted for recognition to the Commission on 27 September 2017, demonstrates that consignments of cereals, oil seeds and sugar beet produced in accordance with the standards for the production of biofuels and bioliquids set in the scheme comply with the sustainability criteria laid down in Article 7b(3), (4) and (5) of Directive 98/70/EC and Article 17(3), (4) and (5) of Directive 2009/28/EC.

The scheme also contains accurate data for the purposes of Article 17(2) of Directive 2009/28/EC and Article 7b(2) of Directive 98/70/EC in as far as it concerns annualised emissions from carbon stock changes caused by land-use change (e_l) referred to in point 1 of part C of Annex IV of Directive 98/70/EC and point 1 of part C of Annex V of Directive 2009/28/EC, which it demonstrates to be equal to zero.

Article 2

In the event that the contents of the scheme, as submitted for recognition to the Commission on 27 September 2017, change in a way that might affect the basis of this Decision, such changes shall be notified to the Commission without delay. The Commission shall assess the notified changes with a view to establishing whether the scheme still adequately covers the sustainability criteria for which it is recognised.

Article 3

The Commission may repeal this Decision *inter alia* under the following circumstances:

(a) if it has been clearly demonstrated that the scheme has not implemented elements considered to be decisive for this Decision or if severe and structural breach of those elements has taken place;

(b) if the scheme fails to submit annual reports to the Commission pursuant to Article 7c(6) of Directive 98/70/EC and Article 18(6) of Directive 2009/28/EC;

(c) if the scheme fails to implement standards of independent auditing specified in implementing acts referred to in the third subparagraph of Article 7c(5) of Directive 98/70/EC and the third subparagraph of Article 18(5) of Directive 2009/28/EC or improvements to other elements of the scheme considered to be decisive for a continued recognition.

Article 4

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

It shall apply until 15 December 2022.

Done at Brussels, 13 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING DECISION (EU) 2017/2318

of 13 December 2017

on the equivalence of the legal and supervisory framework in Australia applicable to financial markets in accordance with Directive 2014/65/EU of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU ([1]), and in particular Article 25(4)(a) thereof,

Whereas:

(1) Article 23(1) of Regulation (EU) No 600/2014 of the European Parliament and of the Council ([2]) requires investment firms to ensure that the trades they undertake in shares admitted to trading on regulated markets, or traded on trading venues should take place on regulated markets, multilateral trading facilities (MTFs) or systematic internalisers, or third-country trading venues assessed by the Commission as equivalent in accordance with Article 25(4)(a) of Directive 2014/65/EU.

(2) Article 23(1) of Regulation (EU) No 600/2014 only applies a trading obligation in respect of shares. The trading obligation does not comprise other equity instruments, such as depositary receipts, ETFs, certificates and other similar financial instruments.

(3) The equivalence procedure for trading venues established in third countries set out in Article 25(4)(a) of Directive 2014/65/EU aims to allow investment firms to undertake trades in shares that are subject to the trading obligation in the Union, on third-country trading venues recognised as equivalent. The Commission should assess whether the legal and supervisory framework of a third country ensures that a trading venue authorised in that third country complies with legally binding requirements which are equivalent to the requirements resulting from Regulation (EU) No 596/2014 of the European Parliament and of the Council ([3]), from Title III of Directive 2014/65/EU, from Title II of Regulation (EU) No 600/2014 and from Directive 2004/109/EC of the European Parliament and of the Council ([4]), and which are subject to effective supervision and enforcement in that third country. This should be read in the light of the objectives pursued by that act, in particular its contribution to the establishment and functioning of the internal market, market integrity, investor protection and ultimately, but no less importantly, financial stability.

(4) In accordance with the forth subparagraph Article 25(4)(a) of Directive 2014/65/EU, a third-country legal and supervisory framework may be considered equivalent where that framework fulfils at least the conditions that (a) the markets are subject to authorisation and to effective supervision and enforcement on an ongoing basis, (b) the markets have clear and transparent rules regarding the admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable, (c) security issuers should be subject to periodic and ongoing information requirements ensuring a high level of investor protection, and (d) market transparency and integrity are ensured by the prevention of market abuse in the form of insider dealing and market manipulation.

([1]) OJ L 173, 12.6.2014, p. 349.
([2]) Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).
([3]) Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).
([4]) Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).

(5) The purpose of this equivalence assessment is to assess, inter alia, whether the legally binding requirements which are applicable in Australia to financial markets established and authorised as securities exchanges therein under the supervision of the Australian Securities and Investments Commission (ASIC) are equivalent to the requirements resulting from Regulation (EU) No 596/2014, from Title III of Directive 2014/65/EU, from Title II of Regulation (EU) No 600/2014 and from Directive 2004/109/EC, which are subject to effective supervision and enforcement in that third country.

(6) The Corporations Act 2001 (Corporations Act) defines a financial market as a facility through which offers to acquire or dispose of financial products are regularly made or accepted. The financial market must operate a multilateral system in accordance with non-discretionary rules. It does not enjoy discretion over how it executes trades and is not allowed to trade on its own account or engage into matched principal trading. Furthermore, a financial market must provide members with impartial access to their markets and services. The access criteria must be impartial, transparent, and applied in a non-discriminatory manner. To this effect, operating rules of a financial market must have reasonable and non-discriminatory standards for access and eligibility requirements. These rules are reviewed by ASIC.

(7) The four conditions set out in the fourth subparagraph of Article 25(4)(a) of Directive 2014/65/EU must be fulfilled in order to determine that the legal and supervisory arrangements of a third country regarding the exchanges authorised therein are equivalent to those laid down in Directive 2014/65/EU.

(8) According to the first condition, third-country trading venues must be subject to authorisation and to effective supervision and enforcement on an ongoing basis.

(9) A person is required to hold an Australian Market Licence (AML) to operate a financial market. Under the Corporations Act, the power to grant an AML is vested in the Minister. Under Section 795A of the Corporations Act, an application for an AML must be lodged with the ASIC, who provides advice to the Minister on the application. Authorisation is only granted, inter alia, if the Minister is satisfied that the applicant has adequate arrangements to meet applicable requirements and that the applicant can adequately supervise the market, monitor participants' conduct and enforce compliance with the market's operating rules (Section 795B of the Corporations Act). Once licensed, financial markets are required to comply on an ongoing basis with the conditions of the license and maintain adequate arrangements for operating the market, including arrangements for monitoring and enforcing compliance with the operating rules (Section 792A of the Corporations Act).

