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Contents

I *Resolutions, recommendations and opinions*

OPINIONS

European Commission

2020/C 317/01	Commission opinion of 23 September 2020 relating to the plan for the disposal of radioactive waste arising from the decommissioning of Units 1 and 2 of the Ringhals nuclear power plant located in Sweden	1
---------------	--	---

II *Information*

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

European Commission

2020/C 317/02	Non-opposition to a notified concentration (Case M.9942 – Partners Group/Bridgepoint/Rovensa) ⁽¹⁾	3
2020/C 317/03	Initiation of proceedings (Case M.9820 — Danfoss/Eaton Hydraulics) ⁽¹⁾	4
2020/C 317/04	Communication from the Commission Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021	5

IV *Notices*

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

European Commission

2020/C 317/05	Euro exchange rates — 24 September 2020	20
---------------	---	----

EN

⁽¹⁾ Text with EEA relevance.

Court of Auditors

2020/C 317/06	Special Report No 19/2020 'Digitising European Industry: an ambitious initiative whose success depends on the continued commitment of the EU, governments and businesses'	21
---------------	---	----

V Announcements

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

European Commission

2020/C 317/07	Prior notification of a concentration (Case M.9928 – QuattroR/HGM/Burgo) Candidate case for simplified procedure ⁽¹⁾	22
2020/C 317/08	Prior notification of a concentration (Case M.9962 — Mylan/Aspen's EU Thrombosis Business) ⁽¹⁾	24

OTHER ACTS

European Commission

2020/C 317/09	Publication of an application for approval of an amendment, which is not minor, to a product specification pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs	25
2020/C 317/10	Publication of an application for registration of a name pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs.....	31

⁽¹⁾ Text with EEA relevance.

I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN COMMISSION

COMMISSION OPINION

of 23 September 2020

relating to the plan for the disposal of radioactive waste arising from the decommissioning of Units 1 and 2 of the Ringhals nuclear power plant located in Sweden**(Only the Swedish text is authentic)**

(2020/C 317/01)

The assessment below is carried out under the provisions of the Euratom Treaty, without prejudice to any additional assessments to be carried out under the Treaty on the Functioning of the European Union and the obligations stemming from it and from secondary legislation ⁽¹⁾.

On 7 April 2020 the European Commission received from the Government of Sweden, in accordance with Article 37 of the Euratom Treaty, General Data relating to the plan for the disposal of radioactive waste ⁽²⁾ arising from the decommissioning of Units 1 and 2 of the Ringhals nuclear power plant.

On the basis of these data and additional information requested by the Commission on 8 May 2020 and provided by the Swedish authorities on 3 June 2020, and following consultation with the Group of Experts, the Commission has drawn up the following opinion:

1. The distance between the Ringhals site and the nearest border with another Member State, in this case Denmark, is 50 km.
2. During normal decommissioning and dismantling operations, the discharges of liquid and gaseous radioactive effluents are not liable to cause an exposure of the population in another Member State that would be significant from the point of view of health, in respect of the dose limits laid down in the Basic Safety Standards Directive ⁽³⁾.
3. Solid radioactive waste is temporarily stored on site before shipment to licensed treatment or disposal facilities located in Sweden.

Non-radioactive solid waste and residual materials in compliance with clearance levels will be released from regulatory control for disposal as conventional waste or for reuse or recycling. This will be done in compliance with the criteria laid down in the Basic Safety Standards Directive.

4. In the event of unplanned releases of radioactive effluents that may follow the accidents of the type and magnitude considered in the General Data, the doses likely to be received by the population of another Member State would not be significant from the point of view of health, in respect of the reference levels laid down in the Basic Safety Standards Directive.

⁽¹⁾ For instance, under the Treaty on the Functioning of the European Union, environmental aspects should be further assessed. Indicatively, the Commission would like to draw attention to the provisions of Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 2014/52/EU; to Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment, as well as to Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and to Directive 2000/60/EC establishing a framework for Community action in the field of water policy.

⁽²⁾ The disposal of radioactive waste in the meaning of point 1 of Commission Recommendation 2010/635/Euratom of 11 October 2010 on the application of Article 37 of the Euratom Treaty (OJ L 279, 23.10.2010, p. 36).

⁽³⁾ Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation (OJ L 13, 17.1.2014, p. 1).

In conclusion, the Commission is of the opinion that the implementation of the plan for the disposal of radioactive waste arising from the decommissioning and dismantling of Units 1 and 2 of the Ringhals nuclear power plant located in Sweden, in normal operation as well as in the event of the accidents of the type and magnitude considered in the General Data, is not liable to result in a radioactive contamination, significant from the point of view of health, of the water, soil or airspace of another Member State, in respect of the provisions laid down in the Basic Safety Standards Directive.

Done at Brussels, 23 September 2020.

For the Commission
Kadri SIMSON
Member of the Commission

II

*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN COMMISSION

Non-opposition to a notified concentration
(Case M.9942 – Partners Group/Bridgepoint/Rovensa)**(Text with EEA relevance)**

(2020/C 317/02)

On 21 September 2020, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 ⁽¹⁾. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/homepage.html?locale=en>) under document number 32020M9942. EUR-Lex is the online access to European law.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

Initiation of proceedings
(Case M.9820 — Danfoss/Eaton Hydraulics)

(Text with EEA relevance)

(2020/C 317/03)

On 21 September 2020, the Commission decided to initiate proceedings in the abovementioned case after finding that the notified concentration raises serious doubts as to its compatibility with the internal market. The initiation of proceedings opens a second phase investigation with regard to the notified concentration, and is without prejudice to the final decision on the case. The decision is based on Article 6(1)(c) of Council Regulation (EC) No 139/2004 ⁽¹⁾.

The Commission invites interested third parties to submit their observations on the proposed concentration to the Commission.

In order to be fully taken into account in the procedure, observations should reach the Commission not later than 15 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference M.9820 — Danfoss/Eaton Hydraulics, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

COMMUNICATION FROM THE COMMISSION

Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021

(2020/C 317/04)

Table of contents

	<i>Page</i>
Introduction	6
1. Scope and definitions	7
1.1. Scope of application	7
1.2. Aid measures covered by these Guidelines	7
1.2.1. Aid to compensate for increases in electricity prices resulting from the inclusion of the costs of greenhouse gas emissions due to the EU ETS (commonly referred to as 'indirect emission costs')	7
1.2.2. Aid involved in the optional transitional free allocation for the modernisation of the energy sector	7
1.3. Definitions	8
2. Common assessment principles	9
3. Compatibility assessment under Article 107(3)(c) of the treaty	10
3.1. Aid to undertakings in sectors deemed to be exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices (aid for indirect emission costs)	10
3.2. Aid involved in optional transitional free allowances for the modernisation of electricity generation	12
4. Evaluation	14
5. Energy audits and management systems	14
6. Transparency	14
7. Reporting and monitoring	15
8. Period of application and revision	16
Annex I	17
Annex II	18
Annex III	19

INTRODUCTION

1. In order to prevent State aid from distorting competition in the internal market and affecting trade between Member States in a way which is contrary to the common interest, Article 107(1) of the Treaty on the Functioning of the European Union ('the Treaty') lays down the principle that State aid is prohibited unless it falls within the categories of exceptions laid down in Article 107(2) of the Treaty or is declared by the Commission compatible with the internal market pursuant to Article 107(3) of the Treaty. Articles 42 and 93, Article 106(2) and Article 108(2) and (4) of the Treaty also provide for conditions under which State aid is or may be considered compatible with the internal market.
2. On the basis of Article 107(3)(c) of the Treaty, the Commission may consider State aid to facilitate the development of certain economic activities compatible with the internal market, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.
3. Directive 2003/87/EC of the European Parliament and of the Council ⁽¹⁾ established a system for greenhouse gas emission allowance trading within the Union (hereinafter referred to as the 'EU ETS'), in order to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner. Directive 2003/87/EC was amended in 2018 ⁽²⁾ to improve and extend the EU ETS for the period 2021-2030.
4. On 11 December 2019, the Commission published the European Green Deal Communication ⁽³⁾, outlining the policies to achieve climate-neutrality in Europe by 2050 and to address other environmental problems. To deliver the European Green Deal, there is a need to rethink policies for clean energy supply across the economy, including industry, production and consumption, large-scale infrastructure, transport, food and agriculture, construction, as well as taxation and social benefits.
5. As long as many international partners do not share the same ambition as the Union, there is a risk of carbon leakage, either because production is transferred from the Union to other countries with lower ambition for emission reduction, or because Union products are replaced by more carbon-intensive imports. If this risk materialises, there will be no reduction in global emissions, and this will frustrate the efforts of the Union and its industries to meet the global climate objectives of the Paris Agreement ⁽⁴⁾, adopted on 12 December 2015, following the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (the 'Paris Agreement').
6. The primary objective of State aid control in the context of implementation of the EU ETS is to ensure that the positive effects of the aid outweigh its negative effects in terms of distortions of competition in the internal market. State aid must be necessary to achieve the environmental objective of the EU ETS (necessity of the aid) and must be limited to the minimum needed to achieve the environmental protection sought (proportionality of the aid) without creating undue distortions of competition and trade in the internal market.
7. In these Guidelines, the Commission sets out the conditions under which aid measures in the context of the EU ETS may be considered compatible with the internal market under Article 107(3)(c) of the Treaty. Following the review and possible revision of all climate-related policy instruments (notably of the Directive 2003/87/EC) to deliver additional greenhouse gas emissions reductions for 2030, reflecting the Climate Target Plan, and the initiative for the creation of a Carbon Border Adjustment Mechanism, the Commission will check whether any revision or adaptation of these Guidelines is necessary to ensure consistency with, and contribute to, the fulfilment of the climate neutrality objective while respecting a level playing field ⁽⁵⁾.

