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(1) Text with EEA relevance

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2016/2071

of 22 September 2016

amending Regulation (EU) 2015/757 of the European Parliament and of the Council as regards the methods for monitoring carbon dioxide emissions and the rules for monitoring other relevant information

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC ([1]), and in particular Article 5(2) thereof,

Whereas:

(1) Regulation (EU) 2015/757 lays down rules for the accurate monitoring, reporting and verification of carbon dioxide (CO_2) emissions and of other relevant information from ships arriving at, within or departing from ports under the jurisdiction of a Member State, in order to promote the reduction of CO_2 emissions from maritime transport in a cost effective manner.

(2) Annex I to Regulation (EU) 2015/757 lays down the methods for monitoring CO_2 emissions on the basis of fuel consumption. Annex II to Regulation (EU) 2015/757 lays down the rules for 'monitoring of other relevant information'.

(3) Part A of Annex I to Regulation (EU) 2015/757 provides that CO_2 emissions should be calculated by multiplying emission factors and fuel consumption which is determined by monitoring methods A (BDN and periodic stock takes of fuel tanks), B (bunker fuel tank monitoring on board) and C (flow meters for applicable combustion processes) set out in Part B of that Annex. The IMO Resolution ([2]) on Guidelines on the method of calculation of the attained Energy Efficiency Design Index for new ships lays down a set of default values for emissions factors for standard fuels used on board ships. These default values can be used to calculate CO_2 emissions from shipping. Having ships apply these default values to monitor and report their CO_2 emissions in accordance with Annex I to Regulation (EU) 2015/757 ensures both a lean regulatory approach and harmonised implementation.

(4) Monitoring methods A, B and C address the determination of fuel uplift (bunkering) or amount of fuel remaining in the tanks from volume to mass, using actual fuel density values. Pursuant to point (c) of the fifth subparagraph of paragraph 2 of Part B of Annex I, companies using monitoring method B can determine actual density on the basis of the density measured in a test analysis conducted by an accredited fuel laboratory, if available. Extending

([1]) OJ L 123, 19.5.2015, p. 55.
([2]) MEPC 245 (66) 2014.

that possibility to companies using monitoring methods A and C would ensure harmonised implementation of these three monitoring methods, in line with ISO standard 3675:1998 [1]. It would also fully reflect industry practices and increase the comparability of fuel consumption monitored using the three methods concerned.

(5) The 'berth-to-berth' concept would provide more clarity and a harmonised approach to the exact starting and ending point of voyages. This would refine the parameters used to monitor the time spent at sea and distance travelled, as specified under points (a) and (b) of paragraph 1 of Part A of Annex II to Regulation (EU) 2015/757, and reflect industry practices.

(6) IMO Guidelines for voluntary use of the ship Energy Efficiency Operational Indicator [2] and CEN standard EN 16258 (2012) [3] provide ro-ro ships with a possibility to monitor and report cargo carried on the basis of the actual cargo mass. Adding this additional parameter to those laid down in point (e) of paragraph 1 of Part A of Annex II to Regulation (EU) 2015/757 would better reflect industry practices and therefore make monitoring easier.

(7) In line with the Commission usual practice of consulting experts during the preparatory phase of delegated acts, a 'Shipping MRV monitoring subgroup' gathering experts from Member States, industry and civil society was set up under the umbrella of the European Sustainable Shipping Forum (ESSF). The subgroup identified a number of international and European standards and international rules and scientific and technical developments and recommended that they be covered by this Regulation. The subgroup's draft recommendations on these aspects were endorsed by the ESSF plenary on 28 June 2016.

(8) Annexes I and II to Regulation (EU) 2015/757 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EU) 2015/757 are amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 22 September 2016.

For the Commission

The President

Jean-Claude JUNCKER

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[1] ISO 3675:1998 crude petroleum and liquid petroleum products — Laboratory determination of density — Hydrometer method.
[2] MEPC.1/Circ.684 IMO Guidelines for voluntary use of the ship Energy Efficiency Operational Indicator.
[3] Methodology for calculation and declaration of energy consumption and GHG emissions of transport services (freight and passengers).

ANNEX

Annexes I and II to Regulation (EU) 2015/757 are amended as follows:

(1) Annex I is amended as follows:

(a) Part A is replaced by the following:

'A. CALCULATION OF CO_2 EMISSIONS (ARTICLE 9)

For the purposes of calculating CO_2 emissions companies shall apply the following formula:

Fuel consumption × emission factor

Fuel consumption shall include fuel consumed by main engines, auxiliary engines, gas turbines, boilers and inert gas generators.

Fuel consumption within ports at berth shall be calculated separately.

The following default values for emission factors for fuels used on board shall be applied:

Type of fuel	Reference	Emission factor (t-CO_2/t-fuel)
1. Diesel/Gas oil	ISO 8217 Grades DMX through DMB	3,206
2. Light fuel oil (LFO)	ISO 8217 Grades RMA through RMD	3,151
3. Heavy fuel oil (HFO)	ISO 8217 Grades RME through RMK	3,114
4. Liquefied petroleum gas (LPG)	Propane	3,000
	Butane	3,030
5. Liquefied natural gas (LNG)		2,750
6. Methanol		1,375
7. Ethanol		1,913

Appropriate emission factors shall be applied for biofuels, alternative non-fossil fuels and other fuels for which no default values are specified.';

(b) Part B is amended as follows:

(i) in the fifth subparagraph of paragraph 1, point (b) is replaced by the following:

'(b) the density measured by the fuel supplier at fuel uplift and recorded on the fuel invoice or BDN;';

(ii) in the fifth subparagraph of paragraph 1, the following point (c) is added:

'(c) the density measured in a test analysis conducted in an accredited fuel test laboratory, where available.';

(iii) in the fourth subparagraph of paragraph 3, point (b) is replaced by the following:

'(b) the density measured by the fuel supplier at fuel uplift and recorded on the fuel invoice or BDN;';

(iv) in the fourth subparagraph of paragraph 3, the following point (c) is added:

'(c) the density measured in a test analysis conducted in an accredited fuel test laboratory, where available.'.

(2) Paragraph 1 of part A of Annex II is amended as follows:

(a) in point (a), the first sentence is replaced by the following:

'the date and hour of departure from berth and arrival at berth shall be considered using Greenwich Mean Time (GMT/UTC).';

(b) in point (b), the last sentence is replaced by the following:

'The distance travelled shall be determined from berth of the port of departure to berth of the port of arrival and shall be expressed in nautical miles;';

(c) in point (e), the first subparagraph is replaced by the following:

'for ro-ro ships, cargo carried shall be defined as the mass of cargo on board, determined as the actual mass or as the number of cargo units (trucks, cars, etc.) or occupied lane-metres multiplied by default values for their weight.'.

COMMISSION DELEGATED REGULATION (EU) 2016/2072

of 22 September 2016

on the verification activities and accreditation of verifiers pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC ([1]), and in particular Article 15(5) and Article 16(3) thereof,

Whereas:

(1) Article 15(5) and Article 16(3) of Regulation (EU) 2015/757 provide, respectively, for the Commission to adopt delegated acts laying down further rules for verification activities and for the methods for accrediting verifiers. As those activities and methods are substantively linked, both legal bases are used in this Regulation.

(2) The implementation of Article 15(5) of Regulation (EU) 2015/757 requires an overall framework of rules to ensure that the assessment of monitoring plans and the verification of emissions reports established in accordance with that Regulation are carried out in a harmonised manner by verifiers possessing the technical competence to perform the entrusted tasks independently and impartially.

(3) In the implementation of Article 16(3) of Regulation (EU) 2015/757, it is necessary to ensure synergy between the comprehensive framework for accreditation established by Regulation (EC) No 765/2008 of the European Parliament and of the Council ([2]) and the specific features of verification and accreditation activities applying to CO_2 emissions from the maritime transport sector. In accordance with Article 16(2) of Regulation (EU) 2015/757, Regulation (EC) No 765/2008 is to apply to aspects of the accreditation of verifiers that are not dealt with by Regulation (EU) 2015/757.

(4) In order to ensure that the reported data are robust and reliable, it is necessary to ensure that verification is carried out by independent and competent verifiers. The system of verification and accreditation should avoid any unnecessary duplication of procedures and organisations established pursuant to other Union legal instruments as it would result in an increased burden for Member States or economic operators. Therefore, it is appropriate to draw on best practices resulting from the application of harmonised standards adopted by the European Committee for Standardisation on the basis of a remit issued by the Commission in accordance with Directive 98/34/EC of the European Parliament and of the Council ([3]) (such as those concerning requirements for greenhouse gas validation and verification bodies for use in accreditation or other forms of recognition, and concerning general requirements for accreditation bodies accrediting conformity assessment bodies, the references of which have been published in the *Official Journal of the European Union*), Document EA-6/03 and other technical documents developed by European cooperation for Accreditation.

(5) Harmonised rules for the assessment of monitoring plans, the verification of emissions reports and the issuance of documents of compliance by verifiers should clearly define the verifiers' responsibilities and activities.

([1]) OJ L 123, 19.5.2015, p. 55.

([2]) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

([3]) Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (OJ L 204. 21.7.1998, p. 37).

(6) When assessing a monitoring plan, verifiers should perform a number of activities to evaluate the completeness, relevance and conformity of the information submitted by the company in question as regards the ship's monitoring and reporting process in order to be able to conclude whether the plan is in conformity with Regulation (EU) 2015/757.