(10) ASIC is a public authority established under the Australian Securities and Investments Commission Act 2001 (the ASIC Act) and is responsible for administering and enforcing the law concerning Australian financial markets. The supervisory and enforcement powers of ASIC include investigation of suspected breaches of the law, issuance of infringement notices and seeking civil penalties from the courts. ASIC can commence criminal prosecutions for the obligations under the Corporations Act that are enforceable as criminal breaches. Furthermore, ASIC has the power to inspect financial markets without prior notice. This includes the power to inspect registers, records and documents. Furthermore, the Minister for Financial Services may give written directions to a financial market operator to take specified measures to ensure compliance with its obligations as a financial market licensee where the Minister is of the opinion that those obligations are not being met (s. 794A of the Corporations Act). If the financial market does not comply with that direction, ASIC may apply to the court for an order requiring compliance (s. 794A of the Corporations Act). ASIC also has the power to give a direction to an entity (including market operators and participants of licensed markets), where it is of the opinion that it is necessary, or in the public interest, to protect people dealing in a financial product or classes of financial products (s. 798J of the Corporations Act). In addition, ASIC may seek orders and refer matters for proceedings to enforce its regulatory and investigative measures. ASIC may apply to a court for an order requiring compliance with ASIC's measures taken on the basis of its regulatory and investigatory powers (s. 70 of the ASIC Act). Furthermore, where an entity fails to comply with a direction issued under the Corporations Act, ASIC may make an application to the court for an order requiring compliance with that direction. Finally, the Corporations Act also requires financial markets to be able to enforce compliance by their members with the provisions of the Corporations Act, the rules and regulations thereunder, and their market operating rules (section 792A of the Act). It is also incumbent on a licensed exchange to address any potential violations of the market's operating rules or the Corporations Act by its members and report such potential violations to the ASIC.

(11) It can therefore be concluded that securities exchanges in Australia are subject to authorisation and to effective supervision and enforcement on an ongoing basis

(12) According to the second condition, third-country trading venues must have clear and transparent rules regarding admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable.

(13) There are overarching obligations that require the operator of financial markets to consider whether securities admitted to trading on the market they operate can be traded in a fair, orderly and transparent way. Section 793A of the Corporations Act includes legally binding requirements to have operating rules governing admission of securities. The operating rules of financial markets set out conditions that must be met for the shares of a listed entity to be quoted on the market. The entity must apply for admission to trading where its securities will be traded and apply for and be granted permission for quotation of all securities in its main class of securities to the financial market's official list. The list of entities admitted to trading is published by the market operator and updated after every trading day. ASIC reviews whether the financial markets have adequate rules, systems and processes to address whether a financial product meets the financial markets' and statutory criteria for being admitted to trading on the market, including ensuring there are no undue restrictions on trading of securities. All securities traded on licensed exchanges must meet certain listing rules, which are submitted to the ASIC for review. The Securities must be freely negotiable and meet certain criteria regarding the distribution of securities to the public and the issuer needed to value the security. A licensed exchange cannot list securities for which information about the issued securities and the issuer is not publicly available. Finally, to secure orderly trading of securities on licensed exchanges, the ASIC and the Minister can suspend trading in a financial product or class of financial products.

(14) The legally binding obligation in the Corporations Act for 'fair, orderly and transparent' trading requires financial markets to make information about transactions, bids and offers publicly available. In addition there is an obligation that a participant must not enter into a transaction unless the transaction is entered into by matching of a pre-trade transparent order on an order book. There are exemptions for certain trades, such as block trades or trade with price improvement. If a market participant relies on one of these exceptions, it is required to keep records demonstrating that the transaction met the criteria for the exception relied on. The Competition Market Integrity Rules require financial markets to immediately make available pre-trade information received during trading hours, continuously and in real-time, on reasonable commercial terms and on a non-discriminatory basis. For information received after trading hours, the market operator is required to make pre-trade information available by no later than the trading hours next resume. The Australian regulatory framework also includes requirements for providing continuously and in real-time post-trade information. Financial markets are required to make available post-trade trading information on a publically available website, without charge, and with a delay of no more than 20 minutes.

(15) It can therefore be concluded that securities exchanges in Australia have clear and transparent rules regarding the admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner and are freely negotiable.

(16) According to the third condition, security issuers must be subject to periodic and ongoing information requirements ensuring a high level of investor protection.

(17) The Australian regulatory framework has clear, comprehensive and specific disclosure requirements applying to annual and interim reports. Issuers whose securities are admitted to trading on an Australian securities exchange are required to publish annual and interim (half-year) financial reports (Sections 292 and 302). The reports must comply with accounting standards (Sections 296 and 304 of the Corporations Act) and present a true and fair view of the financial position and performance of the entity (Section 297 and 305 of the Corporations Act). Further, annual financial reports are required to be audited and an auditor's report must be obtained (Section 301 of the Corporations Act). ASIC maintains a record of information about the company including the prospectus and annual financial statements of the company. The disclosure of comprehensive and timely information about security issuers allows investors to assess the business performance of issuers and ensures appropriate transparency for investors through a regular flow of information.

(18) It can therefore be concluded that issuers whose securities are admitted to trading on exchanges licensed by the ASIC in Australia are subject to periodic and ongoing information requirements ensuring a high level of investor protection.

(19) According to the forth condition, the third-country legal and supervisory framework must ensure market transparency and integrity by preventing market abuse in the form of insider dealing and market manipulation.

(20) The Australian securities laws establish a comprehensive regulatory and supervisory framework to ensure market integrity, prohibit fraudulent or deceptive conduct on licensed exchanges and dissemination of false or misleading information regarding securities or issuers, as well as to prevent insider trading and market manipulation. The market abuse provisions are set out under Part 7.10 of the Corporations Act. Some of the prohibitions are also set out under the Market Integrity Rules ('MIRs') created under Subsection 798G(1) of the Corporations Act that apply to regulated financial markets and the market participants on those markets. Under Sections 1041E and 1041F of the Corporations Act, making false or misleading statements about financial products, and inducing others to deal in financial products using false or misleading information, as well as engaging in dishonest conduct in relation to a financial product and/or as a financial services licensee (Sections 1041G and 1041H), is prohibited. Division 2 of Part 7.10 of the Corporations Act contains a number of prohibitions of market manipulation. Furthermore, Division 3 of Part 7.10 of the Corporations Act explicitly prohibits insider trading. ASIC enforces those rules by utilising its extensive powers to investigate suspicious market activity and prosecute cases deemed to be in violation of the rules.

(21) It can therefore be concluded that the Australian legal and supervisory framework ensures market transparency and integrity by preventing market abuse in the form of insider dealing and market manipulation.

(22) It can therefore further be concluded that the legal and supervisory framework governing financial markets and operated in Australia under the supervision of the ASIC comply with the four conditions for legal and supervisory arrangements and hence should be considered to provide for an equivalent system to the requirements for trading venues laid down in Directive 2014/65/EU, Regulations (EU) No 600/2014 and (EU) No 596/2014 and Directive 2004/109/EC.

(23) Given that a significant number of shares that are issued and admitted to trading in Australia are also traded on trading venues in the EU, this decision is necessary to ensure that all investment firms subject to the trading obligation as set out in Article 23(1) of Regulation (EU) No 600/2014 preserve the ability to undertake trades in shares admitted to trading on the Australian exchanges. As significant alternative liquidity pools in those shares are available on the Australian exchanges, it is necessary to recognise the legal and supervisory framework of Australia, especially in order to enable investment firms to fulfil their best execution obligation towards their clients.