⁽¹⁾ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

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

⁽³⁾ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Green Deal, COM(2019) 640 final.

⁽⁴⁾ OJ L 282, 19.10.2016, p. 4.

⁽⁵⁾ See conclusions adopted by the European Council at the meeting of 12 December 2019.

8. These Guidelines also take into account the specificities of European small and medium enterprises (SMEs), in line with the SME Strategy for a sustainable and digital Europe ⁽⁶⁾.

1. SCOPE AND DEFINITIONS

1.1. Scope of application

9. The principles set out in these Guidelines apply only to the specific aid measures provided for in Articles 10a(6) and 10b of the Directive 2003/87/EC.
10. Aid may not be awarded to firms in difficulty within the meaning of the Guidelines on State aid for rescuing and restructuring firms in difficulty ⁽⁷⁾.
11. When assessing aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring aid to be illegal and incompatible with the internal market, the Commission will take account of the amount of aid still to be recovered. ⁽⁸⁾ In practice, it will assess the cumulative effect of both aid measures and may suspend the payment of the new aid until the outstanding recovery order is implemented.

1.2. Aid measures covered by these Guidelines

1.2.1. *Aid to compensate for increases in electricity prices resulting from the inclusion of the costs of greenhouse gas emissions due to the EU ETS (commonly referred to as 'indirect emission costs')*

12. Under Article 10a(6) of Directive 2003/87/EC, Member States should adopt financial measures in favour of sectors or subsectors which are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices, provided that such financial measures are in accordance with State aid rules, and in particular do not cause undue distortions of competition in the internal market.

1.2.2. *Aid involved in the optional transitional free allocation for the modernisation of the energy sector*

13. Under Article 10c of Directive 2003/87/EC, Member States fulfilling certain conditions relating to the level of GDP per capita in comparison to the Union average, may derogate from the principle set out in the second subparagraph of Article 10a(1) of Directive 2003/87/EC that no free allocation is to be made in respect of any electricity production. Those Member States may give a transitional free allocation to installations for electricity generation for the modernisation, diversification and sustainable transformation of the energy sector.
14. As already established in a number of Commission decisions ⁽⁹⁾, the granting of transitional free allowances to the energy sector involves State aid within the meaning of Article 107(1) of the Treaty, because Member States forego revenues by granting free allowances and give a selective advantage to energy actors. Those actors may compete with energy actors in other Member States, which may, as a result, distort or threaten to distort competition and affect trade in the internal market.

⁽⁶⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, An SME Strategy for a sustainable and digital Europe, COM(2020) 103 final.

⁽⁷⁾ Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1).

⁽⁸⁾ See in this respect the Joined Cases T-244/93 and T-486/93, *TWD Textilwerke Deggendorf GmbH v Commission* ECLI:EU:T:1995:160, and the Notice from the Commission – Towards an effective implementation of Commission decisions ordering Member States to recover unlawful and incompatible State aid (OJ C 272, 15.11.2007, p. 4).

⁽⁹⁾ See for example, Commission Decision SA.34385 – Bulgaria – Allocation of free greenhouse gas emission allowances in line with Article 10c of Directive 2003/87/EC in exchange for investments in installations for electricity production and in energy infrastructure (OJ C 63, 20.2.2015, p. 1); Commission Decision SA.34674 – Poland – Free allowances to power generators under Article 10c of Directive 2003/87/EC (OJ C 24, 23.1.2015, p.1).

1.3. Definitions

15. For the purposes of these Guidelines the following definitions apply:

- (1) 'aid' means any measure fulfilling all the criteria laid down in Article 107(1) of the Treaty;
- (2) 'aid granting period' means one or more years within the period 2021-2030. If a Member State wishes to grant aid corresponding to a shorter period, it should take as a reference a business year of the beneficiaries and grant aid on a yearly basis;
- (3) 'carbon leakage' means the prospect of an increase in global greenhouse gas emissions when companies shift production outside the Union because they cannot pass on the cost increases induced by the EU ETS to their customers without significant loss of market share;
- (4) 'maximum aid intensity' means the total aid amount expressed as a percentage of the eligible costs;
- (5) 'auto generation' means generation of electricity by an installation that does not qualify as an 'electricity generator' within the meaning of point (u) of Article 3 of Directive 2003/87/EC;
- (6) 'beneficiary' means an undertaking receiving aid;
- (7) 'European Union Allowance' (EUA) means a transferable allowance to emit one tonne of CO₂ equivalent during a specified period;
- (8) 'gross value added' (GVA) means gross value added at factor costs, which is GVA at market prices less any indirect taxes plus any subsidies.
- (9) 'EUA forward price', in euros, means the simple average of the daily one-year forward EUA prices (closing offer prices) for delivery in December of the year for which the aid is granted, as observed in a given EU carbon exchange from 1 January to 31 December of the year preceding the year for which the aid is granted ⁽¹⁰⁾.
- (10) 'CO₂ emission factor', in tCO₂/MWh, means the weighted average of the CO₂ intensity of electricity produced from fossil fuels in different geographic areas. The weight reflects the production mix of the fossil fuels in the given geographic area. The CO₂ factor is the result of the division of the CO₂ equivalent emission data of the energy industry divided by the gross electricity generation based on fossil fuels in TWh. For the purposes of these Guidelines ⁽¹¹⁾, the areas are defined as geographic zones (a) which consist of submarkets coupled through power exchanges; or (b) within which no declared congestion exists and, in both cases, hourly day-ahead power exchange prices within the zones showing price divergence in euros (using daily ECB exchange rates) of maximum 1 % in significant number of all hours in a year. Such regional differentiation reflects the significance of fossil fuel plants for the final price set on the wholesale market and their role as marginal plants in the merit order. The mere fact that electricity is traded between two Member States does not automatically mean that they constitute a supranational region. Given the lack of relevant data at sub-national level, the geographic areas comprise the entire territory of one or more Member States. On this basis, the following geographic areas can be identified: Adriatic (Croatia and Slovenia), Nordic (Sweden and Finland), Baltic (Lithuania, Latvia and Estonia), Central Western Europe (Austria, Germany and Luxembourg), Iberia (Portugal and Spain), Czechia and Slovakia (Czechia and Slovakia) and all other Member States separately. The corresponding maximum regional CO₂ factors, which apply as maximal values when the notifying Member State has not established an assessment of the market based CO₂ factor pursuant to point (11) below, are listed in Annex III. In order to ensure equal treatment of sources of electricity and avoid possible abuses, the same CO₂ emission factor applies to all sources of electricity supply (auto generation, electricity supply contracts or grid supply) and to all aid beneficiaries in the Member State concerned;

⁽¹⁰⁾ For example, for aid granted for 2023, it is the simple average of the December 2023 EUA closing offer prices observed from 1 January 2022 to 31 December 2022 in a given EU carbon exchange.

⁽¹¹⁾ These Guidelines do not qualify as legislative instruments and therefore do not have to be incorporated into the EEA Agreement by the EEA Joint Committee. The EFTA Surveillance Authority is responsible for setting the relevant rules applicable for EFTA States, including the methodology for setting the CO₂ factors.

- (11) 'market-based CO₂ emission factor', in tCO₂/MWh. Member States intending to grant indirect cost compensation may, as part of the notification of the relevant scheme, request that the applicable CO₂ emission factor be established based on a study of the CO₂ content of the actual margin setting technology in the electricity market. Such a notification of a market-based CO₂ emission factor must demonstrate the appropriateness of the retained market-based CO₂ emission factor based on a model of the electrical system simulating price formation and observed data on the margin setting technology over the entire year t-1 (including the hours when imports were margin setting). This report must be submitted to the national regulatory authority for approval and transmitted to the Commission when the State aid measure is notified to the Commission pursuant to Article 108(3) of the Treaty. The Commission assesses the appropriateness of the study and the resulting market-based CO₂ emission factor as parts of its compatibility analysis under Article 107(3)(c) of the Treaty and the present guidelines;
- (12) 'actual output', in tonnes per year, means the installation's actual production in year t, determined *ex post* in year t+1;
- (13) 'actual electricity consumption', in MWh, means the actual electricity consumption at the installation (including electricity consumption for the production of out-sourced products eligible for aid) in year t, determined *ex post* in year t+1;
- (14) 'electricity consumption efficiency benchmark', in MWh/tonne of output and defined at Prodcum 8 level ⁽¹²⁾, means the product-specific electricity consumption per tonne of output achieved by the most electricity-efficient methods of production for the product considered. The electricity consumption efficiency benchmark update needs to be consistent with Article 10a(2) of Directive 2003/87/EC. For products within the eligible sectors for which fuel and electricity exchangeability has been established in section 2 of Annex I to Commission Delegated Regulation (EU) 2019/331 ⁽¹³⁾, electricity consumption efficiency benchmarks are determined within the same system boundaries, taking into account only the share of electricity for the determination of the aid amount. The corresponding electricity consumption benchmarks for products covered by eligible sectors are listed in Annex II to these Guidelines;
- (15) 'fall back electricity consumption efficiency benchmark' means [...] per cent of actual electricity consumption, determined by Commission decision together with the electricity consumption efficiency benchmarks. It corresponds to the average reduction effort imposed by the application of the electricity consumption efficiency benchmarks (benchmark electricity consumption/*ex ante* electricity consumption). It is applied for all products which fall within the eligible sectors, but for which an electricity consumption efficiency benchmark is not defined.