(7) Pursuant to Commission Implementing Regulation (EU) 2016/1927 ([1]), when submitting the ship's monitoring plan, companies may refer to information on the ship's existing procedures and controls, as covered by harmonised quality, environmental and energy management standards (such as EN ISO 9001:2015, EN ISO 14001:2015, EN ISO 50001:2011) or under the International Safety Management (ISM) Code ([2]) or the Ship Energy Efficiency Management Plan (SEEMP) ([3]). In order to ensure a streamlined approach, verifiers should be able to consider these to the extent that they are relevant for the monitoring and reporting of data under Regulation (EU) 2015/757 and this Regulation.

(8) The provision of documents and the exchange of relevant information between companies and verifiers are essential for all aspects of the verification process, in particular for the assessment of the monitoring plan, the performance of the risk assessment and verification of the emissions report. It is necessary to establish a set of harmonised requirements governing the provision of information and documents to be made available to the verifier before it starts its verification activities and at other points in the course of the verification.

(9) The verifier should take a risk-based approach in verifying the emissions report, in accordance with paragraphs 1, 2 and 3 of Article 15 of Regulation (EU) 2015/757. Analysis of the susceptibility of reported data to potential material misstatement is an essential part of the verification process and determines how the verifier should carry out its activities.

(10) Every part of the process of verifying emissions reports, including site visits, is closely linked to the outcome of the analysis of the risk of misstatement. The verifier should be obliged to adjust one or more verification activities in the light of the findings and information obtained during the verification process, in order to meet the requirements of achieving reasonable assurance.

(11) In order to ensure consistency and comparability of monitored data over time in accordance with Article 4(3) of Regulation (EU) 2015/757, the monitoring plan that has been assessed as satisfactory should be the reference point for the verifier when assessing a ship's emissions report. The verifier should assess whether the plan and the requisite procedures have been implemented correctly. It notifies the company of any non-conformities or misstatements that it identifies. The verifier reports uncorrected misstatements or non-conformities leading to material errors in a verification report stating that the emissions report is not in compliance with Regulation (EU) 2015/757 and this Regulation.

(12) All activities in the emissions report's verification process are interconnected and should culminate in the issuance of a verification report containing a statement of the outcome of the verification. The level of assurance should relate to the depth and detail of the verification activities and the wording of the verification statement. Harmonised requirements for the performance of verification activities and the verification reports would ensure that all verifiers apply the same standards.

(13) Verification activities, including the assessment of monitoring plans and the verification of emissions reports, should be carried out by competent verifiers and personnel. In order to ensure that the personnel involved are competent to perform the tasks entrusted to them, verifiers should establish and continuously improve internal processes. The criteria for determining whether a verifier is competent should be the same in all Member States and should be verifiable, objective and transparent.

(14) To promote high quality in verification activities, harmonised rules should be laid down to determine whether a verifier is competent, independent and impartial and thus qualified to carry out the requisite activities.

([1]) Commission Implementing regulation (EU) 2016/1927 of 4 November 2016 on templates for monitoring plans, emissions reports and documents of compliance pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council on monitoring, reporting and verification of carbon dioxide emissions from maritime transport (OJ L 299, 5.11.2016, p. 1).
([2]) Adopted by the International Maritime Organisation (IMO) by Assembly Resolution A.741(18).
([3]) Regulation 22 MARPOL, Annex VI.

(15) An overall framework of rules for the accreditation of legal entities is necessary to ensure that verifiers possess the technical competence to perform the tasks entrusted to them independently, impartially and in conformity with the requirements and principles set out in Regulation (EU) 2015/757, Regulation (EC) No 765/2008 and this Regulation.

(16) In accordance with Article 16(2) of Regulation (EU) 2015/757, Articles 4 to 12 of Regulation (EC) No 765/2008 should apply to general principles and requirements for national accreditation bodies.

(17) In line with the Commission's usual practice of consulting experts when preparing draft delegated acts, a 'shipping MRV verification and accreditation subgroup' gathering experts from Member States, industry and other relevant organisations, including civil society, was set up under the umbrella of the European Sustainable Shipping Forum (ESSF). The subgroup recommended that a number of elements be covered by this Regulation. The ESSF plenary endorsed its draft recommendations on those aspects on 28 June 2016,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down provisions concerning the assessment of monitoring plans and verification of emissions reports. It also lays down requirements in terms of competences and procedures.

This Regulation lays down rules on accreditation and supervision of verifiers by national accreditation bodies pursuant to Regulation (EC) No 765/2008.

Article 2

Definitions

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

(1) 'accreditation' means attestation by a national accreditation body that a verifier meets the requirements of harmonised standards within the meaning of point (9) of Article 2 of Regulation (EC) No 765/2008 and the requirements of this Regulation and is thus qualified to carry out the verification activities pursuant to Chapter II;

(2) 'non-conformity' means one of the following:

(a) for the purpose of assessing a monitoring plan, that the plan does not fulfil requirements under Articles 6 and 7 of Regulation (EU) 2015/757 and Implementing Regulation (EU) 2016/1927;

(b) for the purpose of verifying an emissions report, that the CO_2 emissions and other relevant information are not reported in line with the monitoring methodology described in a monitoring plan that an accredited verifier has assessed as satisfactory;

(c) for the purpose of accreditation, any act or omission by the verifier that is contrary to requirements under Regulation (EU) 2015/757 and this Regulation;

(3) 'reasonable assurance' means a high but not absolute level of assurance, expressed positively in the verification statement, as to whether the emissions report subject to verification is free of material misstatements;

(4) 'materiality level' means the quantitative threshold or cut-off point above which the verifier considers misstatements, individually or taken together, to be material;

(5) 'inherent risk' means the susceptibility of a parameter in the emissions report to misstatements that could be material, individually or taken together, before taking into consideration the effect of any related control activities;

(6) 'control risk' means the susceptibility of a parameter in the emissions report to misstatements that could be material, individually or when taken together with other misstatements, and will not be prevented or detected and corrected on a timely basis by the control system;

(7) 'detection risk' means the risk of a verifier not detecting a material misstatement;

(8) 'verification risk' means the risk (a function of inherent, control and detection risk) of the verifier expressing an inappropriate verification opinion when the emissions report is not free of material misstatements;

(9) 'misstatement' means an omission, misrepresentation or error in the reported data, apart from the uncertainty permissible pursuant to Regulation (EU) 2015/757 and taking into consideration the guidelines developed by the Commission on these matters;

(10) 'material misstatement' means a misstatement that, in the opinion of the verifier, individually or when taken together with other misstatements, exceeds the materiality level or could otherwise, have an impact on the total reported emissions or other relevant information;

(11) 'site', for the purposes of assessing the monitoring plan or verifying the emissions report of a ship, means a location where the monitoring process is defined and managed, including locations where relevant data and information are controlled and stored;

(12) 'internal verification documentation' means all internal documentation that a verifier has compiled to record documentary evidence and justification of activities carried out to assess the monitoring plan or verify an emissions report pursuant to this Regulation;

(13) 'shipping MRV auditor' means an individual member of a verification team responsible for assessing a monitoring plan or verifying an emissions report;

(14) 'independent reviewer' means a person assigned by the verifier specifically to carry out internal review activities, who belongs to the same entity but has not carried out any of the verification activities subject to review;

(15) 'technical expert' means a person who provides detailed knowledge and expertise on a specific matter as required for the performance of verification activities for the purposes of Chapter II and accreditation activities for the purposes of Chapters IV and V;

(16) 'assessor' means a person assigned by a national accreditation body to assess a verifier pursuant to this Regulation, individually or as part of an assessment team;

(17) 'lead assessor' means an assessor who is given overall responsibility for the assessment of a verifier pursuant to this Regulation.

Article 3

Presumption of conformity

A verifier that demonstrates conformity with the criteria laid down in the relevant harmonised standards, within the meaning of Article 2(9) of Regulation (EC) No 765/2008, or parts thereof, the references of which have been published in the *Official Journal of the European Union*, shall be presumed to comply with the requirements of Chapters II and III of this Regulation in so far as the applicable harmonised standards cover those requirements.

CHAPTER II

VERIFICATION ACTIVITIES

SECTION 1

Assessment of monitoring plans

Article 4

Information to be provided by companies

1. Companies shall provide the verifier with their ship's monitoring plan using a template corresponding to the model set out in Annex I to Implementing Regulation (EU) 2016/1927. If the monitoring plan is in a language other than English, they shall provide an English translation.

2. Before the start of the assessment of the monitoring plan, the company shall also provide the verifier with at least the following information:

(a) relevant documentation or description of the ship's installations, including emissions sources certificates, flow meters used (if applicable), procedures and processes or flowcharts prepared and maintained outside the plan, where applicable, to which reference is made in the plan;

(b) in the event of those changes to the monitoring and reporting system referred to in points (c) and (d) of Article 7(2) of Regulation (EU) 2015/757, relevant updated versions or new documents enabling the assessment of the amended plan.

3. The company shall, upon request, provide any other information deemed relevant to carry out its assessment of the plan.

Article 5

Assessment of monitoring plans

1. When assessing the monitoring plan, the verifier shall address the assertions of completeness, accuracy, relevance and conformity with Regulation (EU) 2015/757 of the information provided in the monitoring plan.

2. The verifier shall at least:

(a) assess that the company used the appropriate monitoring plan template and that information is provided for all mandatory items referred to in Annex I to Implementing Regulation (EU) 2016/1927;

(b) verify that the information in the monitoring plan accurately and completely describes the emission sources and measurement equipment installed on board the ship and the systems and procedures in place to monitor and report relevant information pursuant to Regulation (EU) 2015/757;

(c) ensure that adequate monitoring arrangements are provided for in the event of the ship seeking to benefit from the derogation of 'per voyage' monitoring of fuel and CO_2 emissions pursuant to Article 9(2) of Regulation (EU) 2015/757;

(d) where applicable, assess whether the information submitted by the company regarding elements, procedures or controls implemented as part of the ship's existing management systems or covered by harmonised relevant quality, environmental or management standards is relevant for monitoring CO_2 emissions and other relevant information and reporting pursuant to Regulation (EU) 2015/757 and Commission Implementing Regulation (EU) 2016/1928 ([1]).