(24) This decision is based on data that demonstrates that overall EU trading in a number of shares admitted on the Australian exchanges is of such frequency that MiFID firms could not avail themselves of the exception set out in Article 23(1)(a) of Regulation (EU) No 600/2014. This implies that the trading obligation set out in Article 23(1) of Regulation (EU) No 600/2014 would apply to a significant number of shares admitted to trading in Australia.

(25) The Decision will be complemented by cooperation arrangements to ensure the effective exchange of information and coordination of supervisory activities between the national competent authorities and ASIC.

(26) This Decision is based on the legally binding requirements relating to financial markets applicable in Australia at the time of the adoption of this Decision. The Commission should continue monitoring on a regular basis the evolution of the legal and supervisory arrangements for regulated markets, the effectiveness of supervisory cooperation in relation to monitoring and enforcement and the fulfilment of the conditions on the basis of which this Decision has been taken.

(27) The Commission should conduct regular review of the legal and supervisory arrangements applicable to financial markets in Australia. This is without prejudice to the possibility of the Commission to undertake a specific review at any time, where relevant developments make it necessary for the Commission to re-assess the equivalence granted by this Decision. Any re-assessment could lead to the repeal of this Decision.

(28) Considering that Regulation (EU) No 600/2014 and Directive 2014/65/EU apply from 3 January 2018, it is necessary that this decision enters into force on the day following the day of publication in the *Official Journal of the European Union*.

(29) The measures provided for in this Decision are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of Article 23(1) of Regulation (EU) No 600/2014, the legal and supervisory framework in Australia applicable to financial markets authorised therein and set out in the Annex to this Decision shall be considered to be equivalent to the requirements resulting from Directive 2014/65/EU, Regulations (EU) No 600/2014 and (EU) No 596/2014 and Directive 2004/109/EC and to be subject to effective supervision and enforcement.

Article 2

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

Done at Brussels, 13 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Financial markets:

(a) ASX Limited

(b) Chi-X Australia Pty Ltd

COMMISSION IMPLEMENTING DECISION (EU) 2017/2319

of 13 December 2017

on the equivalence of the legal and supervisory framework applicable to recognised exchange companies in Hong Kong Special Administrative Region in accordance with Directive 2014/65/EU of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU ([1]), and in particular Article 25(4)(a) thereof,

Whereas:

(1) Article 23(1) of Regulation (EU) No 600/2014 of the European Parliament and of the Council ([2]) requires investment firms to ensure that the trades they undertake in shares admitted to trading on regulated markets, or traded on trading venues should take place on regulated markets, multilateral trading facilities (MTFs) or systematic internalisers, or third-country trading venues assessed by the Commission as equivalent in accordance with Article 25(4)(a) of Directive 2014/65/EU.

(2) Article 23(1) of Regulation (EU) No 600/2014 only applies a trading obligation in respect of shares. The trading obligation does not comprise other equity instruments, such as depositary receipts, ETFs, certificates and other similar financial instruments.

(3) The equivalence procedure for trading venues established in third countries set out in Article 25(4)(a) of Directive 2014/65/EU aims to allow investment firms to undertake trades in shares that are subject to the trading obligation in the Union, on third-country trading venues recognised as equivalent. The Commission should assess whether the legal and supervisory framework of a third country ensures that a trading venue authorised in that third country complies with legally binding requirements which are equivalent to the requirements resulting from Regulation (EU) No 596/2014 of the European Parliament and of the Council ([3]), from Title III of Directive 2014/65/EU, from Title II of Regulation (EU) No 600/2014 and from Directive 2004/109/EC of the European Parliament and of the Council ([4]), and which are subject to effective supervision and enforcement in that third country. This should be read in the light of the objectives pursued by that act, in particular its contribution to the establishment and functioning of the internal market, market integrity, investor protection and ultimately, but no less importantly, financial stability.

(4) In accordance with the forth subparagraph Article 25(4)(a) of Directive 2014/65/EU, a third-country legal and supervisory framework may be considered equivalent where that framework fulfils at least the conditions that (a) the markets are subject to authorisation and to effective supervision and enforcement on an ongoing basis, (b) have clear and transparent rules regarding the admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable, (c) security issuers should be subject to periodic and ongoing information requirements ensuring a high level of investor protection, and (d) market transparency and integrity should be ensured by the prevention of market abuse in the form of insider dealing and market manipulation.

([1]) OJ L 173, 12.6.2014, p. 349.
([2]) Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).
([3]) Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).
([4]) Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).

(5) The purpose of this equivalence assessment is to assess, inter alia, whether the legally binding requirements which are applicable in Hong Kong to recognised exchange companies established and authorised under the Hong Kong Securities and Futures Ordinance (SFO) ('recognised exchange companies') and supervised by the Securities and Futures Commission ('SFC') are equivalent to the requirements resulting from Regulation (EU) No 596/2014, from Title III of Directive 2014/65/EU, from Title II of Regulation (EU) No 600/2014 and from Directive 2004/109/EC, which are subject to effective supervision and enforcement in that third country.

(6) As regards the conditions that the markets are subject to authorisation and to effective supervision and enforcement on an ongoing basis, under the SFO (Chapter 571 of the Laws of Hong Kong) the recognised exchange company must operate a multilateral system in accordance with non-discretionary rules. It does not enjoy discretion over how it executes trades and is not allowed to trade on its own account or engage into matched principal trading. Furthermore, a recognised exchange company must provide members with impartial access to its markets and services. The access criteria must be impartial, transparent, and applied in a non-discriminatory manner. To this effect, operating rules of a recognised exchange company must have reasonable and non-discriminatory standards for access and eligibility requirements. The Rules of the Exchange are reviewed and approved by the SFC. To access the trading system of a recognised exchange company, it is necessary to become an exchange participant of the recognised exchange company. Exchange participants must meet certain criteria. Among other things, they must be a company incorporated in HK, licensed under Section 116(1) of the SFO and hold a valid business registration certificate under the Business Registration Ordinance.

(7) The four conditions set out in the fourth subparagraph of Article 25(4)(a) of Directive 2014/65/EU must be fulfilled in order to determine that the legal and supervisory arrangements of a third country regarding the trading venues authorised therein are equivalent to those laid down in Directive 2014/65/EU.

(8) According to the first condition, third-country trading venues must be subject to authorisation and to effective supervision and enforcement on an ongoing basis.

(9) Section 19(1)(a) of the SFO provides that no person shall operate a stock market unless the person is a recognised exchange company. The SFC may recognise a company as an exchange company if it is satisfied that doing so is in the interest of the investing public or in the public interest or for the proper regulation of the securities markets. The SFC may, after consultation with the public and then with the Financial Secretary of Hong Kong Special Administrative Region, grant recognition to a company as an exchange company. The SFC may also, with the consent of the Financial Secretary, grant recognition to an exchange controller. The recognition may be subject to conditions imposed by the SFC. Once recognised, a recognised exchange company which operates a stock market has the duty to ensure an orderly, informed and fair market in securities traded on its subsidiary exchanges. In accordance with Division 2 to 4 of Part III of the SFO, a recognised exchange company must ensure that risks associated with its business and operations are managed prudently. In discharging these duties, it has to act in the interest of the public, having particular regard to the interest of the investing public, and must ensure that the interest of the public prevails where it conflicts with the interest of the recognised exchange company or that of the recognised exchange controller. The recognised exchange company must comply with any lawful requirement placed on it under any enactment or rule of law and with any other legal requirement.