2. COMMON ASSESSMENT PRINCIPLES

16. To assess whether a notified aid measure can be considered compatible with the internal market, the Commission generally analyses whether the design of the aid measure ensures that the positive impact of the aid towards the achievement of an objective of common interest exceeds its potential negative effects on trade and competition.
17. The communication on State aid modernisation of 8 May 2012 ⁽¹⁴⁾ called for the identification and definition of common principles applicable to the assessment of compatibility of all the aid measures carried out by the Commission. The Commission will therefore consider an aid measure compatible with the Treaty only if it satisfies each of the following criteria: it must contribute to an objective of common interest in accordance with Article 107 (3) of the Treaty; it must be targeted towards a situation where aid can bring about a material improvement that the

⁽¹²⁾ The Prodcum list is a European list of products from extractive and manufacturing industries: https://ec.europa.eu/eurostat/ramon/nomenclatures/index.cfm?TargetUrl=LST_NOM&StrGroupCode=CLASSIFIC&StrLanguageCode=EN&IntFamilyCode=&TxtSearch=-prodcum&IntCurrentPage=1

⁽¹³⁾ Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 59, 27.2.2019, p. 8).

⁽¹⁴⁾ COM/2012/0209 final

market cannot deliver itself, for example by remedying a market failure or addressing an equity or cohesion concern; it must be an appropriate policy instrument to address the objective of common interest; it must change the behaviour of the undertakings concerned in such a way that they engage in additional activity, which they would not carry out without the aid or would carry out in a restricted or different manner or location; the amount and intensity of the aid must be limited to the minimum needed; the negative effects of the aid must be sufficiently limited; Member States, the Commission, economic operators and the public must have easy access to all relevant acts and to pertinent information about the aid awarded thereunder.

18. Sections 3.1 and 3.2 explain how these general criteria translate into specific compatibility requirements to be met for the purposes of the aid measures covered by these Guidelines.

3. COMPATIBILITY ASSESSMENT UNDER ARTICLE 107(3)(C) OF THE TREATY

3.1. **Aid to undertakings in sectors deemed to be exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices (aid for indirect emission costs)**

19. Aid for indirect emission costs will be considered compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty provided that the conditions below are met.
20. The objective of this type of aid is to prevent a significant risk of carbon leakage, in particular due to EUA costs passed on in electricity prices supported by the beneficiary, if its competitors from third countries do not face similar costs in their electricity prices and the beneficiary is unable to pass on those costs to product prices without losing significant market share. Addressing the risk of carbon leakage, by assisting beneficiaries to reduce their exposure to this risk, serves an environmental objective, since the aid aims to avoid an increase in global greenhouse gas emissions due to shifts of production outside the Union, in the absence of a binding international agreement on reduction of greenhouse gas emissions.
21. To limit the risk of competition distortion within the internal market, the aid must be limited to sectors that are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred as a consequence of greenhouse gas emission costs being passed on in electricity prices. For the purpose of these Guidelines, a genuine risk of carbon leakage is considered to exist only if the beneficiary is active in a sector listed in Annex I.
22. If Member States decide to grant the aid only to some of the sectors listed in Annex I, the choice of sectors must be made on the basis of objective, non-discriminatory and transparent criteria.
23. Within the eligible sector, Member States need to ensure that the choice of beneficiaries is made on the basis of objective, non-discriminatory and transparent criteria and that the aid is granted in principle in the same way for all competitors in the same sector if they are in a similar factual situation.
24. For the purpose of compensating indirect ETS costs, State aid is considered an appropriate instrument independently of the form in which it is granted. In this context, compensation taking the form of a direct grant is considered an appropriate instrument.
25. The aid is compatible with the internal market only if it has an incentive effect. For the aid to have an incentive effect and actually prevent carbon leakage, it must be applied for and paid to the beneficiary in the year in which the costs are incurred or in the following year.
26. If aid is paid in the year in which the costs are incurred, an ex-post payment adjustment mechanism must be in place to ensure that any over-payment of aid will be repaid before 1 July in the following year.

27. The aid is proportionate and has a sufficiently limited negative effect on competition and trade if it does not exceed 75 % of the indirect emission costs incurred. The electricity consumption efficiency benchmark ensures that support to inefficient production processes remains limited and maintains the incentive for dissemination of most energy-efficient technologies.
28. The maximum aid payable per installation for the manufacture of products within the sectors listed in Annex I must be calculated according to the following formula:

- (a) Where electricity consumption efficiency benchmarks listed in Annex II are applicable to the products manufactured by the beneficiary, the maximum aid payable per installation for costs incurred in year t equals:

$$A_{\max_t} = A_i \times C_t \times P_{t-1} \times E \times AO_t$$

In this formula, A_i is the aid intensity, expressed as a fraction (e.g. 0,75); C_t is the applicable CO₂ emission factor or market-based CO₂ emission factor (tCO₂/MWh) (at year t); P_{t-1} is the EUA forward price at year $t-1$ (EUR/tCO₂); E is the applicable product-specific electricity consumption efficiency benchmark defined in Annex II; and AO_t is the actual output in year t . These concepts are defined in section 1.3.

- (b) Where electricity consumption efficiency benchmarks listed in Annex II are not applicable to the products manufactured by the beneficiary, the maximum aid payable per installation for costs incurred in year t equals:

$$A_{\max_t} = A_i \times C_t \times P_{t-1} \times EF \times AEC_t$$

In this formula, A_i is the aid intensity, expressed as a fraction (e.g. 0,75); C_t is the applicable CO₂ emission factor (tCO₂/MWh) (at year t); P_{t-1} is the EUA forward price at year $t-1$ (EUR/tCO₂); EF is the fall-back electricity consumption efficiency benchmark as defined in Annex II; and AEC is the actual electricity consumption (MWh) in year t . These concepts are defined in section 1.3.

29. If an installation manufactures products for which an electricity consumption efficiency benchmark listed in Annex II is applicable and products for which the fall back electricity consumption efficiency benchmark is applicable, the electricity consumption for each product must be apportioned according to the respective tonnage of production of each product.
30. If an installation manufactures products that are eligible for aid (that is to say, they fall within the eligible sectors listed in Annex I) and products that are not eligible for aid, the maximum aid payable must be calculated only for the products that are eligible for aid.
31. Given that for some sectors the aid intensity of 75 % might not be sufficient to ensure that there is adequate protection against the risk of carbon leakage, when needed, Member States may limit the amount of the indirect costs to be paid at undertaking level to 1,5 % of the gross value added of the undertaking concerned in year t . The gross value added of the undertaking must be calculated as turnover, plus capitalised production, plus other operating income, plus or minus changes in stocks, minus purchases of goods and services (which shall not include personnel costs), minus other taxes on products that are linked to turnover but not deductible, minus duties and taxes linked to production. Alternatively, it can be calculated from gross operating surplus by adding personnel costs. Income and expenditure classified as financial or extraordinary in company accounts is excluded from value added. Value added at factor costs is calculated at gross level, as value adjustments (such as depreciation) are not subtracted ⁽¹⁵⁾.
32. When Member States decide to limit the amount of the indirect costs to be paid at undertaking level to 1,5 % of gross value added, that limitation must apply to all eligible undertakings in the relevant sector. If Member States decide to apply the limitation of 1,5 % of gross value added only to some of the sectors listed in Annex I, the choice of sectors must be made on the basis of objective, non-discriminatory and transparent criteria.
33. The aid may be cumulated with:

- (a) any other State aid in relation to different identifiable eligible costs;

⁽¹⁵⁾ Code 12 15 0 within the legal framework set out by Regulation (EC) No 295/2008 of the European Parliament and of the Council of 11 March 2008 concerning structural business statistics (OJ L 97, 9.4.2008, p. 13).

(b) any other State aid, in relation to the same eligible costs, partly or fully overlapping, and any other State aid without identifiable eligible costs, only if such cumulation does not result in exceeding the maximum aid intensity or aid amount applicable to the aid under this section.