3. For the purpose of assessing the monitoring plan, the verifier may resort to inquiry, document inspection, observation and any other audit technique deemed appropriate.

Article 6

Site visits

1. The verifier shall carry out site visits in order to gain sufficient understanding of the procedures described in the monitoring plan and validate that the information therein is accurate.

2. The verifier shall determine the location or locations of the site visit after taking into consideration the place where the critical mass of relevant data is stored, including electronic or hard copies of documents of which the originals are kept on the ship, and the place where data-flow activities are carried out.

3. The verifier shall also determine the activities to be performed and the time needed for the site visit.

([1]) Commission Implementing Regulation (EU) 2016/1928 of 4 November 2016 on determination of cargo carried for categories of ships other than passenger, ro-ro and container ships pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport (OJ L 299, 5.11.2016, p. 22).

4. By way of derogation from paragraph 1, the verifier may waive a site visit provided that one of the following conditions is fulfilled:

(a) it has sufficient understanding of the ship's monitoring and reporting systems, including their existence, implementation and effective operation by the company;

(b) the nature and level of complexity of the ship's monitoring and reporting system are such that a site visit is not required;

(c) its ability to obtain and assess all requisite information remotely.

5. If the verifier waives a site visit pursuant to paragraph 4, it shall provide justification for not performing site visits in the internal verification documentation.

Article 7

Addressing non-conformities in the monitoring plan

1. Where the verifier identifies non-conformities in the course of the assessment of the monitoring plan, it shall inform the company thereof without undue delay and request relevant corrections within a proposed timeframe.

2. The company shall correct all non-conformities communicated by the verifier and submit a revised monitoring plan to the verifier according to the agreed timeframe that allows the verifier to reassess it before the start of the reporting period.

3. The verifier shall document in the internal verification documentation, marking them as resolved, all non-conformities that have been corrected in the course of the assessment of the monitoring plan.

Article 8

Independent review of the assessment of the monitoring plan

1. The verification team shall submit the internal verification documentation and draft conclusions from the assessment of the plan to an appointed independent reviewer without delay and prior to communicating them to the company.

2. The independent reviewer shall perform a review to ensure that the monitoring plan has been assessed in accordance with this Regulation and that due professional care and judgment have been exercised.

3. The scope of the independent review shall encompass the complete assessment process described in this Section and recorded in the internal verification documentation.

4. The verifier shall include the results of the independent review in the internal verification documentation.

Article 9

Verifier's conclusions on the assessment of the monitoring plan

On the basis of the information collected during the assessment of the monitoring plan, the verifier shall without delay inform the company in writing of the conclusions reached and indicate whether the monitoring plan:

(a) is assessed as being in conformity with Regulation (EU) 2015/757;

(b) contains non-conformities that make it not in compliance with Regulation (EU) 2015/757.

SECTION 2

Verification of emissions reports

Article 10

Information to be provided by companies

1. Before the start of the verification of the emissions report, companies shall provide the verifier with the following supporting information:

(a) a list of voyages carried out by the ship in question during the reporting period according to Article 10 of Regulation (EU) 2015/757;

(b) a copy of the emissions report from the previous year where appropriate, if the verifier did not carry out the verification for that report;

(c) a copy of the monitoring plan or plans applied, including evidence of the conclusions from the assessment carried by an accredited verifier, where appropriate.

2. Once the verifier has identified the specific section(s) or document(s) deemed relevant for the purpose of its verification, companies shall also provide the following supporting information:

(a) copies of the ship's official logbook and of the oil record book (if separate);

(b) copies of bunkering documents;

(c) copies of documents containing information on the number of passengers transported and the amount of cargo carried, distance travelled and time spent at sea for the ship's voyages during the reporting period.

3. Additionally, and if applicable on the basis of the monitoring method applied, verifiers may ask the company to provide:

(a) an overview of the IT landscape showing the data-flow for the relevant ship;

(b) evidence of the maintenance and accuracy/uncertainty of measurement equipment/flow meters (e.g. calibration certificates);

(c) an extract of fuel consumption activity data from flow meters;

(d) copies of evidence of fuel tank meter readings;

(e) an extract of activity data from direct emissions measurement systems;

(f) any other information relevant to the verification of the emissions report.

4. In the event of a change of company, the companies involved shall exercise due diligence to provide the verifier with the above-mentioned supporting documents or information relating to the voyages performed under their respective responsibilities.

5. Companies shall retain the above-mentioned information for the periods set under the 1973 International Convention for the Prevention of Pollution from Ships (the MARPOL Convention) and the 1988 International Convention for the Safety of Life at Sea (the SOLAS Convention). Pending the issuance of the Document of compliance in accordance with Article 17 of Regulation (EU) 2015/757, the verifier may request any of the information referred to in paragraphs 1, 2 and 3.

Article 11

Risk assessment to be carried out by verifiers

1. In addition to the elements referred to in paragraphs 1, 2 and 3 of Article 15 of Regulation (EU) 2015/757, the verifier shall identify and analyse all of the following:

(a) the inherent risks;

(b) the control risks;

(c) the detection risks.

2. The verifier shall consider areas of higher verification risk and at least the following: voyage data, fuel consumption, CO_2 emissions, distance travelled, time spent at sea, cargo carried and aggregation of data in the emissions report.

3. When identifying and analysing the aspects referred to in paragraph 2, the verifier shall consider the existence, completeness, accuracy, consistency, transparency and relevance of the information reported.

4. Where appropriate in the light of the information obtained in the course of the verification, the verifier shall revise the risk assessment and modify or repeat the verification activities to be performed.

Article 12

Verification plan

The verifier shall draft a verification plan commensurate with the information obtained and the risks identified during the risk assessment. The verification plan shall include at least:

(a) a verification programme describing the nature and scope of the verification activities and the time and manner in which they are to be carried out;

(b) a data sampling plan setting out the scope and methods of data sampling relating to data points underlying the aggregated CO_2 emissions, fuel consumption or other relevant information in the emissions report.

Article 13

Verification activities concerning the emissions report

1. The verifier shall implement the verification plan and, on the basis of the risk assessment, verify whether the monitoring and reporting systems, as described in the monitoring plan that has been assessed as satisfactory, exist in practice and are properly implemented.

To that end, the verifier shall consider carrying out at least the following types of procedure:

(a) enquiry with relevant staff;

(b) document inspection;

(c) observation and walkthrough procedures.

2. If applicable, the verifier shall check whether the internal control activities described in the monitoring plan are implemented effectively. For that purpose, it may consider testing the effectiveness of documented controls on the basis of a sample.

Article 14

Verification of reported data

1. The verifier shall verify the data reported in the emissions report through: detailed testing, including by tracing them back to the primary data source; cross-checking them with external data sources, including ship-tracking data; performing reconciliations; checking thresholds as regards appropriate data; and carrying out recalculations.

2. As part of the data verification referred to in paragraph 1, the verifier shall check:

(a) the completeness of emission sources as described in the monitoring plan;

(b) the completeness of data, including those on voyages reported as falling under Regulation (EU) 2015/757;

(c) the consistency between reported aggregated data and data from relevant documentation or primary sources;

(d) the consistency between aggregated fuel consumption and data on fuel purchased or otherwise supplied to the ship in question, if applicable;

(e) the reliability and accuracy of the data.

Article 15

Materiality level

1. For the purpose of verifying fuel consumption and CO_2 emissions data in the emissions report, the materiality level shall be 5 % of the respective total reported for each item in the reporting period.

2. For the purpose of verifying other relevant information in the emissions report, on cargo carried, transport work, distance travelled and time spent at sea, the materiality level shall be 5 % of the respective total reported for each item in the reporting period.

Article 16

Site visits

1. The verifier shall carry out site visits for the purpose of gaining sufficient understanding of the company and the ship's monitoring and reporting system as described in the monitoring plan.

2. The verifier shall determine the location or locations for the site visit on the basis of the results of the risk assessment and after taking into consideration the place where the critical mass of relevant data is stored, including electronic or hard copies of documents of which the originals are kept on the ship, and the place where data-flow activities are carried out.

3. The verifier shall also determine the activities to be performed and the time needed for the site visit.

4. By way of derogation from paragraph 1, the verifier may waive a site visit provided that, on the basis of the outcome of the risk assessment, one of the following conditions is fulfilled:

(a) it has sufficient understanding of the ship's monitoring and reporting systems, including their existence, implementation and effective operation by the company;

(b) the nature and level of complexity of the ship's monitoring and reporting system are such that a site visit is not required;

(c) its ability to obtain and assess remotely all requisite information, including correct application of the methodology described in the monitoring plan and verification of the data reported in the emissions report.

5. On the basis of the outcome of a site visit to an onshore location, where it concludes that an on-board verification is needed to reduce the risk of material misstatements in the emissions report, the verifier may decide to visit the ship.

6. If the verifier waives a site visit pursuant to paragraph 4, it shall provide justification for doing so in the internal verification documentation.

Article 17

Addressing misstatements and non-conformities in the emissions report

1. Where the verifier identifies misstatements or non-conformities in the course of the verification of the emissions report, it shall inform the company thereof without undue delay and request relevant corrections within a reasonable deadline.

2. The verifier shall document in the internal verification documentation, marking them as resolved, all misstatements or non-conformities that have been corrected in the course of the verification.