(10) The SFC is the regulator of the securities markets in Hong Kong. Under Part III of the SFO, the SFC is responsible for supervising, monitoring and regulating activities carried out by recognised exchange companies and recognised exchange controllers. The SFC monitors a recognised exchange company to assess whether it complies with its statutory duties on an initial and ongoing basis. If the recognised exchange company fails to comply with such duties, the SFC has the power to take appropriate actions set out in Part III of the SFO. Sections 28 and 72 of the SFO provide that the SFC may withdraw the company's recognition as an exchange company. Under the SFO, the SFC has regulatory, administrative and investigative powers and may impose court orders by civil proceedings in accordance with Sections 213 and 214 of the SFO, administrative or criminal sanctions, as well as initiate or refer matters for criminal prosecution. Furthermore, pursuant to Section 399(1) of the SFO the SFC may publish codes and guidelines as it considers appropriate for providing guidance for the furtherance of any of its regulatory objectives, functions and the operation of any provision of the SFO. Recognised exchange companies are responsible for the establishment and enforcement of its own trading rules to ensure compliance

by their EPs. To ensure continuing compliance with the SFO requirements, the SFC may review and audit the operations of the recognised exchange companies and recognised exchange controllers, their electronic trading and clearing systems and risk management. Under Section 23 of the SFO, the SFC may direct a recognised exchange company to make or amend any rules which it is permitted to make under that provision. The SFC may require a recognised exchange company to provide books, records and other information of its business or in respect of any trading in securities. The SFC can also order a recognised exchange companies to take particular actions, including requiring a recognised exchange company to take such action relating to the management, conduct or operation of their business or prohibit them from actions relating to the management, conduct or operation of their business specified in the Restriction Notice as per Section 92(1) of the SFO. Further, under Section 29 of the SFO, the SFC has the power to suspend dealings in securities and close a recognised exchange company in case it is of the opinion that orderly trading on the stock market is threatened. The SFO empowers the SFC to impose disciplinary measures (Part IX of the SFO) and prosecute offenders for securities related misconduct (Section 388 of the SFO). The SFC's surveillance and disciplinary oversight extend beyond listed companies and licensees to market participants, including investors. The SFC has powers under the SFO to take disciplinary, civil and criminal actions for market misconduct. Under Part XIII of the SFO the SFC has recourse to the Market Misconduct Tribunal and, where appropriate, imposing civil sanctions. Respectively, under Part XIV of the SFO the SFC can refer a case to the criminal law courts. Where appropriate the SFC may also seek warrants to search premises in accordance with Section 191 of the SFO and cooperate with domestic and overseas regulatory bodies to conduct investigations pursuant to Section 186 of the SFO.

(11) The 2001 Memorandum of Understanding (MOU) entered into between the exchange controller and the SFC on Matters relating to SFC Oversight, Supervision of Exchange Participants and Market Surveillance requires recognised stock exchanges to provide data and information to the SFC on a regular or ad hoc basis. For monitoring purposes the SFC has access to orders and transaction information on a real-time basis. Under Item 16 of appendix II of the MOU, recognised exchange companies are required to, as soon as practicable, notify the SFC of matters designated as serious, and share information with the SFC within prescribed time periods as agreed between both parties. Under Section 27 of the SFO, the SFC may require a recognised exchange company to provide books and records kept in connection with or for the purposes of its business or in respect of any financial instruments traded; and such other information relating to its business or any trading in securities, futures contracts or OTC derivative products. Recognised exchange companies are required to keep records of all orders and transactions relating to any financial instruments which the SFC may reasonably require for the performance of its functions. They are required to keep those records for a period of not less than seven years.

(12) It can therefore be concluded that recognised exchange companies in Hong Kong are subject to authorisation and to effective supervision and enforcement on an ongoing basis.

(13) According to the second condition, third-country trading venues must have clear and transparent rules regarding admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable.

(14) A recognised exchange company's statutory duty under the section 21 of the SFO is to ensure an orderly, informed and fair market. Listing rules are requirements set out in the exchange rulebook in compliance with the SFO where the market operator establishes its internal rules to ensure the provision of a fair, orderly and efficient market for the trading of securities and require that the issue of securities is conducted in a fair and orderly manner, and that all holders of issued securities are treated fairly and equally. The listing rules contain the basic qualification requirements for listing of securities. These rules also comprise requirements which have to be met before securities may be listed and also continuing obligations with which an issuer must comply once listing has been approved. According to Section 24 of the SFO, the SFC must approve those listing rules. An applicant for listing must be duly incorporated, must satisfy certain capital requirements, disclosure requirements and have sufficient management presence in Hong Kong. Both the applicant and its business must, in the opinion of the market operator, be suitable for listing. A recognised exchange company retains an absolute discretion to accept or reject applications for listing. Any waiver from the listing rules can only be granted on a case-by-case basis having regard to the circumstances of a particular case. Where such waiver is intended to have a general effect, it may only be granted with the prior consent of the SFC. A recognised exchange company must certify to the SFC that the security has been approved for listing and quotation. The securities must be freely transferable and meet

certain criteria regarding the distribution of securities to the public. Finally, to secure orderly trading of securities, the SFC can suspend trading in a financial product or class of financial products traded on a recognised exchange company.

(15) As part of its duty to ensure an orderly, informed and fair trading, a recognised exchange company must ensure an appropriate level of trade transparency on a timely and equitable basis. The pre-trade information includes best bid and ask quotations, price and order depth. The full order book, including current bid and offer prices and depth of trading interest at those prices, is made public on a continuous and real-time basis during the continuous trading session. Market participants can access the pre-trade information directly via the market data systems of exchanges or indirectly through information vendors. There are no exemptions from pre-trade transparency. Transactions carried out on a recognised exchange are subject to post-trade disclosure of information. Transaction details with regards to on-exchange transactions are disseminated on a real time basis and include, inter alia, prices, closing prices, and market turnover information. Market participants can access the post-trade information directly via the market data systems of exchanges or indirectly through information vendors.

(16) It can therefore be concluded that recognised exchange companies in Hong Kong have clear and transparent rules regarding the admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner and are freely negotiable.

(17) According to the third condition, security issuers must be subject to periodic and ongoing information requirements ensuring a high level of investor protection.

(18) The listing rules of a recognised exchange company are required to have clear, comprehensive and specific disclosure requirements applying to annual and interim reports. Issuers whose securities are admitted to trading are required to publish annual financial statements and half-yearly financial reports as set out in the rulebook of the exchange. The reports must be audited and comply with generally accepted accounting standards. A recognised exchange company must monitor issuers' ongoing compliance with the disclosure obligations under the Listing Rules. In addition, a recognised exchange company also reviews issuers' annual reports with a focus on issuers' listing rules compliance and their disclosure of material events and developments as part of its ongoing monitoring and compliance activities. The SFC carries out active surveillance of company activities and in-depth reviews of selected listed companies with a view to identifying any corporate non-compliance or misbehaviour. The disclosure of comprehensive and timely information about security issuers allows investors to assess the business performance of issuers and ensures appropriate transparency for investors through a regular flow of information.