34. Union funding centrally managed by the Commission that is not directly or indirectly under the control of the Member State, does not constitute State aid. Where such Union funding is combined with State aid, only the latter is considered for determining whether notification thresholds and maximum aid intensities are respected, provided that the total amount of public funding granted in relation to the same eligible costs does not exceed the maximum funding rate(s) laid down in the applicable rules of Union law.
35. Aid must not be cumulated with *de minimis* aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding that laid down in this section.
36. The duration of aid schemes under which the aid is granted must not be longer than the duration of these Guidelines (2021-2030).

3.2. Aid involved in optional transitional free allowances for the modernisation of electricity generation

37. State aid involved in the optional transitional free allowances for the modernisation of electricity generation, in accordance with Article 10c of Directive 2003/87/EC, is compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty provided the conditions set out below are met.
38. The objective of the aid must be the modernisation, diversification and sustainable transformation of the energy sector. The investments supported must be consistent with the transition to a safe and sustainable low-carbon economy, the objectives of the Union's 2030 climate and energy policy framework, the European Green Deal, and the long-term objectives expressed in the Paris Agreement.
39. Where an investment leads to additional electricity generation capacity, the operator concerned must also demonstrate that a corresponding amount of electricity-generation capacity with higher emission intensity has been decommissioned by it or another associated operator by the start of operation of the additional capacity.
40. The aid is compatible with the internal market only if it has an incentive effect. An incentive effect occurs when the aid induces the beneficiary to change its behaviour, a change in behaviour which it would not undertake without the aid. The aid must not subsidise the costs of an activity that an undertaking would anyhow incur and must not compensate for the normal business risk of an economic activity.
41. When receiving an aid application, the granting authority must check that the aid would have the required incentive effect.
42. Aid can be paid out in the form of allocations to operators only where it is demonstrated that an investment selected in accordance with the rules of a competitive bidding process has been carried out.
43. For projects involving a total amount of investment exceeding EUR 12,5 million, aid can only be granted on the basis of a competitive bidding process, to take place in one or more rounds between 2021 and 2030. That competitive bidding process must:
 - (a) comply with the principles of transparency, non-discrimination, equal treatment and sound financial management;
 - (b) ensure that only projects which contribute to the diversification of their energy mix and sources of supply, the necessary restructuring, environmental upgrading and retrofitting of the infrastructure, clean technologies, such as renewable energy technologies, or modernisation of the energy production sector, such as efficient and sustainable district heating, and of the transmission and distribution sector, are eligible to bid;

- (c) define clear, objective, transparent and non-discriminatory selection criteria for the ranking of projects, so as to ensure that only projects are selected which:
 - (i) on the basis of a cost-benefit analysis, ensure a net positive gain in terms of emission reduction and realise a pre-determined significant level of CO₂ reductions taking into account the size of the project;
 - (ii) are additional, clearly respond to replacement and modernisation needs and do not supply a market-driven increase in energy demand;
 - (iii) offer the best value for money;
 - (iv) do not contribute to or improve the financial viability of highly emission-intensive electricity generation or increase dependency on emission-intensive fossil fuels.
- 44. For projects involving a total amount of investment with a value of less than EUR 12,5 million, aid can be granted without a competitive bidding process. The selection of the projects must in this case be based on objective and transparent criteria. The results of the selection process must be published for public comments. Where more than one investment is carried out within the same installation, the investments must be assessed as a whole to establish whether or not the threshold of EUR 12,5 million is exceeded, unless those investments are, independently, technically or financially viable.
- 45. The Commission will consider the aid to be proportionate if the aid intensity does not exceed 70 % of the relevant costs of the investment. All figures used must be taken before any deduction of tax or other charges. Where aid is awarded in a form other than a grant, the aid amount must be the equivalent of the grant in terms of value. Aid payable in several instalments must be calculated at its total net present value at the moment of granting the first instalment, using the relevant Commission reference rate for discounting the value over time. The aid intensity is calculated per beneficiary.
- 46. The aid must not adversely affect trading conditions to an extent contrary to the common interest, in particular where aid is concentrated on a limited number of beneficiaries or where the aid is likely to reinforce the beneficiaries' market position (at the group level).
- 47. The aid may be cumulated with:
 - (a) any other State aid in relation to different identifiable eligible costs;
 - (b) any other State aid, in relation to the same eligible costs, partly or fully overlapping, and any other State aid without identifiable eligible costs, only if such cumulation does not result in exceeding the maximum aid intensity or aid amount applicable to this aid under this section.
- 48. Aid may be awarded concurrently under several aid schemes or cumulated with *ad hoc* aid, provided that the total amount of State aid for an activity or project does not exceed the aid ceilings laid down in this section. Union funding centrally managed by the Commission that is not directly or indirectly under the control of a Member State, does not constitute State aid. Where such Union funding is combined with State aid, only the latter is considered for determining whether notification thresholds and maximum aid intensities are respected, provided that the total amount of public funding granted in relation to the same eligible costs does not exceed the maximum funding rate(s) laid down in the applicable rules of Union law.
- 49. Aid is not to be cumulated with *de minimis* aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding that laid down in this section.
- 50. The duration of aid schemes under which the aid is granted must not be longer than the duration of these Guidelines (2021-2030).

4. EVALUATION

51. To further ensure that distortion of competition is limited, the Commission may require that certain aid schemes are subject to an *ex post* evaluation. Evaluations will need to be carried out for schemes where the potential distortion of competition is particularly high, that is to say, that may risk significantly restricting or distorting competition if their implementation is not reviewed in due time.
52. Given its objectives, and in order not to put disproportionate burden on Member States and on smaller aid projects, evaluation is only required for aid schemes with large aid budgets, containing novel characteristics or when significant market, technology or regulatory changes are foreseen. The evaluation must be carried out by an expert independent from the aid granting authority on the basis of a common methodology provided by the Commission. It must be made public. The Member State must notify, together with the aid scheme, a draft evaluation plan, which will be an integral part of the Commission's assessment of the scheme.
53. The evaluation must be submitted to the Commission in due time to allow for the assessment of the possible prolongation of the aid scheme and in any case upon its expiry. The precise scope and rules/requirements concerning each evaluation will be defined in the decision approving the aid scheme. Any subsequent aid measure with a similar objective must take into account the results of the evaluation.

5. ENERGY AUDITS AND MANAGEMENT SYSTEMS

54. For aid covered by Section 3.1, Member States commit to verifying that the beneficiary complies with its obligation to conduct an energy audit in the sense of Article 8 of Directive 2012/27/EU of the European Parliament and of the Council ⁽¹⁶⁾, either as a stand alone energy audit or within the framework of a certified Energy Management System or Environmental Management System, for example the EU eco-management and audit scheme (EMAS) ⁽¹⁷⁾.
55. Member States also commit to monitoring that beneficiaries covered by the obligation to conduct an energy audit under Article 8(4) of Directive 2012/27/EU will:
 - (a) implement recommendations of the audit report, to the extent that the pay-back time for the relevant investments does not exceed 3 years and that the costs of their investments is proportionate; or alternatively
 - (b) reduce the carbon footprint of their electricity consumption, so as to cover at least 30 % of their electricity consumption from carbon-free sources; or alternatively
 - (c) invest a significant share of at least 50 % of the aid amount in projects that lead to substantial reductions of the installation's greenhouse gas emissions and well below the applicable benchmark used for free allocation in the EU Emissions Trading System.

6. TRANSPARENCY

56. Member States must ensure that the following information is published in the Commission's transparency award module ⁽¹⁸⁾ or on a comprehensive State aid website, at national or regional level:
 - (a) the full text of the approved aid scheme or the individual aid granting decision and its implementing provisions, or a link to it;
 - (b) the identity of the granting authority or authorities;

⁽¹⁶⁾ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

⁽¹⁷⁾ Regulation (EC) No 1221/2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) (OJ L 342, 22.12.2009, p. 1).

⁽¹⁸⁾ <https://webgate.ec.europa.eu/competition/transparency/public?lang=en>

- (c) the name and the identifier of each beneficiary, except business secrets and other confidential information in duly justified cases and subject to the Commission's agreement in accordance with Commission communication on professional secrecy in State aid decisions ⁽¹⁹⁾;
- (d) the aid instrument ⁽²⁰⁾, the aid element and, where different, the nominal amount of aid, expressed as full amount in national currency ⁽²¹⁾ granted to each beneficiary;
- (e) the date of granting ⁽²²⁾ and the date of publication;
- (f) the type of undertaking (small or medium-sized enterprise/large company);
- (g) the region in which the beneficiary is located (at NUTS level II or below);
- (h) the principal economic sector in which the beneficiary has its activities (at NACE group level);
- (i) the objective of the aid.

57. Such a requirement applies with respect to individual aid awards exceeding EUR 500 000.

58. Such information must be published after the decision to grant the aid has been taken, must be kept for at least 10 years and must be available to the general public without restrictions ⁽²³⁾.

7. REPORTING AND MONITORING

59. In accordance with Council Regulation (EU) 2015/1589 ⁽²⁴⁾ and Commission Regulation (EC) No 794/2004 ⁽²⁵⁾, Member States must submit annual reports to the Commission.