3. Where the company does not correct the misstatements or non-conformities referred to in paragraph 1, the verifier shall, before issuing the verification report, ask the company to explain the main causes of the misstatements or non-conformities.

4. The verifier shall determine whether the uncorrected misstatements, individually or together with other misstatements, have an impact on the total reported emissions or other relevant information and whether that impact leads to material misstatements.

5. The verifier may consider misstatements or non-conformities which, individually or together with other misstatements, are below the materiality level set in Article 15 as material misstatements where that is justified by their scale and nature or by the particular circumstances of their occurrence.

Article 18

Conclusion of the emissions report verification

To complete the verification of the emissions report, the verifier shall at least:

(a) confirm that all verification activities have been carried out;

(b) perform final analytical procedures on the aggregated data to ensure that they are free of material misstatements;

(c) verify whether the information in the report satisfies the requirements of Regulation (EU) 2015/757;

(d) before issuing the report, prepare the internal verification documentation and the draft report and submit them to the independent reviewer in accordance with Article 21;

(e) authorise a person to authenticate the report on the basis of the conclusions reached by the independent reviewer and the evidence of the internal verification documentation, and notify the company thereof;

(f) notify the Commission and the ship's flag state whether the conditions for issuing the document of compliance are fulfilled.

Article 19

Recommendations for improvement

1. The verifier shall communicate to the company recommendations for improvement in relation to uncorrected misstatements and non-conformities not leading to material misstatements.

2. The verifier may communicate other recommendations for improvement that it finds relevant, in the light of the outcome of the verification activities.

3. When communicating recommendations to the company, the verifier shall remain impartial *vis-à-vis* the company, the ship and the monitoring and reporting system. It shall not jeopardise its impartiality by giving advice or developing parts of the monitoring and reporting process pursuant to Regulation (EU) 2015/757.

Article 20

Verification report

1. On the basis of the information collected, the verifier shall issue a verification report to the company on each emissions report subject to verification.

2. The verification report shall include a statement verifying the emissions report as satisfactory or unsatisfactory, in case it contains material misstatements that were not corrected before the report was issued.

3. For the purposes of paragraph 2, the emissions report shall be considered to have been verified as satisfactory only if it is free of material misstatements

4. The verification report shall contain at least the following elements:

(a) the name of the company and identification of the ship;

(b) a title making it clear that it is a verification report;

(c) the identity of the verifier;

(d) a reference to the emissions report and the reporting period subject to verification;

(e) a reference to one or more monitoring plans that have been assessed as satisfactory;

(f) a reference to the verification standard(s) used;

(g) a summary of the verifier's procedures, including information on site visits or the reasons for waiving them;

(h) a summary of significant changes to the monitoring plan and activity data in the reporting period, where applicable;

(i) a verification statement;

(j) a description of uncorrected misstatements and non-conformities, including their nature and scale, whether or not they have a material impact and the element(s) of the emissions report to which they relate, if any;

(k) where applicable, recommendations for improvement;

(l) the date of the verification report and signature of an authorised person on behalf of the verifier.

Article 21

Independent review of the emissions report

1. The independent reviewer shall review the internal verification documentation and the draft verification report to verify that the verification process has been conducted in accordance with this Regulation and that due professional care and judgment have been exercised.

2. The scope of the independent review shall encompass the complete verification process laid down in this Section and recorded in the internal verification documentation.

3. After the emissions report has been authenticated in accordance with Article 18(e), the verifier shall include the results of the independent review in the internal verification documentation.

CHAPTER III

REQUIREMENTS FOR VERIFIERS

Article 22

Continued competence process

1. The verifier shall establish, document, implement and maintain a continued competence process to ensure that all personnel entrusted with verification activities are competent for the tasks that are allocated to them.

2. For the purpose of the competence process referred to in paragraph 1, the verifier shall establish, document, implement and maintain the following:

(a) general competence criteria for all personnel undertaking verification activities in accordance with Article 23(3);

(b) specific competence criteria for each function within the verifier undertaking verification activities, in particular for the shipping MRV auditor, the independent reviewer and the technical expert in line with Articles 24, 25 and 26;

(c) a method for ensuring the continued competence and regular evaluation of the performance of all personnel undertaking verification activities;

(d) a process for ensuring ongoing training of the personnel undertaking verification activities.

3. The verifier shall monitor regularly, at least annually, the performance of all personnel undertaking verification activities in order to confirm their continued competence.

Article 23

Verification teams

1. For each verification engagement, the verifier shall assemble a verification team capable of performing the verification activities referred to in Articles 5 to 20.

2. The verification team shall consist at least of one shipping MRV auditor and, where appropriate in the light of the verifier's understanding of the complexity of the tasks to be carried out and its ability to conduct the necessary risk assessment, a suitable number of additional shipping MRV auditors and/or technical experts.

3. Team members shall have a clear understanding of their specific role in the verification process and shall be able to communicate effectively in the language required to perform their verification tasks and to examine the information submitted by the company.

Article 24

Competence requirements for shipping MRV auditors

1. Shipping MRV auditors shall have the competence to assess monitoring plans and verify emissions reports in accordance with Regulation (EU) 2015/757 and this Regulation.

2. To that end, shipping MRV auditors shall have, at least:

(a) knowledge of Regulation (EU) 2015/757, this Regulation, Implementing Regulation (EU) 2016/1927, Implementing Regulation (EU) 2016/1928, and relevant guidelines issued by the Commission;

(b) knowledge and experience of data and information auditing, including:

(i) data and information auditing methodologies, application of the materiality level and assessing the materiality of misstatements;

(ii) analysing inherent and control risks;

(iii) sampling techniques in relation to data sampling and checking control activities;

(iv) assessing data and information systems, IT systems, data-flow activities, control activities, control systems and procedures for control activities.

3. In addition, sector-specific knowledge and experience of relevant aspects as specified in the Annex shall be taken into consideration.

Article 25

Competence requirements for independent reviewers

1. The independent reviewer shall meet the competence requirements applying to shipping MRV auditors, as referred to in Article 24.

2. In order to assess whether the internal verification documentation is complete and whether enough evidence has been gathered in the course of the verification activities, the independent reviewer shall have the necessary competence to:

(a) analyse the information provided and confirm its completeness and integrity;

(b) challenge missing or contradictory information;

(c) check data trails to assess whether the internal verification documentation provides sufficient information to support the draft conclusions examined in the internal review.

Article 26

Use of technical experts

1. Where detailed knowledge and specific expertise are required in the course of the verification activities or the review process, the shipping MRV auditor or the independent reviewer may make use of technical experts, under their respective direction and full responsibility.

2. In addition to knowledge of the specific subject matter, technical experts shall have sufficient understanding of the issues referred to in Article 24.

Article 27

Procedures for verification activities

1. Verifiers shall establish, document, implement and maintain one or more procedures and processes for the verification activities described in Articles 5 to 21.

2. When establishing and implementing such procedures and processes, the verifier shall carry out the activities in accordance with the harmonised standard pursuant to Regulation (EC) No 765/2008 concerning requirements for greenhouse gas validation and verification bodies for use in accreditation or other forms of recognition.

3. Verifiers shall design, document, implement and maintain a quality management system to ensure consistent development, implementation, improvement and review of the procedures and processes in accordance with the harmonised standard referred to in paragraph 2.

4. In addition, verifiers shall establish the following procedures, processes and arrangements in accordance with the harmonised standard referred to in paragraph 2:

(a) a process and policy for communication with the company;

(b) adequate arrangements to safeguard the confidentiality of information obtained;

(c) a process for dealing with appeals of the companies;

(d) a process for dealing with complaints (including indicative timescale) of the companies;

(e) a process for issuing a revised verification report where an error in the verification report or emissions report is identified after the verifier has submitted the verification report to the company.

Article 28

Internal verification documentation

1. The verifier shall prepare and compile internal verification documentation containing at least:

(a) the results of the verification activities performed;

(b) the verification plan and the risk assessment;

(c) sufficient information to support the assessment of the monitoring plan and of the draft verification report, including justifications for judgments as to whether or not misstatements were material.

2. The internal verification documentation shall be drafted in such a way that the independent reviewer referred to in Articles 8 and 21 and the national accreditation body can assess whether the verification has been performed in accordance with this Regulation.

Article 29

Records and communication

1. Verifiers shall keep records to demonstrate compliance with this Regulation, including as regards the competence and impartiality of their personnel.

2. Verifiers shall safeguard the confidentiality of information obtained in the course of the verification, in accordance with the harmonised standard referred to in Article 27.

Article 30

Impartiality and independence

1. Verifiers shall be organised in such a way as to safeguard their objectivity, independence and impartiality. For the purposes of this Regulation, the relevant requirements laid down in the harmonised standard referred to in Article 27 shall apply.

2. Verifiers shall not carry out verification activities for a company that poses an unacceptable risk to their impartiality or in respect of which they have a conflict of interests.

3. An unacceptable risk to impartiality or a conflict of interests shall be considered to have arisen, inter alia, where a verifier, or any part of the same legal entity or personnel and contracted persons involved in the verification, provide:

(a) consulting services to develop part of the monitoring and reporting process described in the monitoring plan, including development of the monitoring methodology, drafting of the emissions report and drafting of the monitoring plan;

(b) technical assistance to develop or maintain the system for monitoring and reporting emissions or other relevant information under Regulation (EU) 2015/757.

4. Verifiers shall not outsource the independent review or the issuance of the verification report.

5. Where verifiers outsource other verification activities they should meet the relevant requirements laid down in the harmonised standard referred to in Article 27.