(19) It can therefore be concluded that issuers of securities admitted on recognised exchange companies in Hong Kong are subject to periodic and ongoing information requirements ensuring a high level of investor protection.

(20) According to the forth condition, the third-country legal and supervisory framework must ensure market transparency and integrity by preventing market abuse in the form of insider dealing and market manipulation.

(21) The securities laws of Hong Kong establish, as further set out below, a comprehensive regulatory and supervisory framework to ensure market integrity, prohibit fraudulent or deceptive conduct on recognised exchange companies and dissemination of false or misleading information regarding securities or issuers, as well as to prevent insider trading and market manipulation. The SFO regulates market abuse and establishes civil and criminal regimes in respect of market misconduct. Market misconduct, as defined by the SFO, encompasses six offences, i.e. insider dealing under Sections 270 and 291 of the SFO, false trading under Sections 274 and 295 of the SFO, price rigging under Sections 275 and 296 of the SFO, disclosure of information about prohibited transactions under Sections 276 and 297 of the SFO, disclosure of false and misleading information inducing transactions under Sections 277 and 298 of the SFO and market manipulation under Sections 278 and 299 of the SFO. Offences under the civil regime are heard by the Market Misconduct Tribunal before which the SFC may institute proceedings. For offences under the criminal regime the SFC has power to conduct summary prosecutions in the Magistrate Courts. According to Section 107 of the SFO, the SFC may seek criminal sanctions against persons who induce another to buy or sell securities by fraudulent or reckless misrepresentation or, under Section 298 of the SFO, against persons who disclose false or misleading information likely to induce another to buy securities. Under Section 277 of the SFO, the latter behaviour is also considered misconduct under the civil market misconduct regime. Furthermore, Section 300 of the SFO sets out criminal liabilities for persons who use in a securities transaction deceptive or fraudulent conduct, device or scheme with intention to defraud or deceive.

Section 384 of the SFO establishes a criminal liability for persons knowingly or recklessly giving false or misleading information to the SFC or the recognised exchange controller. Where a corporation is found guilty of an offence, Section 390 of the SFO extends criminal liability to any officer of the corporation who consented, connived or was reckless to the commission of the offence.

(22) It can therefore be concluded that the legal and supervisory framework in Hong Kong ensures market transparency and integrity by preventing market abuse in the form of insider dealing and market manipulation.

(23) It can therefore further be concluded that the legal and supervisory framework governing recognised exchange companies operated in Hong Kong under the supervision of the SFC comply with the four conditions for legal and supervisory arrangements and hence should be considered to provide for an equivalent system to the requirements for trading venues laid down in Directive 2014/65/EU, Regulations (EU) No 600/2014 and (EU) No 596/2014 and Directive 2004/109/EC.

(24) Given that a significant number of EU issued shares admitted to trading and traded on EU trading venues are also traded on trading venues in Hong Kong, Hong Kong trading venues often act as additional centres of liquidity for those EU issued shares. This feature allows EU investment firms to trade in EU issued shares admitted to trading and traded on EU venues outside business hours of the EU trading venues. The recognition of the legal and supervisory framework of Hong Kong would preserve the ability of EU investment firms to continue trading in EU issued shares outside business hours of EU trading venues

(25) This decision is based on data that demonstrates that overall EU trading in a number of shares admitted on exchanges in Hong Kong is of such frequency that MiFID firms could not avail themselves of the exception set out in Article 23(1)(a) of Regulation (EU) No 600/2014. This implies that the trading obligation set out in Article 23(1) of Regulation (EU) No 600/2014 would apply to a significant number of shares admitted to trading in Hong Kong.

(26) The decision will be complemented by cooperation arrangements to ensure the effective exchange of information and coordination of supervisory activities between the national competent authorities and the SFC.

(27) This Decision is based on the legally binding requirements relating to recognised exchange companies applicable in Hong Kong at the time of the adoption of this Decision. The Commission should continue monitoring on a regular basis the evolution of the legal and supervisory arrangements for these trading venues, market developments, the effectiveness of supervisory cooperation in relation to monitoring and enforcement and the fulfilment of the conditions on the basis of which this Decision has been taken.

(28) The Commission should conduct the regular review of the legal and supervisory arrangements applicable to recognised exchange companies in Hong Kong. This is without prejudice to the possibility of the Commission to undertake a specific review at any time, where relevant developments make it necessary for the Commission to reassess the equivalence granted by this Decision. Any reassessment could lead to the repeal of this Decision.

(29) Considering that Regulation (EU) No 600/2014 and Directive 2014/65/EU apply from 3 January 2018, it is necessary that this decision enters into force on the day following the day of publication in the *Official Journal of the European Union*.

(30) The measures provided for in this Decision are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of Article 23(1) of Regulation (EU) No 600/2014 the legal and supervisory framework in Hong Kong Special Administrative Region applicable to recognised exchange companies authorised therein and as set out in the Annex to this Decision shall be considered to be equivalent to the requirements resulting from Directive 2014/65/EU, Regulations (EU) No 600/2014 and (EU) No 596/2014 and Directive 2004/109/EC and to be subject to effective supervision and enforcement.

Article 2

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

Done at Brussels, 13 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Recognised exchange companies:

The Stock Exchange of Hong Kong Limited (SEHK)

COMMISSION IMPLEMENTING DECISION (EU) 2017/2320

of 13 December 2017

on the equivalence of the legal and supervisory framework of the United States of America for national securities exchanges and alternative trading systems in accordance with Directive 2014/65/EU of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU [1], and in particular Article 25(4)(a) thereof,

Whereas:

(1) Article 23(1) of Regulation (EU) No 600/2014 of the European Parliament and of the Council [2] requires investment firms to ensure that the trades they undertake in shares admitted to trading on regulated markets, or traded on trading venues should take place on regulated markets, multilateral trading facilities (MTFs) or systematic internalisers, or third-country trading venues assessed by the Commission as equivalent in accordance with Article 25(4)(a) of Directive 2014/65/EU.

(2) Article 23(1) of Regulation (EU) No 600/2014 only applies a trading obligation in respect of shares. The trading obligation does not comprise other equity instruments, such as depositary receipts, ETFs, certificates and other similar financial instruments.

(3) The equivalence procedure for trading venues established in third countries set out in Article 25(4)(a) of Directive 2014/65/EU aims to allow investment firms to undertake trades in shares that are subject to the trading obligation in the Union, on third-country trading venues recognised as equivalent. The Commission should assess whether the legal and supervisory framework of a third country ensures that a trading venue authorised in that third country complies with legally binding requirements which are equivalent to the requirements resulting from Regulation (EU) No 596/2014 of the European Parliament and of the Council [3], from Title III of Directive 2014/65/EU, from Title II of Regulation (EU) No 600/2014 and from Directive 2004/109/EC of the European Parliament and of the Council [4], and which are subject to effective supervision and enforcement in that third country. This should be read in the light of the objectives pursued by these acts, in particular their contribution to the establishment and functioning of the internal market, market integrity, investor protection and ultimately, but no less importantly, financial stability.