60. Beyond the requirement laid down in those Regulations, Member States must include in their annual reports the following information by using the standard form provided by the Commission:

- (a) the name of each beneficiary and the aided installations under its ownership;
- (b) the sector(s) in which each beneficiary is active (identified by NACE-4 code);
- (c) the year for which the aid is granted and the year in which it is being paid;
- (d) the actual output for each aided installation in the pertinent sector;
- (e) the actual electricity consumption for each aided installation (if any aid is given using a fall back electricity consumption efficiency benchmark);
- (f) the EUA forward price used to compute the aid amount per beneficiary;
- (g) the aid intensity;
- (h) the national CO₂ emission factor.

61. Member States must ensure that detailed records regarding all measures involving the granting of aid are maintained. Such records must contain all information necessary to establish that the conditions regarding, where applicable, eligible costs and maximum allowable aid intensity have been observed. Those records must be maintained for 10 years from the date on which the aid was granted and be provided to the Commission upon request.

⁽¹⁹⁾ C(2003) 4582 (OJ C 297, 9.12.2003, p. 6).

⁽²⁰⁾ Grant/Interest rate subsidy; Loan/Repayable advances/Reimbursable grant; Guarantee; Tax advantage or tax exemption; Risk finance; Other (please specify). If the aid is granted through multiple aid instruments, the aid amount must be provided by instrument.

⁽²¹⁾ Gross grant equivalent. For operating aid, the annual amount of aid per beneficiary can be provided.

⁽²²⁾ The date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime.

⁽²³⁾ This information must be published within 6 months from the date of granting. In case of unlawful aid, Member States will be required to ensure the publication of this information *ex post* within 6 months from the date of the Commission decision. The information must be available in a format which allows data to be searched, extracted, and easily published on the internet, for instance in CSV or XML format.

⁽²⁴⁾ OJ L 248, 24.9.2015, p. 9.

⁽²⁵⁾ OJ L 140, 30.4.2004, p. 1.

62. In any year in which the budget of the aid schemes referred to by section 3.1 exceeds 25 % of the revenues generated from the auctioning of allowances, the Member State concerned must publish a report setting out the reasons for exceeding that amount, in accordance with Article 10a(6) of Directive 2003/87/EC. The report must include relevant information on electricity prices for large industrial consumers benefiting from the scheme, without prejudice to requirements regarding the protection of confidential information. The report must also include information on whether due consideration has been given to other measures to sustainably lower indirect carbon costs in the medium to long term.
63. Electricity generators and network operators benefiting from aid covered by section 3.2 must report, by 28 February of each year, on the implementation of their selected investments, including the balance of free allocation and investment expenditure incurred and the types of investments supported.

8. PERIOD OF APPLICATION AND REVISION

64. These Guidelines replace the Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012 published on 5 June 2012 ⁽²⁶⁾, as of 1 January 2021.
65. The Commission will apply the principles set out in these Guidelines from 1 January 2021 until 31 December 2030.
66. The Commission will apply the principles set out in these Guidelines to all notified aid measures in respect of which it is called upon to take a decision, from the 1 January 2021, even where the projects were notified prior to their publication. Unlawful aid will be assessed in accordance with the rules in force on the date on which the aid was granted in accordance with the Commission notice on the determination of the applicable rules for the assessment of unlawful State aid ⁽²⁷⁾.
67. The Commission will adapt these Guidelines to update the electricity consumption efficiency benchmarks, the geographic areas, and the CO₂ emission factors in 2025. In 2025, the Commission will also assess whether additional data is available allowing to improve the methodology used to calculate the CO₂ emission factors as described in Annex III, that is to say to take into account the increasingly important price-setting role of climate neutral technologies in Union electricity markets and the conclusions of the assessments notified to the Commission pursuant to point 15(11) above. Consequently, Member States may have to adapt their respective schemes in order to bring them into line with the adapted guidelines.
68. The Commission may decide to review or adapt these Guidelines at any time if this should be necessary for reasons associated with competition policy or in order to take account of other Union policies, international commitments or material market developments. Member States may have to adapt their respective schemes in order to bring them into line with the adapted guidelines.

⁽²⁶⁾ OJ C 158, 5.6.2012, p. 4.

⁽²⁷⁾ OJ C 119, 22.5.2002, p. 22.

ANNEX I

Sectors deemed to be exposed to a genuine risk of carbon leakage due to indirect emission costs

	NACE code	Description
1.	14.11	Manufacture of leather clothes
2.	24.42	Aluminium production
3.	20.13	Manufacture of other inorganic basic chemicals
4.	24.43	Lead, zinc and tin production
5.	17.11	Manufacture of pulp
6.	17.12	Manufacture of paper and paperboard
7.	24.10	Manufacture of basic iron and steel and ferro-alloys
8.	19.20	Manufacture of refined petroleum products
9.	24.44	Copper production
10.	24.45	Other non-ferrous metal production
11.		The following subsectors within the plastics sector (20.16):
	20.16.40.15	Polyethylene in primary forms
12.		All product categories in the casting of iron sector (24.51)
13.		The following subsectors within the glass fibre sector (23.14):
	23.14.12.10 23.14.12.30	Glass fibre mats Glass fibre voiles
14.		The following subsectors within the industrial gases sector (20.11):
	20.11.11.50 20.11.12.90	Hydrogen Inorganic oxygen compounds of non-metals

*ANNEX II***Electricity consumption efficiency benchmarks for products covered by the NACE codes in Annex I**

ANNEX III

Maximum regional CO₂ emissions factors in different geographic areas (tCO₂/MWh)

Zones		Applicable CO ₂ emission factor
Adriatic	Croatia, Slovenia	[...]
Iberia	Spain, Portugal	[...]
Baltic	Lithuania, Latvia, Estonia	[...]
Central Western Europe	Austria, Germany, Luxembourg	[...]
Nordic	Sweden, Finland	[...]
Czechia-Slovakia	Czechia, Slovakia	[...]
Belgium		[...]
Bulgaria		[...]
Denmark		[...]
Ireland		[...]
Greece		[...]
France		[...]
Italy		[...]
Cyprus		[...]
Hungary		[...]
Malta		[...]
Netherlands		[...]
Poland		[...]
Romania		[...]

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Euro exchange rates ⁽¹⁾

24 September 2020

(2020/C 317/05)

1 euro =

Currency			Exchange rate		
Currency			Exchange rate		
USD	US dollar	1,1645	CAD	Canadian dollar	1,5600
JPY	Japanese yen	122,73	HKD	Hong Kong dollar	9,0250
DKK	Danish krone	7,4425	NZD	New Zealand dollar	1,7847
GBP	Pound sterling	0,91228	SGD	Singapore dollar	1,6029
SEK	Swedish krona	10,5793	KRW	South Korean won	1 367,55
CHF	Swiss franc	1,0772	ZAR	South African rand	19,8675
ISK	Iceland króna	161,80	CNY	Chinese yuan renminbi	7,9527
NOK	Norwegian krone	11,1023	HRK	Croatian kuna	7,5530
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	17 339,41
CZK	Czech koruna	27,015	MYR	Malaysian ringgit	4,8542
HUF	Hungarian forint	364,45	PHP	Philippine peso	56,547
PLN	Polish zloty	4,5293	RUB	Russian rouble	89,8713
RON	Romanian leu	4,8755	THB	Thai baht	36,821
TRY	Turkish lira	8,8851	BRL	Brazilian real	6,4935
AUD	Australian dollar	1,6539	MXN	Mexican peso	26,1062
			INR	Indian rupee	86,1145

⁽¹⁾ Source: reference exchange rate published by the ECB.

COURT OF AUDITORS

Special Report No 19/2020

'Digitising European Industry: an ambitious initiative whose success depends on the continued commitment of the EU, governments and businesses'

(2020/C 317/06)

The European Court of Auditors hereby informs you that Special Report No 19/2020 'Digitising European Industry: an ambitious initiative whose success depends on the continued commitment of the EU, governments and businesses' has just been published.

The report can be accessed for consultation or downloading on the European Court of Auditors' website (<http://eca.europa.eu>).

V

*(Announcements)*PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION
POLICY

EUROPEAN COMMISSION

Prior notification of a concentration**(Case M.9928 – QuattroR/HGM/Burgo)****Candidate case for simplified procedure****(Text with EEA relevance)**

(2020/C 317/07)

1. On 17 September 2020 the Commission received notification of a proposed concentration pursuant to Article 4 and following a referral pursuant to Article 4(5) of Council Regulation (EC) No 139/2004 ⁽¹⁾.

This notification concerns the following undertakings:

- QuattroR SGR S.p.A. ('QuattroR', Italy),
- Holding Gruppo Marchi S.p.A ('HGM', Italy),
- Burgo Group S.p.A. ('Burgo', Italy).

QuattroR and HGM acquire within the meaning of Article 3(1)(b) and 3(4) of the Merger Regulation joint control of Burgo.