6. Verifiers shall establish, document, implement and maintain a process to ensure their continuous impartiality and independence, and those of the parts of the same legal entity and of all personnel. In case of outsourcing, the same obligations apply to contracted persons involved in the verification. That process shall meet the relevant requirements laid down in the harmonised standard referred to in Article 27.

CHAPTER IV

ACCREDITATION OF VERIFIERS

Article 31

Scope of accreditation

The scope of accreditation of verifiers shall cover the assessment of monitoring plans and the verification of emissions reports.

Article 32

Objectives of the accreditation process

In the course of the accreditation process and of the annual surveillance of accredited verifiers, in accordance with Articles 36 to 41, national accreditation bodies shall assess whether the verifier and its personnel undertaking verification activities:

(a) have the competence to assess monitoring plans and verify emissions reports in accordance with this Regulation;

(b) are in fact assessing monitoring plans and verifying emissions reports in accordance with this Regulation;

(c) meet the requirements for verifiers referred to in Articles 22 to 30, including those regarding impartiality and independence.

Article 33

Minimum requirements for accreditation

With respect to the minimum requirements for accreditation and the requirements for accreditation bodies, the harmonised standard pursuant to Regulation (EC) No 765/2008 concerning general requirements for accreditation bodies accrediting conformity assessment bodies shall apply.

Article 34

Criteria for requesting accreditation by national accreditation bodies

1. Legal entities established in a Member State shall request accreditation in accordance with Article 7 of Regulation (EC) No 765/2008.

2. Where the legal entity requesting accreditation is not established in a Member State, it may address its request to the national accreditation body of any Member State that provides accreditation within the meaning of Article 16 of Regulation (EU) 2015/757.

Article 35

Requests for accreditation

1. Requests for accreditation shall contain the information required on the basis of the harmonised standard referred to in Article 33.

2. In addition, prior to the start of the assessment referred to in Article 36, applicants shall make available to the national accreditation body, upon request, information on:

(a) the procedures and processes referred to in Article 27(1) and the quality management system referred to in Article 27(3);

(b) the competence criteria referred to in points (a) and (b) of Article 22(2), the results of the continuous competence process referred to in that Article and other relevant documentation on the competence of all personnel involved in verification activities as referred to in Articles 24 and 25;

(c) the process for ensuring continuous impartiality and independence, as referred to in Article 30(6);

(d) the technical experts and key personnel involved in the assessment of monitoring plans and verification of emissions reports;

(e) the procedures and processes for ensuring appropriate verification, including those concerning the internal verification documentation referred to in Article 28;

(f) relevant records, as referred to in Article 29;

(g) other aspects deemed relevant by the national accreditation body.

Article 36

Assessment

1. For the purposes of the assessment referred to in Article 32, the assessment team shall, at least:

(a) review all relevant documents and records supplied by the applicant pursuant to Article 35;

(b) carry out an on-site visit to review a representative sample of the internal verification documentation and assess the implementation of the applicant's quality management system and the procedures or processes for verification activities referred to in Article 27;

(c) witness the performance and competence of a representative number of the applicant's staff involved in assessing monitoring plans and verifying emission reports to ensure that they operate in accordance with this Regulation.

2. The assessment team shall carry out the activities outlined in paragraph 1 in compliance with the requirements of the harmonised standard referred to in Article 33.

3. The assessment team shall report its findings and any non-conformities to the applicant and request a response, in accordance with the requirements of the harmonised standard referred to in Article 33.

4. The applicant shall take corrective action to address any non-conformities reported pursuant to paragraph 3 and indicate in its response what action it has taken, or plans to take within a time set by the national accreditation body, to resolve them.

5. The national accreditation body shall review the response that the applicant makes pursuant to paragraph 4.

6. Where the national accreditation body finds the applicant's response or the action taken to be insufficient or ineffective, it shall ask the applicant to submit further information or take further action.

7. The national accreditation body may also request evidence of, or carry out a follow-up assessment to assess, the actual implementation of the corrective action.

Article 37

Decision on accreditation and accreditation certificate

1. When preparing and taking the decision on whether to grant, extend or renew the accreditation of an applicant, the national accreditation body shall take into account the requirements of the harmonised standard referred to in Article 33.

2. Where the national accreditation body has decided to grant or renew an applicant's accreditation, it shall issue an accreditation certificate to that effect.

3. The accreditation certificate shall contain at least the information required on the basis of the harmonised standard referred to in Article 33.

4. The accreditation certificate shall be valid for a period of five years from the date of issue.

Article 38

Annual surveillance

1. The national accreditation body shall carry out annual surveillance of each verifier to which it has issued an accreditation certificate. That surveillance shall comprise, at least:

(a) an on-site visit as referred to in Article 36(1)(b);

(b) witnessing the performance and competence of a representative number of the verifier's staff in accordance with Article 36(1)(c).

2. The national accreditation body shall carry out the first surveillance of a verifier in accordance with paragraph 1 within 12 months of the date on which its accreditation certificate was issued.

3. The surveillance planning shall allow the national accreditation body to assess representative samples of the verifier's activities within the scope of the accreditation certificate and of the staff involved in the verification activities, in accordance with the requirements of the harmonised standard referred to in Article 33.

4. On the basis of the results of the surveillance, the national accreditation body shall decide whether to confirm the continuation of accreditation.

5. Where a verifier carries out verification in another Member State, the national accreditation body that has accredited it may ask the national accreditation body of the other Member State to carry out surveillance activities on its behalf and under its responsibility.

Article 39

Reassessment

1. Before the expiry of an accreditation certificate which it has issued, the national accreditation body shall reassess the verifier in question to determine whether the validity of the certificate may be extended.

2. The reassessment planning shall ensure that the national accreditation body assesses a representative sample of the verifier's activities covered by the certificate.

In planning and carrying out the reassessment, the national accreditation body shall satisfy the requirements of the harmonised standard referred to in Article 33.

Article 40

Extraordinary assessment

1. The national accreditation body may conduct an extraordinary assessment of the verifier at any time to ensure that it continues to meet the requirements of this Regulation.

2. In order to enable the national accreditation body to assess the need for an extraordinary assessment, the verifier shall inform that body forthwith of any significant changes relevant to its accreditation concerning any aspect of its status or operation.

Those significant changes shall include changes mentioned in the harmonised standard referred to in Article 33.

Article 41

Administrative measures

1. The national accreditation body may suspend or withdraw the accreditation of a verifier where the verifier does not meet the requirements of this Regulation.

2. The national accreditation body shall suspend or withdraw the accreditation of a verifier where the verifier so requests.

3. The national accreditation body shall establish, document, implement and maintain a procedure for the suspension and the withdrawal of the accreditation in line with the harmonised standard referred to in Article 33.

4. The national accreditation body shall suspend a verifier's accreditation where the verifier has:

(a) failed to meet the requirements on competence pursuant to Article 22, on procedures for verification activities pursuant to Article 27, on internal verification documentation pursuant to Article 28 or on impartiality and independence pursuant to Article 30;

(b) breached any other specific terms and conditions laid down by the national accreditation body.

5. The national accreditation body shall withdraw a verifier's accreditation where:

(a) the verifier has failed to remedy the grounds for a decision to suspend the accreditation certificate;

(b) a member of the top management of the verifier has been found guilty of fraud;

(c) the verifier has intentionally provided false information.

6. Decisions of a national accreditation body to suspend or withdraw an accreditation in accordance with paragraphs 1, 4 and 5 shall be subject to appeal in accordance with the procedures established by Member States pursuant to Article 5(5) of Regulation (EC) No 765/2008.

7. Decisions of a national accreditation body to suspend or withdraw accreditation shall take effect upon being notified to the verifier. The national accreditation body shall consider the impact on activities carried out prior to those decisions in the light of the nature of the non-compliance.

8. The national accreditation body shall terminate the suspension of an accreditation certificate where it has received satisfactory information and concludes that the verifier meets the requirements of this Regulation.

CHAPTER V

REQUIREMENTS FOR NATIONAL ACCREDITATION BODIES

Article 42

National accreditation bodies

1. The tasks relating to accreditation pursuant to this Regulation shall be carried out by national accreditation bodies appointed pursuant to Article 4(1) of Regulation (EC) No 765/2008.

2. For the purposes of this Regulation, the national accreditation body shall carry out its functions in accordance with the requirements of the harmonised standard referred to in Article 33.

Article 43

Assessment team

1. The national accreditation body shall appoint an assessment team for each assessment carried out under the requirements of the harmonised standard referred to in Article 33.

2. An assessment team shall consist of a lead assessor responsible for carrying out an assessment in accordance with this Regulation and, where necessary, a suitable number of assessors or technical experts with relevant knowledge and experience for the specific scope of accreditation.

3. An assessment team shall include, at least, one person with the following skills:

(a) knowledge of Regulation (EU) 2015/757, this Regulation and other relevant legislation referred to in Article 24(2)(a);

(b) knowledge of the characteristics of the various types of vessels and of monitoring and reporting of CO_2 emissions, fuel consumption and other relevant information pursuant to Regulation (EU) 2015/757.

Article 44

Competence requirements for assessors

1. Assessors shall have the competence to carry out the activities under Articles 36 to 41. To that end, the assessor shall:

(a) meet the requirements of the harmonised standard referred to in Article 33;

(b) have knowledge of data and information auditing, as referred to in Article 24(2)(b), obtained through training or access to a person who has knowledge and experience of such data and information.

2. In addition to the competence requirements set out in paragraph 1, lead assessors shall demonstrate competence to lead an assessment team.

3. In addition to the competence requirements set out in paragraph 1, internal reviewers and persons taking decisions on the granting, extending or renewing of an accreditation shall have sufficient knowledge and experience to evaluate the accreditation.