(4) In accordance with the forth subparagraph Article 25(4)(a) of Directive 2014/65/EU, a third-country legal and supervisory framework may be considered equivalent where that framework fulfils at least the conditions that (a) the markets are subject to authorisation and to effective supervision and enforcement on an ongoing basis (b) the markets have clear and transparent rules regarding the admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable (c) security issuers should be subject to periodic and ongoing information requirements ensuring a high level of investor protection, and (d) market transparency and integrity are ensured by the prevention of market abuse in the form of insider dealing and market manipulation.

(5) The purpose of this equivalence assessment is to assess, inter alia, whether the legally binding requirements which are applicable in United States of America (the 'USA' or the 'U.S.') to national securities exchanges ('NSE')

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[1] OJ L 173 12.6.2014, p. 349

[2] Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

[3] Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

[4] Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).

and alternative trading systems ('ATS') established therein and registered with and under the supervision of the U.S. Securities and Exchange Commission ('SEC') are equivalent to the requirements resulting from Regulation (EU) No 596/2014, from Title III of Directive 2014/65/EU, from Title II of Regulation (EU) No 600/2014 and from Directive 2004/109/EC, which are subject to effective supervision and enforcement in that third country.

(6) As regards the conditions that the markets are subject to authorisation and to effective supervision and enforcement on an ongoing basis; Section 3(a)(1) of the Securities Exchange Act of 1934 ('the Exchange Act') defines an exchange as any organization, association, or group of persons which constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange. The term exchange is further defined under SEC Rule 3b-16 as an organization, association or group of persons that (1) brings together the orders for securities of multiple buyers and sellers and (2) uses established, non-discretionary methods (whether by providing a trading facility or by setting rules) under which such orders shall interact with each other and the buyers and sellers entering such orders agree to the terms of the trade. Accordingly, an exchange must operate a multilateral system in accordance with non-discretionary rules. An exchange must either register with the SEC as a NSE or register with the SEC as a broker-dealer and comply with Regulation ATS.

(7) Furthermore, a NSE must provide members with impartial access to their markets and services. The access criteria must further be transparent, and must not be applied in an unfairly discriminatory manner. To this effect, a NSE is required to have rules in place that prescribe the means by which any registered broker-dealer may apply to become a member. The SEC, pursuant to Section 19(b) of the Exchange Act, reviews rules for admission to a NSE. While NSE must have reasonable standards for access, such standards should act to prohibit unreasonably discriminatory denials of access. A NSE must deny membership to any non-registered broker-dealer and may deny membership to any broker-dealer that is subject to a statutory disqualification.

(8) Section 242.300 of Title 17 of the Code of Federal Regulations Part 242 ('Regulation ATS') defines an ATS as any organization, association, person, group of persons, or system that provides a market place for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange within the meaning of Exchange Act Rule 3b-16. Under Regulation ATS, an entity that falls within the definition of an exchange must register either as a NSE or as a broker-dealer and comply with Regulation ATS. An ATS must operate a multilateral system where participants execute transactions in accordance with non-discretionary rules. ATSs that account for 5 % or more of the average daily trading volume within a certain time period in any equity security must comply with the fair access requirements of Section 242.301(b)(5)(ii) of the Regulation ATS. Specifically, they must establish written standards for granting access to trading in the relevant security on their systems and maintain these standards in their records. An ATS is prohibited from unreasonably restricting or limiting any persons with respect to access to its services for those equity securities for which the ATS accounts for 5 % or more of the average daily trading volume in the applicable time period, and must not apply these standards in an unfair or discriminatory manner. The access standards are provided to the SEC upon request.

(9) The four conditions set out in Article 25(4)(a) subparagraph 4 of Directive 2014/65/EU must be fulfilled in order to determine that the legal and supervisory arrangements of a third country regarding the NSEs and ATSs authorised therein are equivalent to those laid down in Directive 2014/65/EU.

(10) According to the first condition, third-country trading venues must be subject to authorisation and to effective supervision and enforcement on an ongoing basis.

(11) A NSE must be registered by the SEC before it may begin operations. The SEC grants registration if it finds that the applicable requirements with respect to the applicant are satisfied. The SEC must deny a registration if it does not make this finding (Section 19(a)(1) of the Securities Exchange Act). The Exchange Act requires that an exchange has in place arrangements to address all of the types of conduct and activity that an applicant wished

to engage in. Once registered, NSEs are required to maintain rules, policies, and procedures consistent with their statutory obligations, and to have the capacity to carry out their obligations. Upon registration, a NSE becomes a Self-Regulatory Organisation ('SRO'). In this capacity, NSEs monitor and enforce compliance by their members and persons associated with their members with the provisions of the Exchange Act, the rules and regulations thereunder and with their own rules. In the case of non-compliance of members with NSEs rules, NSEs in their capacity as SROs are required to address any potential violations of the market's rules or the federal securities laws by its members. They are also required to inform the SEC of significant infringements.

(12) An ATS must comply with Regulation ATS, which requires, among other things, that the ATS register with the SEC as a broker-dealer under Section 15 of the Securities Exchange Act. ATSs, as broker-dealers, must become a member of at least one SRO, such as the Financial Industry Regulatory Authority ('FINRA'). The broker-dealer applicant must submit information about its background, including the type of business in which it proposes to engage, the identity of the applicant's direct and indirect owners, and other control persons, including executive officers and whether the applicant or any of its control affiliates has been subject to criminal prosecutions, regulatory actions or civil actions in connection with any investment-related activity. The SEC must deny a registration if it does not make this finding (S. 15 of the Securities Exchange Act).

(13) Under the U.S. framework, continued compliance with the initial registration requirements is a condition for continued registration for NSEs and ATSs. Registered NSEs and ATSs are both required to maintain rules, policies, and procedures consistent with their obligations under the federal securities laws and rules, and to have the capacity to carry out their obligations.

(14) As regards effective supervision, the Securities Act of 1933 ('The Securities Act') and the Exchange Act constitute the main pieces of the primary legislation which establishes a legally enforceable regime for the trading of securities in the USA. The Exchange Act empowers the SEC with broad authority over all aspects of the securities industry, including the power to register, regulate, and oversee broker-dealers, including ATSs, transfer agents, and clearing agencies as well as the U.S. SROs which include securities exchanges and FINRA. The Exchange Act also identifies and prohibits certain types of conduct in the markets and provides the SEC with disciplinary powers over regulated entities and persons associated with them. The Exchange Act also empowers the SEC to require periodic reporting of information by companies with publicly traded securities. Self-regulation of market intermediaries through a system of SROs is one of the core elements of the U.S regulatory framework. Under the U.S. framework, SROs, as regulators, are primarily responsible for establishing the rules under which their members conduct business and for monitoring the ways their members conduct business. In the case of non-compliance of members with ATS rules, ATS in their capacity as SROs are required to address any potential violations of the market's rules or the federal securities laws by its members. They are also required to inform the SEC of significant infringements.