The concentration is accomplished by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- for QuattroR: a management company that focuses on investing and relaunching Italian businesses with solid market and industrial fundamentals that need fresh resources for growth or are facing temporary financial unbalance,
- for HGM: a holding company that, inter alia, controls Palladio Group S.p.A. an Italian-based company active in the production and sale of cartons, leaflets, booklets and adhesive labels and premium packaging and currently owns a controlling stake in Burgo,
- for Burgo: a manufacturer of pulp and paper, active in the manufacturing of (i) coated graphic paper, mainly for magazines and newsprint of various grades and qualities (coated mechanical and coated wood-free paper); (ii) uncoated graphic paper, mainly for books and stationeries (uncoated wood-free paper); (iii) short-fibre pulp, of which the majority is used for internal graphic paper production; (iv) specialty paper, mainly for packaging and labelling end-usages and (v) recycled containerboard, used by the assemblers of brown boxes.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the Merger Regulation. However, the final decision on this point is reserved.

Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the Council Regulation (EC) No 139/2004 ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

⁽²⁾ OJ C 366, 14.12.2013, p. 5.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. The following reference should always be specified:

M.9928 – QuattroR/HGM/Burgo

Observations can be sent to the Commission by email, by fax, or by post. Please use the contact details below:

Email: COMP-MERGER-REGISTRY@ec.europa.eu

Fax +32 22964301

Postal address:

European Commission
Directorate-General for Competition
Merger Registry
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Prior notification of a concentration**(Case M.9962 — Mylan/Aspen's EU Thrombosis Business)****(Text with EEA relevance)**

(2020/C 317/08)

1. On 17 September 2020, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾.

This notification concerns the following undertakings:

- Mylan Ireland Limited ('Mylan', Ireland),
- Aspen's EU Thrombosis Business (the 'Target', Mauritius), belonging to the group Aspen Pharmacare Holdings LTD.

Mylan acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the whole of the Target. The concentration is accomplished by way of purchase of assets.

2. The business activities of the undertakings concerned are:

- Mylan develops, licenses, manufactures, markets and distributes generic, branded generic and speciality pharmaceuticals in addition to OTC and consumer healthcare products;
- The Target comprises certain commercialisation rights and related intellectual property rights of Aspen's antithrombotic products in the EEA, namely the molecules Nadroparin (brand names Fraxiparine and Fraxodi), Fondaparinux (brand name Arixtra), Certoparin (brand name Mono Embolex) and Danaparoid (brand name Orgaran).

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the Merger Regulation. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. The following reference should always be specified:

M.9962 — Mylan/Aspen's EU Thrombosis Business

Observations can be sent to the Commission by email, by fax, or by post. Please use the contact details below:

Email: COMP-MERGER-REGISTRY@ec.europa.eu

Fax +32 22964301

Postal address:

European Commission
Directorate-General for Competition
Merger Registry
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

OTHER ACTS

EUROPEAN COMMISSION

Publication of an application for approval of an amendment, which is not minor, to a product specification pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs

(2020/C 317/09)

This publication confers the right to oppose the amendment application pursuant to Article 51 of Regulation (EU) No 1151/2012 of the European Parliament and of the Council ⁽¹⁾ within three months from the date of this publication.

APPLICATION FOR APPROVAL OF AN AMENDMENT TO THE PRODUCT SPECIFICATION OF PROTECTED DESIGNATIONS OF ORIGIN/PROTECTED GEOGRAPHICAL INDICATIONS WHICH IS NOT MINOR

Application for approval of an amendment in accordance with the first subparagraph of Article 53(2) of Regulation (EU) No 1151/2012

‘STELVIO’/‘STILFSER’

EU No: PDO-IT-0255-AM02 – 10.1.2020

PDO (X) PGI ()

1. Applicant group and legitimate interest

Consorzio del Formaggio Stelvio [Stelvio Cheese Association], Via Innsbruck 43, 39 100 Bolzano, Italy

Tel. +39 0474570113; Fax +39 0474570177. The above association fulfils the requirements under Article 13(1) of the Ministerial Decree of 28 November 2017.

2. Member State or third country

Italy

3. Heading in the product specification affected by the amendment(s)

- ☐ Name of product
- ☒ Description of product
- ☐ Geographical area
- ☐ Proof of origin
- ☒ Method of production
- ☐ Link
- ☐ Labelling
- ☐ Other [to be specified]

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

4. Type of amendments

- ☒ Amendment to product specification of a registered PDO or PGI not to be qualified as minor in accordance with the third subparagraph of Article 53(2) of Regulation (EU) No 1151/2012.
- ☐ Amendment to product specification of registered PDO or PGI for which a Single Document (or equivalent) has not been published not to be qualified as minor in accordance with the third subparagraph of Article 53(2) of Regulation (EU) No 1151/2012

5. Amendments

Description of product

The amendment concerns Article 5 of the product specification and Section 3.2 of the single document and involves the inclusion of specific methods for preparing the product intended for portioning.

Accordingly, the following is being added at the end of Article 5 of the product specification (Characteristics of the finished product) and section 3.2 of the single document:

'In order to limit processing waste, subject to compliance with the above weight and height requirements, 'Stelvio'/ 'Stilfser' cheese may be produced in shapes other than cylindrical, but only where the product is intended for pre-packaging (slicing, cubing, grating).'

The amendment thus concerns the shape of the product. Only cheese intended for portioning – to be identified as such at the start of processing into the PDO (when being placed into the mould) – need not be cylindrical. Such cheese may not be sold as such (as a whole cheese) using the PDO, but may only be released for consumption after portioning and pre-packaging.

The option to use a more rational shape makes it possible for portioning to take place without product waste that is unjustified from any technical or qualitative viewpoint, thereby optimising yield and processability once ripening has been completed in compliance with the product specification. None of this would diminish the technical/qualitative characteristics of 'Stelvio'/'Stilfser'.

Method of production

- The amendment concerns Article 3, point 3.3.2, of the product specification and Section 3.3 of the single document.

The following sentence is being added at the end of the part concerning the cows' diet, as required by Commission Delegated Regulation (EU) No 664/2014 of 18 December 2013:

'Feed sourced from outside the geographical area may not exceed 50 % of the dry matter in the diet on an annual basis.'

This amendment is a clarification.

Fresh grass and local fodder, which are the portion of the diet associated with digestible fibre, have a major impact on the chemical, sensorial and organoleptic characteristics of the milk used in production and thus represent a substantial percentage of the dry matter in the diet.

In formulating the diet of the cows traditionally used to produce the milk, it is necessary, in a mountain area not suited to cereal and oilseed production, to use concentrates and feed from outside the defined area. It is necessary to supplement the diets in order to guarantee their nutritional and physiological value and also as a preventive measure against health issues.

Such feed allows quick nutrient intake, providing readily available energy and protein for the cows' normal rumen functions. Since it has only a physiological role in support of those functions, it has virtually no impact on the organoleptic characteristics of the milk.

It is therefore permitted to use corn silage; dried fodder; barley, rye, triticale, wheat, oats and maize, in the form of the products themselves, by-products or, for the first five, straw. It is also possible to use oil seeds and products and by-products thereof as follows: soya (non-genetically modified), rape, linseed and sunflower including where decorticated or partially decorticated; dried beet pulp; brewer's grains and dried apple residues; beet; potatoes; brewer's yeast; molasses; locust beans; powdered dairy products; amino acids and noble proteins not derived from proteolysis; vegetable fats.

The proposed amendment merely makes the point on the diet more precise and thus has no impact on the link or on the quality of the product.

- The amendment concerns Article 4, point 4.2.1, of the product specification concerning the fat content of the raw material and Section 3.3 of the single document.

Thus the current wording:

'4.2.1. Reduction of fat content

The milk, possibly cleaned by means of bactofugation, may be lightly skimmed to regulate the fat content to between 3,45 % and 3,60 %. Partial skimming of the milk is carried out using a skimmer.'

is being replaced by:

'4.2.1. Reduction of fat content

The milk, possibly cleaned by means of bactofugation, may be lightly skimmed to regulate the fat content to between 3,45 % and 3,80 %. Partial skimming of the milk is carried out using a skimmer.'

This slight amendment allows for a more realistic span of fat content, and one that is within the actual fat content range obtained (between 3,45 % and a maximum of 3,80 % rather than 3,6 %), bringing it into line with the other requirements laid down for the ripened cheese.

- The amendment concerns Article 4, point 4.2.5, of the product specification and Section 3.3 of the single document and relates to the type of rennet used.

Thus the current wording:

'Calf rennet is added to the milk being processed, possibly inoculated with lactic acid bacteria, within 85 minutes when the temperature of the mixture is around 32-33 °C. The only coagulating enzyme that may be used is rennet in liquid or powder form. The rennet must be produced following a traditional method, have a strength of around 1:15 000 and be composed of approximately 75 % chymosin and 25 % pepsin; it must not contain coagulants of any type (e.g. coagulants of microbial origin), be genetically modified or contain genetically modified coagulating enzymes.'

is being replaced by:

'Calf rennet, or other rennet including of plant origin, is added to the milk being processed, possibly inoculated with lactic acid bacteria, within 85 minutes when the temperature of the mixture is around 32-33 °C.