Article 45

Technical experts

1. The national accreditation body may include technical experts in the assessment team to provide detailed knowledge and expertise on a specific subject matter needed to support the lead assessor or assessor.

2. Technical experts shall undertake specified tasks under the direction and full responsibility of the lead assessor of the assessment team in question.

Article 46

Databases of accredited verifiers

1. National accreditation bodies shall set up and manage a database which shall be publicly available and contain, at least, the following information:

(a) the name, accreditation number and address of each verifier accredited by that national accreditation body;

(b) the Member States in which each verifier is carrying out verification, if applicable;

(c) the date on which the accreditation was granted and its expiry date;

(d) information on administrative measures imposed on the verifier.

2. Any change in the status of verifiers shall be communicated to the Commission by using a relevant standardised template.

3. The body recognised under Article 14 of Regulation (EC) No 765/2008 shall facilitate and harmonise access to the national databases.

CHAPTER VI

FINAL PROVISION

Article 47

Entry into force

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

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

Done at Brussels, 22 September 2016.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

Marine-sector-specific knowledge and experience

For the purposes of Article 24(3) knowledge and experience of the following shall be taken into consideration:

— understanding of the relevant regulations under the MARPOL Convention and the SOLAS Convention such as those on energy efficiency for ships ([1]), the NOx Technical Code ([2]), the Sulphur Oxides Regulation ([3]), the Fuel Oil Quality Regulation ([4]) the Intact Stability Code 2008 and relevant guidelines (such as guidance on the development of the SEEMP);

— possible synergies between monitoring and reporting in accordance with Regulation (EU) 2015/757 and existing maritime-specific management systems, (e.g. the ISM Code) and other relevant sector-specific guidance (such as guidance on the development of the SEEMP);

— emissions sources on board the ship;

— registration of voyages and procedures ensuring the completeness and accuracy of the list of voyages (as submitted by the company);

— reliable external sources (including ship-tracking data) that could serve to cross-check information with data from ships;

— fuel consumption calculation methods, as applied by ships in practice;

— the application of uncertainty levels in accordance with Regulation (EU) 2015/757 and relevant guidance;

— the application of emission factors for all fuels used on board the ship, including LNG, hybrid fuels and biofuels;

— fuel handling, fuel cleaning, tank systems;

— ship maintenance/quality control of metering equipment;

— bunkering documents, including bunker delivery notes;

— operational logs, voyage abstracts and port abstracts, ship deck logs;

— commercial documentation, e.g. charter party agreements, bills of lading;

— existing statutory requirements;

— operation of the ship's bunkering systems;

— determination of fuel density by ships in practice;

— data-flow processes and activities for the calculation of cargo carried (in volume or mass), as applied to ship types and activities under Regulation (EU) 2015/757;

— concept of deadweight carried as applicable to ship types and activities under Regulation (EU) 2015/757 in accordance with Implementing Regulation (EU) 2016/1928;

— data-flow processes used to calculate distance travelled and time at sea for voyages in accordance with Regulation (EU) 2015/757;

— machinery and technical systems used on board the ship to determine fuel consumption, transport work and other relevant information.

([1]) Regulation 22, Annex VI to MARPOL Convention.
([2]) Revised technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines, (Resolution MEPC.176(58), as amended by resolution MEPC.177(58)).
([3]) Regulation 14, Annex VI to MARPOL Convention.
([4]) Regulation 18, Annex VI to MARPOL Convention.

COMMISSION IMPLEMENTING REGULATION (EU) 2016/2073

of 23 November 2016

on the reimbursement, in accordance with Article 26(5) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council, of the appropriations carried over from financial year 2016

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 ([1]), and in particular Article 26(6) thereof,

After consulting the Committee on the Agricultural Funds,

Whereas:

(1) In accordance with Article 169(3) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ([2]) non-committed appropriations relating to the actions financed by the European Agricultural Guarantee Fund (EAGF) as referred to in Article 4(1) of Regulation (EU) No 1306/2013 may be carried over to the following financial year. Such carry-over is limited to 2 % of the initial appropriations and to the amount of the adjustment of direct payments as referred to in Article 8 of Regulation (EU) No 1307/2013 of the European Parliament and of the Council ([3]) which was applied during the preceding financial year. It may lead to an additional payment to the final recipients who were subject to that adjustment.

(2) In accordance with Article 26(5) of Regulation (EU) No 1306/2013, by way of derogation from Article 169(3) of Regulation (EU, Euratom) No 966/2012, Member States are to reimburse the carry-over referred to in Article 169(3) of Regulation (EU, Euratom) No 966/2012 to the final recipients who are subject to the adjustment rate in the financial year to which the appropriations are carried over. That reimbursement only applies to final beneficiaries in those Member States where financial discipline applied ([4]) in the preceding financial year.

(3) When setting the amount of the carry-over to be reimbursed, in accordance with Article 26(7) of Regulation (EU) No 1306/2013 the amounts of the reserve for crises in the agricultural sector referred to in Article 25 of that Regulation, not made available for crisis measures by the end of the financial year, are to be taken into account.

(4) In accordance with Article 1(1) of Regulation (EU) 2015/1146 of the European Parliament and of the Council ([5]), financial discipline is applied to direct payments in respect of calendar year 2015 to establish the crisis reserve of EUR 441,6 million. The crisis reserve has not been called on in financial year 2016.

(5) On the basis of the Member States' declarations of expenditure for the period from 16 October 2015 to 15 October 2016, the financial discipline reduction actually applied by the Member States in financial year 2016 amounts to EUR 435 million.

([1]) OJ L 347, 20.12.2013, p. 549.
([2]) Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).
([3]) Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608).
([4]) Financial discipline does not apply in financial year 2016 in Bulgaria, Croatia and Romania in accordance with Article 8(2) of Regulation (EU) No 1307/2013.
([5]) Regulation (EU) 2015/1146 of the European Parliament and of the Council of 8 July 2015 fixing the adjustment rate provided for in Regulation (EU) No 1306/2013 for direct payments in respect of the calendar year 2015 (OJ L 191, 17.7.2015, p. 6).

(6) Consequently, unused appropriations corresponding to the amount of financial discipline applied in financial year 2016 of EUR 435 million, which remains within the limit of 2 % of the initial appropriations, can be carried over to financial year 2017 following a decision of the Commission in accordance with the fifth subparagraph of Article 169(3) of Regulation (EU, Euratom) No 966/2012.

(7) In order to ensure that the reimbursement of those appropriations to the final recipients remains proportionate to the amount of the financial discipline adjustment, it is appropriate that the Commission determines the amounts available to the Member States for the reimbursement.

(8) To avoid compelling Member States to make an additional payment for that reimbursement, this Regulation needs to apply from 1 December 2016. Consequently, the amounts established by this Regulation are definitive and apply, without prejudice to the application of reductions in accordance with Article 41 of Regulation (EU) No 1306/2013, to any other corrections taken into account in the monthly payment decision concerning the expenditure effected by the paying agencies of the Member States for October 2016, in accordance with Article 18(3) of Regulation (EU) No 1306/2013 and to any deductions and supplementary payments to be made in accordance with Article 18(4) of that Regulation or to any decisions which will be taken within the framework of the clearance of accounts procedure.

(9) In accordance with Article 169(3) of Regulation (EU, Euratom) No 966/2012 the non-committed appropriations may be carried over to the following financial year only. It is therefore appropriate for the Commission to determine eligibility dates for the expenditure of the Member States in relation to the reimbursement in accordance with Article 26(5) of Regulation (EU) No 1306/2013, taking into account the agricultural financial year as defined in Article 39 of that Regulation.

(10) In order to take into account the short time span between the communication of the execution of 2016 EAGF appropriations under shared management for the period from 16 October 2015 to 15 October 2016 by the Member States and the need to apply this Regulation from 1 December 2016, this Regulation should enter into force on the date of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The amounts of the appropriations that will be carried over from financial year 2016 in accordance with Article 169(3) of Regulation (EU, Euratom) No 966/2012 and that in accordance with Article 26(5) of Regulation (EU) No 1306/2013 are made available to the Member States for the reimbursement to the final recipients who are subject to the adjustment rate in financial year 2017, are laid down in the Annex to this Regulation.

The amounts that will be carried over are subject to the carry-over decision of the Commission in accordance with the fifth subparagraph of Article 169(3) of Regulation (EU, Euratom) No 966/2012.

Article 2

Member States' expenditure in relation to the reimbursement of the appropriations carried over shall only be eligible for Union financing if the relevant amounts have been paid to the beneficiaries before 16 October 2017.

Article 3

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

It shall apply from 1 December 2016.

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

Done at Brussels, 23 November 2016.

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

ANNEX

Amounts available for reimbursement of appropriations carried over

(amounts in EUR)

Belgium	6 414 552
Czech Republic	11 049 216
Denmark	10 864 696
Germany	60 049 657
Estonia	1 293 797
Ireland	13 600 170
Greece	17 254 566
Spain	55 869 779
France	90 755 440
Italy	39 147 477
Cyprus	368 399
Latvia	1 676 449
Lithuania	3 462 420
Luxembourg	416 787
Hungary	15 068 124
Malta	34 366
Netherlands	8 963 299
Austria	7 080 542
Poland	25 435 226
Portugal	6 735 448
Slovenia	987 364
Slovakia	5 646 824
Finland	6 067 712
Sweden	7 922 613
United Kingdom	38 847 027

COMMISSION IMPLEMENTING REGULATION (EU) 2016/2074

of 25 November 2016

amending Regulation (EU) No 37/2010 as regards the substance aluminium salicylate, basic

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin, repealing Council Regulation (EEC) No 2377/90 and amending Directive 2001/82/EC of the European Parliament and of the Council and Regulation (EC) No 726/2004 of the European Parliament and the Council ([1]), and in particular Article 14 in conjunction with Article 17 thereof,

Having regard to the opinion of the European Medicines Agency formulated by the Committee for Medicinal Products for Veterinary Use,

Whereas:

(1) Article 17 of Regulation (EC) No 470/2009 requires that the maximum residue limit (hereinafter 'MRL') for pharmacologically active substances intended for use in the Union in veterinary medicinal products for food-producing animals or in biocidal products used in animal husbandry is established in a Regulation.