(15) The Exchange Act requires all registered NSEs to be able to enforce compliance by their members and persons associated with their members with the provisions of the Exchange Act, the rules and regulations thereunder, and their own rules. As part of their ongoing supervision of NSEs, the SEC evaluates each exchange's ability to survey their members and their trading activities. It is also incumbent on a NSE to address any potential violations of the market's rules or the federal securities laws by its members and report such potential violations to the SEC. As part of its duty to enforce compliance by their members, each NSE is responsible for investigating and disciplining any breaches of the Exchange Act, the rules and regulations thereunder. The SEC may also, in its discretion, investigate and prosecute any violations of the Exchange Act and the rules thereunder. FINRA, a SRO for broker-dealers including ATSs, is required to enforce compliance by its members, including ATSs, with the provisions of the Exchange Act, the rules and regulations thereunder, and their own rules. The SRO rules are also subject to SEC review. If the SEC finds that an SRO has failed, without reasonable justification or excuse, to enforce compliance with any such provision by a member or person associated with a member, it has powers to impose sanctions against the SRO under Section 19(h) of the Exchange Act. Pursuant to Section 21 of the Exchange Act, the SEC may investigate violations and seek sanctions against SRO members that violate an SRO rule. As part of their ongoing supervision of SROs, the SEC evaluates the ability of each NSE and FINRA to supervise their members and their trading activities. NSEs and ATSs are required to inform SEC of any rule changes.

(16) As regards effective enforcement, the SEC has broad authority to investigate actual or potential violations of the federal securities laws, including the Exchange Act and the rules thereunder. The SEC can obtain records from regulated entities pursuant to its supervisory powers. Moreover, under its subpoena authority, the SEC can compel the production of documents or testimony from any person or entity anywhere within the United States. The SEC has authority to take enforcement actions by commencing civil actions in federal district court or instituting administrative proceedings before an SEC administrative law judge for violations of the federal securities laws, including insider trading and market manipulation. In civil actions, the SEC may seek disgorgement of ill-gotten gains, pre-judgment interest, civil money penalties, injunctions, an order prohibiting one from serving as an officer or director of a public company or from participating in an offering of penny stock, as well as other ancillary relief (such as an accounting from a defendant). In administrative actions, sanctions may include censures, limitations on activities, civil penalties in addition to disgorgement of ill-gotten gains or bars as to individuals, or revocation of the registration of an entity. The SEC has powers to bring an enforcement action against an SRO (e.g., a NSE or FINRA) for failure to act or adequately perform required functions.

(17) The SEC also has authority to investigate and take disciplinary or other enforcement actions against an ATS for infringements of the U.S. federal securities laws. Moreover, the SEC is authorised to coordinate its enforcement actions with domestic and international counterparts. For example, the SEC may refer a matter to the U.S. Department of Justice for criminal prosecution or to other criminal or regulatory bodies for action at any point during an inquiry or investigation. In addition, the SEC has authority to share non-public information in its possession with domestic and international counterparts.

(18) It can therefore be concluded that NSEs and ATSs registered with the U.S. SEC are subject to authorisation and to effective supervision and enforcement on an ongoing basis.

(19) According to the second condition, third-country trading venues must have clear and transparent rules regarding admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable.

(20) Pursuant to Section 12(a) of the Exchange Act, securities listed on a U.S. NSE must be registered on a NSE by the issuer. Registration of a security requires the issuer to file an application with the exchange where its securities will be listed; the issuer must also file registration statements with the SEC. The exchange authority will certify to the SEC once the security has been approved by the NSE for listing and registration. All securities traded on a NSE, and ATS trading listed securities, must meet listing standards set out in the exchange's listing rules, which must be filed with the SEC under Section 19(b) of the Exchange Act and Rule 19b-4. Unlisted securities traded publicly on an ATS are subject to SEC disclosure rules and other standards for publicly traded securities. SEC rules and listing standards require issuers to make timely disclosure of information that would be material to investors or likely to have a significant effect on the price of an issuer's securities. Section 10A(m) and Rule 10A-3 thereunder also directs each NSE to prohibit the listing of any security of an issuer that is not in compliance with the audit committee requirements set forth in the statute and rule. The Securities Act requires that investors receive financial and other significant information concerning securities being offered for public sale and their issuers, and prohibit deceit, misrepresentations, and other fraud in the sale of securities. NSEs are required to have clear and transparent rules regarding the admission of securities to trading. Securities must be freely negotiable and meet certain criteria regarding the distribution of securities to the public and information about the security and the issuer that are needed to value the security. A NSE cannot register securities for which information about the securities and the issuer is not publicly available. Finally, orderly trading of securities on a NSE or ATSs is ensured by the SEC's powers to suspend trading and issue emergency orders under certain circumstances. Pursuant to Section 12(k)(1)(A) of the Exchange Act, the SEC, if the public interest and the protection of investors so require, can issue an order summarily to temporarily suspend all trading in a specific security.

(21) The U.S. regulatory framework includes requirements for providing pre-trade information to market participants. The securities laws and rules and SRO rules require real-time reporting of best bids, best offers and quotation sizes for any security on NSEs or ATSs that trade 5 % or more of the volume in a given NMS stock and displays orders to any person. The 5 % threshold is based on Rule 301(b)(3) and (b)(5) and is calculated using share volumes reported to the U.S. consolidated tapes. The SEC has authority to examine ATSs for compliance with federal securities laws and Regulation ATS, including whether an ATS has exceeded this 5 % threshold and complies, as applicable, with the requirement of Rule 301(b)(3) of Regulation ATS. Under SEC Rule 602, each NSE is required to collect, process, and make available to vendors the best bid, best offer, and aggregate quotation sizes for each subject security. The information is made widely available to the public on fair, reasonable and non-discriminatory terms. In the public interest and as appropriate for the protection of investors and the maintenance of fair and orderly markets, under Section 11A(a)(1)(C) of the Exchange Act and the rules thereunder, NSEs are required to ensure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. The U.S. regulatory framework also includes requirements for providing post-trade information, including the price, volume and time of the transactions, to market participants on a timely basis. Rule 601(a) under Regulation NMS requires exchanges and FINRA to file transaction reporting plans for approval with the SEC. The SEC and SRO rules require real-time reporting of transactions on exchanges and on ATSs. Broker-dealers, including ATSs, must submit transactions information to FINRA for dissemination.

(22) It can therefore be concluded that NSEs and ATSs registered with the U.S. SEC have clear and transparent rules regarding the admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner and are freely negotiable.

(23) According to the third condition, security issuers must be subject to periodic and ongoing information requirements ensuring a high level of investor protection.