The coagulating enzyme may be used in liquid or powder form. Calf rennet must be produced following a traditional method, have a strength of around 1:15 000 and be composed of approximately 75 % chymosin and 25 % pepsin; the rennet must not be genetically modified or contain genetically modified coagulating enzymes.'

The current product specification allows only calf rennet to be used. Nowadays this requirement seems to be extremely limiting and to stand in the way of technical developments that have for some time been characteristic of some products in the defined area, which have so far remained excluded from the PDO despite having the characteristics laid down and meeting all the chemical and organoleptic requirements of the ripened cheese.

This development will also make it possible to satisfy ever more diverse consumer demands.

SINGLE DOCUMENT

‘STELVIO’/‘STILFSER’

EU No: PDO-IT-0255-AM02 -10.1.2020

PDO (X) PGI ()

1. Name(s)

‘Stelvio’/‘Stilfser’

2. Member State or third country

Italy

3. Description of the agricultural product or foodstuff

3.1. Type of product

Class 1.3. Cheese

3.2. Description of the product to which the name in (1) applies

When released for consumption, ‘Stelvio’/‘Stilfser’ cheese, having ripened for a minimum of sixty days, is cylindrical with flat faces and a straight or slightly concave heel and the following dimensions: weight: between 8 kg and 10 kg; diameter: between 34 cm and 38 cm; height: between 8 cm and 11 cm. The fat content in dry matter is at least 50 % and the moisture content does not exceed 44 %. The rind must have the characteristic colour ranging from yellow to orange-brown. The texture of the cheese is compact, pliable and springy. It is between pale yellow and straw yellow in colour, with irregular, small to medium-sized eyes.

‘Stelvio’/‘Stilfser’ cheese is sold either in whole wheels or in portions and is released for consumption bearing the designation of origin identification mark.

‘In order to limit processing waste, subject to compliance with the above weight and height requirements, ‘Stelvio’/‘Stilfser’ cheese may be produced in shapes other than cylindrical, but only where the product is intended for pre-packaging (slicing, cubing, grating).’

3.3. Feed (for products of animal origin only) and raw materials (for processed products only)

During any grazing in Alpine pastures, the cows are fed mainly on fresh grass, and when stabled, their basic diet, on which they feed freely, is composed of hay fodder and grass silage harvested in the defined area up to a maximum of 15 kg per head.

Fresh grass and local fodder, which are the portion of the diet associated with digestible fibre, have a major impact on the chemical, sensorial and organoleptic characteristics of the milk used in production and thus represent a substantial percentage (which does not fall below 50 %) of the dry matter in the diet.

In formulating the diet of the cows traditionally used to produce the milk, it is necessary, in a mountain area not suited to cereal and oilseed production, to use concentrates and feed from outside the defined area. It is necessary to supplement the diets in order to guarantee their nutritional and physiological value and also as a preventive measure against health issues.

Such feed allows quick nutrient intake, providing readily available energy and protein for the cows’ normal rumen functions. Since it has only a physiological role in support of those functions, it has virtually no impact on the organoleptic characteristics of the milk.

It is therefore permitted to use corn silage; dried fodder; barley, rye, triticale, wheat, oats and maize, in the form of the products themselves, by-products or, for the first five, straw. It is also possible to use oil seeds and products and by-products thereof as follows: soya (non-genetically modified), rape, linseed and sunflower including where decorticated or partially decorticated; dried beet pulp; brewer's grains and dried apple residues; beet; potatoes; brewer's yeast; molasses; locust beans; powdered dairy products; amino acids and noble proteins not derived from proteolysis; vegetable fats.

Feed sourced from outside the geographical area may not exceed 50 % of the dry matter in the diet on an annual basis.

'Stelvio'/'Stilfser' cheese is produced using cow's milk that is obtained in the defined geographical area from cows fed mainly on fodder harvested in that area and that has a protein content in excess of 3,10 %. The milk may be lightly skimmed to regulate the fat content to between 3,45 % and 3,80 %.

3.4. *Specific steps in production that must take place in the identified geographical area*

All the operations described in the product specification and in this document take place in the geographical area defined in Section 4 below, from rearing of the cows to milking, collecting and processing the milk, cheese-making and ripening.

3.5. *Specific rules concerning slicing, grating, packaging, etc. of the product the registered name refers to*

Whole cheese wheels are portioned only after the designation of origin identification mark has been affixed. 'Stelvio'/'Stilfser' cheese may also be packaged in portions outside the defined geographical area. 'Stelvio'/'Stilfser' cheese in portioned form is released for consumption bearing the designation of origin identification mark, or with an adhesive label affixed to the packaging and/or with a pre-printed wrapping bearing the protected designation of origin.

3.6. *Specific rules concerning labelling of the product the registered name refers to*

'Stelvio'/'Stilfser' cheese in whole wheels is released for consumption bearing the designation of origin identification mark – which is affixed only after it has ripened for sixty days – and the marking indicating the batch, production date and producer code. The product is released for consumption bearing the designation of origin identification mark. The designation of origin identification mark is made up of the words 'Stilfser-Stelvio' in red lettering.

4. **Concise definition of the geographical area**

The defined geographical area for 'Stelvio'/'Stilfser' cheese, where all steps in rearing and milking the cows, collecting and processing the milk, and making and ripening the cheese take place, is composed of the following parts of the Autonomous Province of Bolzano: Val Venosta, Burggraviato, Salto-Sciliar, Val Pusteria, Val d'Isarco, municipality of Bolzano. This area incorporates the census and administrative territory of 84 municipalities.

5. **Link with the geographical area**

'Stelvio'/'Stilfser' cheese, traditionally produced within the area defined in Section 4, has retained over time the specific characteristics shaped by the Alpine environment in the 'Stelvio'/'Stilfser' mountain territory which is the main production area and thus gave the cheese its name. The homogeneous climate and soil conditions of the Alto Adige Alpine area influence the quality of the fodder that comprises the main element of the cows' diet and thus the cheese produced in the area from their milk.

Some historical texts describe the Alpine pasture grasses (marbl and madaun) that were best suited to improving the quality of the milk produced. The specific environmental and climate conditions in the defined area are linked to the mountain context of this territory – which has always been characterised by livestock holdings (*masi*) located at an altitude of between 500 and 2 000 metres – and go hand in hand with the action of the native microflora during ripening. These exclusive, one-off environmental factors and the evolution over time of the production tradition help to give 'Stelvio'/'Stilfser' protected designated of origin cheese specific characteristics that make it a unique, stand-alone product that is indelibly marked by its local traits.

Other than those indicated in Section 3.2, the product has certain particularly unique specific characteristics that can be summed up as follows:

- rind colour: ranging from yellow-orange to orange-brown,
- flavour: aromatic and marked, at times pungent,
- fat in dry matter: 50 % or more.

The natural ripening of the cheese has certain unique features that help to give the cheese an unmistakeable taste. These stem from the use of fresh grass when the cows are in mountain pasture; their diet when stabled that is mainly based on fodder and grass silage harvested in the defined area; the exclusive use of milk from these cows that is produced in the defined area, with its specific mountain and soil characteristics; and the characteristics of the specific Alpine grasses and the native microflora used during processing, which is made up of various aerobic bacteria strains. These factors play a decisive role both in giving the rind its colour and in contributing to the product's unmistakeable flavour and aroma. Moreover, the overall diet of the cows contributes to the rather high fat to dry matter ratio.

The above factors, which can be traced as far back as the Late Middle Ages through various historical sources, became consolidated through custom and by traditional local institutions – in particular *maso* farms – and were eventually recorded in a document drawn up at the dairy in Stilf (Stelvio) in 1914 describing the product and its production process. All of this has given rise to significant economic activity throughout the geographic area. The product specification regulates this activity by imposing requirements on both cattle farmers and processors that must be documented by means of specific entries and records, identification systems for each individual operator in the area and the keeping of specific documentation concerning processing, production and granting of the right to use the designation.

Reference to publication of the product specification

(the second subparagraph of Article 6(1) of this Regulation)

The full text of the product specification is available on the following web site: <http://www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/3335>

or

by going directly to the home page of the Ministry of Agricultural, Food and Forestry Policy (www.politicheagricole.it) and clicking on 'Prodotti DOP IGP' (at the top right of the screen), then on 'Prodotti DOP IGP STG' (on the left-hand side of the screen) and finally on 'Disciplinari di Produzione all'esame dell'UE'.

Publication of an application for registration of a name pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs

(2020/C 317/10)

This publication confers the right to oppose the application pursuant to Article 51 of Regulation (EU) No 1151/2012 ⁽¹⁾ of the European Parliament and of the Council within three months from the date of this publication.

SINGLE DOCUMENT

‘ČESKÝ MODRÝ MÁK’

EU No: PGI-CZ-02236 – 3.11.2016

PDO () PGI (X)

1. Name(s)

‘Český modrý mák’

2. Member State or third country

Czechia

3. Description of the agricultural product or foodstuff

3.1. Type of product

Class 1.8: Other products of Annex I to the Treaty (spices, etc.)