(2) Table 1 of the Annex to Commission Regulation (EU) No 37/2010 ([2]) sets out the pharmacologically active substances and their classification regarding MRLs in foodstuffs of animal origin.

(3) Aluminium salicylate, basic is currently included in that table as an allowed substance for topical use in all food producing species, except bovine, caprine, equidae, rabbit and fin fish. Aluminium salicylate, basic is also allowed substance for bovine, caprine, equidae and rabbit species according to provisional MRL set for that substance which expire on 31 December 2016.

(4) An application for the modification of the existing entry for aluminium salicylate, basic to remove the provisional status of the MRL in bovine, caprine, equidae and rabbit species has been submitted to the European Medicines Agency (hereinafter 'EMA').

(5) The EMA, based on the opinion of the Committee for Medicinal Products for Veterinary Use, has recommended the removal of the provisional status of the MRL for aluminium salicylate, basic in bovine, caprine, equidae and rabbit species.

(6) Regulation (EU) No 37/2010 should therefore be amended accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Veterinary Medicinal Products,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EU) No 37/2010 is amended as set out in the Annex to this Regulation.

([1]) OJ L 152, 16.6.2009, p. 11.
([2]) Commission Regulation (EU) No 37/2010 of 22 December 2009 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin (OJ L 15, 20.1.2010, p. 1).

Article 2

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

It shall apply from 25 January 2017.

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

Done at Brussels, 25 November 2016.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

In Table 1 of the Annex to Regulation (EU) No 37/2010, the entry for the substance 'aluminium salicylate, basic is replaced by the following:

Pharmacologically active Substance	Marker residue	Animal Species	MRL	Target Tissues	Other Provisions (according to Article 14(7) of Regulation (EC) No 470/2009)	Therapeutic classification
'aluminium salicylate, basic	Salicylic acid	Bovine, caprine, Equidae, rabbit	200 μg/kg 500 μg/kg 1 500 μg/kg 1 500 μg/kg	Muscle Fat Liver Kidney	NO ENTRY	Antidiarrheal and intestinal anti-inflammatory agents'
		Bovine, caprine, Equidae	9 μg/kg	Milk		
	NOT APPLICABLE	All food producing species except bovine, caprine, Equidae, rabbit and fin fish	No MRL required	NOT APPLICABLE	For topical use only	

COMMISSION IMPLEMENTING REGULATION (EU) 2016/2075

of 25 November 2016

on the allocation to Spain of additional days at sea within ICES Divisions VIIIc and IXa excluding the Gulf of Cádiz

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU) 2016/72 of 22 January 2016 fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2015/104 ([1]), and in particular point 8.5 of Annex IIB thereof,

Whereas:

(1) Table I of Annex IIB to Regulation (EU) 2016/72 lays down the maximum number of days that Union vessels of an overall length equal to or greater than 10 meters, carrying on board or deploying trawls, Danish seines and similar gears of mesh size equal to or larger than 32 mm, gill-nets of mesh size equal to or larger than 60 mm and bottom long-lines, may be present within ICES Divisions VIIIc and IXa, excluding the Gulf of Cádiz, from 1 February 2016 to 31 January 2017.

(2) According to point 8.5 of Annex IIB to Regulation (EU) 2016/72, the Commission may, on the basis of permanent cessations of fishing activities that took place between 1 February 2015 and 31 January 2016 and subject to conditions set out in point 8.5 of Annex IIB to Regulation (EU) 2016/72, allocate an additional number of days at sea on which a vessel may be authorised by its flag Member State to be present within the relevant area when carrying on board regulated gear.

(3) On 27 May 2016, in accordance with point 8.4 of Annex IIB of Regulation (EU) 2016/72, Spain submitted, together with supporting information, a request for additional days at sea on the basis of the permanent cessation of fishing activity. On 6 June 2016 Spain confirmed that 14 vessels ceased fishing activities between 1 February 2015 and 31 January 2016.

(4) In view of the data made available to the Commission and having regard to the calculation method laid down in point 8.2 of Annex IIB to Regulation (EU) 2016/72, nine additional days at sea for the vessels referred to in point 1 of that Annex should be allocated to Spain for the period from 1 February 2016 to 31 January 2017.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

Article 1

The maximum number of days at sea for which Spain may authorise a vessel flying its flag to be present in ICES Divisions VIIIc and IXa, excluding the Gulf of Cádiz, carrying on board or deploying regulated gear and not being subject to special conditions, as laid down in Table I of Annex IIB to Regulation (EU) 2016/72, shall be increased to 126 days per year.

Article 2

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

([1]) OJ L 22, 28.1.2016, p. 1.

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

Done at Brussels, 25 November 2016.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2016/2076

of 25 November 2016

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE EUROPEAN COMMISSION,

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

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

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ([2]), and in particular Article 136(1) thereof,

Whereas:

(1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.

(2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 25 November 2016.

For the Commission,

On behalf of the President,

Jerzy PLEWA

Director-General

Directorate-General for Agriculture and Rural Development

([1]) OJ L 347, 20.12.2013, p. 671.

([2]) OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code [1]	Standard import value
0702 00 00	MA	90,0
	TR	80,7
	ZZ	85,4
0707 00 05	MA	69,4
	TR	158,6
	ZZ	114,0
0709 93 10	MA	100,9
	TR	141,9
	ZZ	121,4
0805 20 10	MA	71,7
	ZA	138,5
	ZZ	105,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	JM	110,2
	TR	80,3
	ZZ	95,3
0805 50 10	AR	64,7
	CL	90,0
	TR	78,5
	ZZ	77,7
0808 10 80	CL	185,9
	NZ	177,5
	ZA	186,7
	ZZ	183,4
0808 30 90	CN	106,4
	TR	126,8
	ZZ	116,6

(1) Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COUNCIL DECISION (EU) 2016/2077

of 17 October 2016

on the position to be adopted on behalf of the European Union at the International Maritime Organization (IMO) during the 70th session of the Marine Environment Protection Committee and the 97th session of the Maritime Safety Committee, on the adoption of amendments to MARPOL Annex VI, SOLAS Regulations II-1, SOLAS Regulations III/1.4, III/30 and III/37, SOLAS Regulations II-2/1 and II-2/10, SOLAS Regulation II-1/3-12, the STCW Convention and Code, the Fire Safety Systems Code and the 2011 Enhanced Survey Programme Code

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Action by the Union in the sector of maritime transport should aim at improving maritime safety and protecting the marine environment.

(2) The Marine Environment Protection Committee ('MEPC') of the International Maritime Organization ('IMO'), meeting at its 69th session, agreed on the establishment of a mandatory data collection system for fuel consumption and the necessary amendments to Chapter 4 of Annex VI to the International Convention for the Prevention of Pollution from Ships ('MARPOL Annex VI'). Those amendments are expected to be adopted during the 70th session of the MEPC to be held in October 2016.

(3) The Maritime Safety Committee (MSC) of the IMO, meeting at its 95th and 96th sessions, approved amendments to Regulation II-1, Regulations III/1.4, III/30 and III/37, Regulations II-2/1 and II-2/10 and Regulation II-1/3-12 of the International Convention for the Safety of Life at Sea (SOLAS), to the International Convention and Code on Standards of Training, Certification and Watchkeeping for Seafarers ('STCW Convention and Code'), to the International Code for Fire Safety Systems ('FSS Code') and to the 2011 Enhanced Survey Programme Code (the '2011 ESP Code'). Those amendments are expected to be adopted during the 97th session of the MSC to be held in November 2016.

(4) The amendments to Chapter 4 of MARPOL Annex VI will establish a mandatory global data collection system for the data to be collected and reported annually by certain ships, the verification processes related to reported data, the establishment of statements of compliance, situations concerning ownership transfer, submission of the data to the IMO, anonymisation of and access to the data, as well as procedures for confirming compliance of ships flying the flag of non-parties to MARPOL Annex VI. Regulation (EU) 2015/757 of the European Parliament and of the Council [1] sets out an EU system to monitor, report and verify (MRV) CO_2 emissions and energy efficiency from shipping. It applies to all ships over 5 000 gross tons arriving at, within or departing from ports under the jurisdiction of a Member State from 1 January 2018 onwards, irrespective of where the ships are registered.

(5) Article 22 of Regulation (EU) 2015/757 includes a review clause in the event of an international agreement in this field. The adoption of the amendments to Chapter 4 of MARPOL Annex VI will start such a review process, which may lead to a proposal to amend Regulation (EU) 2015/757 in order to ensure alignment, to the extent appropriate, with the global data collection system agreed in the IMO.

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[1] Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (OJ L 123, 19.5.2015, p. 55).

(6) The amendments to SOLAS Regulations II-1/1, II-1/2, II-1/3, II-1/4, II-1/5, II-1/6, II-1/7, II-1/8-1, II-1/9, II-1/10, II-1/12, II-1/13, II-1/15 — 17, II-1/19, II-1/21 — 22 and II-1/35 will introduce editorial and consequential changes, as well as changes that concern subdivision and damage stability requirements to improve passenger ship survivability in case of damage. Directive 2009/45/EC of the European Parliament and of the Council ([1]) applies to passenger ships and high-speed passenger craft which are engaged in domestic voyages. Article 6(2)(a)(i) of that Directive provides that new passenger ships of Class A are to comply entirely with the requirements of the 1974 SOLAS Convention, as amended.