(24) Issuers whose securities are admitted to trading on a U.S. NSE are required to publish annual and interim financial reports. Listed issuers and companies whose shares are admitted to trading are also subject to the reporting requirements under Section 13(a) or Section 15(d) of the Exchange Act. Securities admitted to trading on a U.S. NSE may also be traded on another NSE or on ATSs. The reporting obligation applicable to such reporting issuers applies regardless of the venue on which individual trades take place. The disclosure of comprehensive and timely information about security issuers allows investors to assess the business performance of issuers and ensures appropriate transparency for investors through a regular flow of information.

(25) It can therefore be concluded that issuers whose securities are admitted to trading on NSEs and ATSs are subject to periodic and ongoing information requirements ensuring a high level of investor protection.

(26) According to the fourth condition, the third-country legal and supervisory framework must ensure market transparency and integrity by preventing market abuse in the form of insider dealing and market manipulation.

(27) Federal securities laws of the USA establish a comprehensive regulatory framework to ensure market integrity and prevent insider trading and market manipulation. This framework prohibits, and authorises the SEC to take enforcement action against, conduct which could result in distorting the functioning of the markets such as market manipulation and communication of false or misleading information (including in Sections 9(a), 10(b), 14(e), 15(c) of the Exchange Act, and Rule 10b-5 thereunder). Federal securities laws also prohibit insider trading (e.g., Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder). The SEC may bring enforcement action against a person for buying or selling securities on the basis of material, non-public information obtained or used in violation of a fiduciary duty or a duty of trust or confidence, or for communicating such information in violation of a duty (Section 17(a) of the Securities Act and Section 10(b) and Rule 10b-5 of the Exchange Act).

(28) It can therefore be concluded that the U.S. legal and supervisory framework ensures market transparency and integrity by preventing market abuse in the form of insider dealing and market manipulation.

(29) It can therefore further be concluded that the legal and supervisory framework governing NSEs and ATSs registered with the SEC complies with the four abovementioned conditions for legal and supervisory arrangements and hence should be considered to provide for an equivalent system to the requirements for trading venues laid down in Directive 2014/65/EU, Regulation (EU) No 600/2014 Regulation (EU) No 596/2014 and Directive 2004/109/EC.

(30) This decision is based on the legal and supervisory framework governing NSEs and ATSs registered with the SEC on which shares that are admitted to trading in the EU are also traded following a separate admission to be traded on NSEs. This decision does not therefore cover ATSs on which shares admitted to trading in the EU are traded without having obtained that separate admission.

(31) The decision will also be complemented by cooperation arrangements to ensure the effective exchange of information and coordination of supervisory activities between the national competent authorities and the SEC.

(32) This Decision is based on the legally binding requirements relating to NSEs and ATSs applicable in the U.S. at the time of the adoption of this Decision. The Commission should continue monitoring on a regular basis the evolution of the legal and supervisory arrangements for these trading venues, market developments, the effectiveness of supervisory cooperation in relation to monitoring and enforcement and the fulfilment of the conditions on the basis of which this Decision has been taken.

(33) For that purpose, the Commission should conduct regular reviews of the legal and supervisory arrangements applicable to NSEs and ATSs in the U.S. This is without prejudice to the possibility of the Commission to undertake a specific review at any time, where relevant developments make it necessary for the Commission to re-assess the equivalence granted by this Decision, in particular taking into account the experience acquired as regards the execution of trades on ATS after one year following entry into force of this decision. Any re-assessment could lead to the repeal of this Decision.

(34) Considering that Regulation (EU) No 600/2014 and Directive 2014/65/EU applies from 3 January 2018, it is necessary that this decision enters into force on the day following the day of publication in the *Official Journal of the European Union*.

(35) The measures provided for in this Decision are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of Article 23(1) of Regulation (EU) No 600/2014 the legal and supervisory framework in the United States of America applicable to national securities exchanges and alternative trading systems registered with the Securities and Exchange Commission as set out in the Annex to this Decision shall be considered to be equivalent to the requirements for regulated markets as defined in Directive 2014/65/EU resulting from Regulation (EU) No 596/2014, from Title III of Directive 2014/65/EU, from Title II of Regulation (EU) No 600/2014 and from Directive 2004/109/EC and to be subject to effective supervision and enforcement.

Article 2

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

Done at Brussels, 13 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

National securities exchanges registered with the US Securities and Exchange Commission and considered equivalent to regulated markets as defined in Directive 2014/65/EU:

(a) BOX Options Exchange LLC

(b) Cboe BYX Exchange, Inc. (formerly Bats BYX Exchange, Inc.; BATS Y-Exchange, Inc.)

(c) Cboe BZX Exchange, Inc. (formerly Bats BZX Exchange, Inc.; BATS Exchange, Inc.)

(d) Cboe C2 Exchange, Inc.

(e) Cboe EDGA Exchange, Inc. (formerly Bats EDGA Exchange, Inc.; EDGA Exchange, Inc.)

(f) Cboe EDGX Exchange, Inc. (formerly Bats EDGX Exchange, Inc.; EDGX Exchange, Inc.)

(g) Cboe Exchange, Inc.

(h) Chicago Stock Exchange, Inc.

(i) The Investors Exchange LLC

(j) Miami International Securities Exchange

(k) MIAX PEARL, LLC

(l) Nasdaq BX, Inc. (formerly NASDAQ OMX BX, Inc.; Boston Stock Exchange)

(m) Nasdaq GEMX, LLC (formerly ISE Gemini)

(n) Nasdaq ISE, LLC (formerly International Securities Exchange, LLC)

(o) Nasdaq MRX, LLC (formerly ISE Mercury)

(p) Nasdaq PHLX LLC (formerly NASDAQ OMX PHLX, LLC; Philadelphia Stock Exchange)

(q) The Nasdaq Stock Market

(r) New York Stock Exchange LLC

(s) NYSE Arca, Inc.

(t) NYSE MKT LLC (formerly NYSE AMEX and the American Stock Exchange)

(u) NYSE National, Inc. (formerly National Stock Exchange, Inc.)

Alternative trading systems registered with the US Securities and Exchange Commission and considered equivalent to regulated markets as defined in Directive 2014/65/EU:

(a) Aqua Securities L.P.

(b) ATS-1

(c) ATS-4

(d) ATS-6

(e) Barclays ATS

(f) Barclays DirectEx

(g) BIDS Trading, L.P.

(h) CIOI

(i) CitiBLOC

(j) CITICROSS

(k) CODA Markets, Inc

(l) Credit Suisse Securities (USA) LLC

(m) Deutsche Bank Securities, Inc

(n) eBX LLC

(o) Instinct X

(p) Instinet Continuous Block Crossing System (CBX)

(q) Instinet, LLC (*Instinet Crossing, Instinet BLX*)

(r) Instinet, LLC (*BlockCross*)

(s) JPB-X

(t) J.P. Morgan ATS ('JPM-X')

(u) JSVC LLC

(v) LiquidNet H_2O ATS

(w) Liquidnet Negotiation ATS

(x) Luminex Trading & Analytics LLC

(y) National Financial Services, LLC

(z) POSIT

(aa) SIGMA X2

(bb) Spot Quote LLC

(cc) Spread Zero LLC

(dd) UBS ATS

(ee) Ustocktrade

(ff) Virtu MatchIt

(gg) XE

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