3.2. Description of product to which the name in (1) applies

The protected geographical indication ‘Český modrý mák’ is intended for seeds of the annual blue poppy (*Papaver somniferum* L.) that meet the requirements for food use in accordance with the quality specifications given in this document.

The product covered by the protected geographical indication ‘Český modrý mák’ is intended for use in foodstuffs and on release for consumption by the final consumer must display the following features:

Physical and organoleptic characteristics.

Appearance: kidney-shaped seed, around 1 mm long, pitted on the surface in hexagonal indentations bordered by slightly protruding ribs, healthy, undamaged, ripe, fit for storage.

Colour: bright, sky-blue to blue-grey.

Flavour: sweet, with a slight hint of bitterness.

Aroma: distinctive, typical of ‘Český modrý mák’, delicate and pleasant.

Consistency: free-flowing, without lumps.

Chemical and nutritional data:

Average nutritional data per 100 g of ‘Český modrý mák’ poppy seeds (selected):

calcium 1 402 mg,

copper 2,20 mg,

fats 45,80 g,

zinc 10 mg,

niacin 0,99 mg,

magnesium 333 mg,

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

iron 9,50 mg,
vitamin E: 4 mg,
sodium 21 mg,
thiamine 0,86 mg,
manganese 2 mg,
phosphorus 854 mg,
vitamin B6: 0,55 mg,
potassium 705 mg,
riboflavin 0,17 mg.

The overall content of morphine, thebaine and codeine must not exceed 25 mg/kg on the seed surface, and 0,8 % in the dry matter of the capsule. The product covered by the protected geographical indication 'Český modrý mák' can in no way be confused with technical poppy seeds produced as a raw material for pharmaceutical use.

3.3. *Feed (for products of animal origin only) and raw materials (for processed products only)*

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3.4. *Specific steps in production that must take place in the identified geographical area*

Cultivation, harvesting and drying

The product is grown in suitable soil in the identified areas, with sowing completed by 20 April.

Harvesting of seeds may be mechanised (usually in conventional agriculture), or possibly manually (especially in the case of organic farming).

The poppy straw and seed mixture must be completely dried in halls with active ventilation.

3.5. *Specific rules concerning slicing, grating, packaging, etc. of the product the registered name refers to*

The product must not be mixed with products that do not meet the specification requirements.

3.6. *Specific rules concerning labelling of the product the registered name refers to*

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4. **Concise definition of the geographical area**

The boundaries of the geographical area are defined as follows:

- in the south-west: Chebská pánev, Český les, Šumava, Blanský les and the foothills of the Novohradské hory,
- in the south: Třeboňská pánev, the southern edge of Českomoravská vrchovina, and the River Dyje and River Morava beyond Hodonín,
- in the south-east: the western and northern edges of the Bílé Karpaty protected landscape area,
- in the east: the western, northern and south-eastern edges of the Beskydy protected landscape area,
- in the west the area is delimited by the River Ohře,
- the north-west boundary is defined by the Mostecká pánev and the River Elbe as far as Děčín,
- the northern boundary is defined by the rivers Ploučnice and Kamenice, by Lužické hory and further by the Liberecká pánev, the southern slopes of the Krkonoše, the Broumovské hory and the southern slopes of the Orlické hory,

in the north-east: foothills of Kralický Sněžník, the Rychlebské hory and Zlatohorská vrchovina, the River Opavice up to its confluence with the River Opava, the River Opava up to its confluence with the River Oder, the River Oder up to its confluence with the River Olše, the River Olše up to its confluence with the River Lomná and the River Lomná up to the Beskydy protected landscape area.

5. Link with the geographical area

The application for the registration of 'Český modrý mák' is based on the sensory and nutritional properties of these poppy seeds, which distinguish it from other poppy seeds on the market and are related to cultivation in the geographical area.

The product covered by the protected geographical indication 'Český modrý mák' provides a characteristic aroma and taste, since the seeds of other blue poppy seeds, in particular the light-coloured variant, have a bland taste and smell or no taste or smell at all, and, owing to their very thin episperm, are low in fibre and lignin and accompanying substances that are important in terms of taste. 'Český modrý mák' is thus a product with characteristic sensory properties that distinguish it from other poppies. The poppy seeds contain 40 to 60 % of very valuable oils (linoleic acid predominates, as well as oleic, palmitic, stearic and also linolenic acids).

The unique characteristics of the product covered by the protected geographical indication 'Český modrý mák' are linked to a combination of specific soil types and climatic regions in the geographical area in question, following the tradition of cultivating poppies under these conditions for more than 150 years. The protected geographical indication includes all areas with the defined soil types up to an altitude of 700 m above sea level. The regions designated for cultivation of the protected geographical indication include climatic regions up to an altitude of 700 m, with the best production conditions being found in slightly hilly to flat areas with altitudes ranging from 300-700 m in beet and barley or potato and wheat and barley production zones (Vrbenský, 1960). The climatic regions identified on the map of climatic regions of the Czech Republic correspond substantially to the soil types.

(a) Specified soil types:

pararendzina, rendzina (leptosol (calcaric)), arenic regosol, fluvisol, smonice (vertisol), chernozem (black earth), chernics, shedozem (grey earth), hnědozem (brown earth), luvisol, modal cambisol, acidic cambisol, dystric cambisol, eutrophic cambisol, pelozem (clayic cambisol), pseudogley (stagnosol), gley, organosol, anthrosol.

(b) Climatic regions:

warm, dry; warm, moderately dry; warm, moderately humid; moderately warm, dry moderately warm, moderately humid; moderately warm (to warm), significantly humid; moderately warm, humid.

The quality of 'Český modrý mák' is substantially determined by the climatic conditions, especially the temperatures and rainfall over the course of the year, which differ significantly from those in other areas. This is especially important when combined with the soil types present in the identified area. The main difference between the climate in the defined climatic regions and coastal climates can be found in the winter period (moisture reserve levels at the start of spring are higher and so more suitable for planting) and also in the fact that less moisture in the summer months does not negatively impact on poppy production because poppy is unable to withstand damp weather when ripening. Water shortages are a significant negative limiting factor for poppy production. 'Český modrý mák' requires structural soil types with good water management; conditions in the soil types indicated are ideal because they enable the crops to be sown in cold soil, which retains at least the remaining winter humidity and condensation from soil and air moisture. Sunny and warm weather is ideal in the climatic regions used for growing poppy, which is a long-day plant. Such weather is also highly desirable when the capsules flower and ripen because it speeds up this process. The warmth requirements change during vegetation. These requirements can be best met only in the climatic regions of the Czech Republic, because excessively hot climates have a negative effect on fat formation and, owing to the negative correlation between lipid and protein content, lead to an increase in proteins, the precursors of morphine.

The product covered by the protected geographical indication 'Český modrý mák' is an oily poppy plant characterised by low alkaloid content and considerably lower morphine and thebaine levels, which is a typical property, also indicated by its sensory properties (aroma and flavour). Long-term analyses carried out in the Czech Republic and in foreign laboratories have confirmed that the morphine content in the product covered by the protected geographical indication 'Český modrý mák' is below the limit set by local legislation. The product is also characterised by a very low content of other alkaloids. Other poppy seeds must be processed for food use, because their morphine content, for example, is as much as ten times higher. However, the quality and sensory properties (flavour, aroma) of those poppy varieties deteriorate during such processing (washing of the seeds, thermostabilisation, etc.) In other words, the positive sensory characteristics of the product covered by the protected geographical indication 'Český modrý mák' occur naturally as a result of the geographical area the product originates from, and there is no need for processing.

The product covered by the protected geographical indication 'Český modrý mák' has beneficial nutritional properties and contains a significant amount of dietetic ingredients. It has an especially high calcium content (600 times higher than wheat flour and nine times higher than walnut kernels), a high content of vitamin E, pantothenic acid, niacin and thiamine and a high mineral content (copper, zinc, magnesium, iron).

Furthermore, the higher latitude and favourable altitude have a positive effect on creating a higher proportion of unsaturated fatty acids with lower viscosity and less prone to become oxidised. They also positively influence the more beneficial nutritional values. This is illustrated by expert studies and results of experiments enabling detection of the behaviour of fatty acids and their esters (Steinbach M, Lazarovici M, Ille C, et al. *Rev Tomaine Med Ing*1, 451, 1964; Vereschagin AG, *Biochimija* 27, 1866, 1962). The product grown in this climatic region contains a significant amount of linolenic and linoleic acid. This further confirms the specific nature of the product covered by the protected geographical indication 'Český modrý mák', which arises from its distinctive characteristics attributable to its geographical origin (Zehnálek P., 'Mák – stále nedoceněný' [The Poppy – Still Underestimated], 4, *Výživa a potravin* [Nutrition and Food] 5/2016).

Given its quality characteristics, Český modrý mák is highly valued in a number of countries – as shown by the fact that more than 85 % of seeds of Český modrý mák are exported. It is a popular food ingredient, especially in countries where poppy seeds are used as a filling in bakery products.

Reference to publication of the product specification

(the second subparagraph of Article 6(1) of this Regulation)

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