(7) The amendments to SOLAS Regulation II-1/1.2, the new SOLAS Regulation II-1/19-1, and the amendments to SOLAS Regulations III/1.4, III/30 and III/37 concerning damage control drills form part of a comprehensive approach to enhance the survivability after flooding with the intention of improving safety on new and existing passenger ships. Directive 2008/106/EC of the European Parliament and of the Council ([2]), and in particular Regulation V/2 of Chapter V of Annex I, includes mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on passenger ships. The STCW Convention, which has been incorporated into Union law by means of Directive 2008/106/EC, includes training requirements on ship stability in the relevant tables of competences of the STCW Code.

(8) The amendments to SOLAS Regulations II-2/1 and II-2/10 will provide that foam-type extinguishers of at least 135 *l* capacity are no longer to be required in boiler rooms in the case of domestic boilers of less than 175 kW, or boilers protected by fixed water-based local application fire-extinguishing systems. Article 6(2)(a)(i) of Directive 2009/45/EC provides that new passenger ships of Class A are to comply entirely with the requirements of the 1974 SOLAS Convention, as amended. In addition, SOLAS Regulations II-2/1 and II-2/10 are applicable to new Class B, C and D and existing Class B passenger ships in accordance with Annex I, Chapter II-2 Part A, point 6.7 ('Fire-extinguishing arrangements in machinery spaces') of Directive 2009/45/EC, in which it is established that machinery spaces and boiler rooms should be equipped with portable systems.

(9) The amendments to SOLAS Regulation II-1/3-12 will address a gap in the current Regulation concerning the application of the Code on Noise Levels on Board Ships for ships for which the building contract is placed before 1 July 2014 and the keels of which are laid or which are at a similar stage of construction on or after 1 January 2015 and the delivery of which is not before 1 July 2018. Article 3 of Directive 2003/10/EC of the European Parliament and of the Council ([3]) lays down minimum requirements for the protection of workers and sets exposure limit values and exposure action values. Furthermore, as relevant secondary legislation, Article 6(2)(a)(i) of Directive 2009/45/EC makes the application of the 1974 SOLAS Convention, as amended, applicable to new Class A ships, and Annex I PART C, Regulation 15 of that Directive lays down measures for noise reduction in machinery spaces for new Class B, C and D ships.

(10) The amendments to the STCW Convention and Code relating to passenger-ship specific training and to Parts A and B of the STCW Code will address new challenges posed by the increased size of modern cruise ships and the large number of passengers on board and comprise four distinct levels of training and familiarization: passenger ship emergency familiarization, passenger ship crowd management training, passenger ship crisis management and human behaviour training, and ro-ro passenger ship training. Directive 2008/106/EC, in particular Regulation V/2 of Chapter V of Annex I, includes mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on passenger ships.

(11) The amendments to Chapter 13 of the FSS Code will clarify that the calculations of the dimension of means of escape, which are made on the basis of the total number of persons expected to escape by the stairway and through doorways, corridors and landings, are to be made separately for two different cases of occupancy of the specified spaces. Article 6(2)(a)(i) of Directive 2009/45/EC establishes that new passenger ships of Class A are to comply entirely with the requirements of the 1974 SOLAS Convention, as amended. Furthermore, Chapter II-2, Part A, of Annex I of Directive 2009/45/EC applies the FSS Code adopted by Resolution MSC.98(73), to Class B, C and D ships constructed on or after 1 January 2003.

([1]) Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (OJ L 163, 25.6.2009, p. 1).

([2]) Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (OJ L 323, 3.12.2008, p. 33).

([3]) Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) (OJ L 42, 15.2.2003, p. 38).

(12) To the extent that the amendments to SOLAS Regulations II-1/1, II-1/2, II-1/3, II-1/4, II-1/5, II-1/6, II-1/7, II-1/8-1, II-1/9, II-1/10, II-1/12, II-1/13, II-1/15 — 17, II-1/19, II-1/21 — 22 and II-1/35, SOLAS Regulations II-2/1 and II-2/10 and Chapter 13 of the FSS Code may affect the provisions of Directive 2009/45/EC regarding passenger ships and high-speed passenger craft which are engaged on domestic voyages, those amendments fall under the exclusive competence of the Union.

(13) The amendments to the 2011 ESP Code will provide alignment with the updated Unified Requirements Z10 series of the International Association of Classification Societies Uniform Requirements (IACS UR Z10 series), which concern survey and certification requirements. Articles 5 and 6 of Regulation (EU) No 530/2012 of the European Parliament and of the Council [1] make mandatory the application of the IMO's Condition Assessment Scheme (CAS) to single hull oil tankers above 15 years of age. The Enhanced Programme of Inspections during surveys of Bulk Carriers and Oil tankers or Enhanced Survey Programme (ESP) specifies how to undertake this intensified assessment. As CAS uses ESP as the tool to achieve its aim, any changes to the ESP inspections will automatically be applicable through Regulation (EU) No 530/2012.

(14) The Union is neither a member of the IMO nor a contracting party to the relevant conventions and codes. It is therefore necessary for the Council to authorise the Member States to express the position of the Union and express their consent to be bound by those amendments, to the extent that they fall under the exclusive competence of the Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted on behalf of the Union at the 70th session of the IMO Marine Environment Protection Committee shall be to agree to the adoption of the amendments to Chapter 4 of MARPOL Annex VI, as laid down in Annex 7 to IMO document MEPC 69/21/Add.1.

Article 2

1. The position to be adopted on behalf of the Union at the 97th session of the IMO Maritime Safety Committee shall be to agree to the adoption of the following amendments to:

(a) SOLAS Regulations II-1/1, II-1/2, II-1/3, II-1/4, II-1/5, II-1/6, II-1/7, II-1/8-1, II-1/9, II-1/10, II-1/12, II-1/13, II-1/15 — 17, II-1/19, II-1/21 — 22 and II-1/35 as laid down in Annex 1 to IMO Circular Letter No 3644 of 20 May 2016;

(b) SOLAS Regulation II-1/1.2, a new regulation II-1/19-1, and amendments to SOLAS Regulations III/1.4, III/30 and III/37 as laid down in Annex 1 to IMO Circular Letter No 3644 of 20 May 2016;

(c) SOLAS Regulations II-2/1 and II-2/10 as laid down in Annex 1 to IMO Circular Letter No 3644 of 20 May 2016;

(d) SOLAS Regulation II-1/3-12 as laid down in Annex 1 to IMO Circular Letter No 3644 of 20 May 2016;

(e) The STCW Convention and Code relating to passenger-ship specific training and to parts A and B of the STCW Code as laid down in Annexes 8, 9 and 10 to IMO Document MSC 96/25/Add.1;

(f) Chapter 13 of the FSS Code as laid down in Annex 2 to IMO Circular Letter No 3644 of 20 May 2016;

(g) The 2011 ESP Code as laid down in Annex 4 to IMO Circular Letter No 3644 of 20 May 2016.

2. If the amendments to SOLAS Regulation II-1/6 referred to in point (a) of paragraph 1 are reviewed at the 97th session of the IMO Maritime Safety Committee, the position to be adopted on behalf of the Union shall be to agree to changes to those amendments that improve the current safety levels.

[1] Regulation (EU) No 530/2012 of the European Parliament and of the Council of 13 June 2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers (OJ L 172, 30.6.2012, p. 3).

Article 3

1. The position to be adopted on behalf of the Union as set out in Articles 1 and 2 shall be expressed by the Member States, which are members of the IMO, acting jointly in the interest of the Union.

2. Minor changes to the positions referred to in Articles 1 and 2 may be agreed upon without further decision of the Council.

Article 4

Member States are hereby authorised to give their consent to be bound, in the interest of the Union, by the amendments referred to in Articles 1 and 2, to the extent that they fall under the exclusive competence of the Union.

Article 5

This Decision is addressed to the Member States.

Done at Luxembourg, 17 October 2016.

For the Council

The President

L. SÓLYMOS

COMMISSION DECISION (EU) 2016/2078

of 4 July 2016

on the State aid SA.41617 — 2015/C (ex SA.33584 (2013/C) (ex 2011/NN)) implemented by the Netherlands in favour of the professional football club NEC in Nijmegen

(notified under document C(2016) 4048)

(Only the Dutch text is authentic)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 108(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to Article 108(2) of the Treaty ([1]) and having regard to their comments,

Whereas:

1. PROCEDURE

(1) In 2010, the Commission was informed by citizens that the Netherlands had implemented an aid measure for the professional football club NEC in Nijmegen. The complaints were registered under numbers SA.31616 and SA.31767. In 2010 and in 2011, the Commission also received complaints concerning measures in favour of other professional football clubs in the Netherlands, namely MVV in Maastricht, Willem II in Tilburg, FC Den Bosch in 's-Hertogenbosch and PSV in Eindhoven. By letter dated 2 September 2011, the Netherlands provided the Commission with further information on the measure concerning NEC.

(2) By letter dated 6 March 2013, the Commission informed the Netherlands that it had decided to initiate the procedure laid down in Article 108(2) of the Treaty in respect of the measures in favour of Willem II, NEC, MVV, PSV and FC Den Bosch.

(3) The Commission decision to initiate the procedure (hereinafter: 'the opening decision') was published in the *Official Journal of the European Union* ([2]). The Commission invited interested parties to submit their comments on the measures in question.

(4) The Netherlands submitted observations within the framework of the procedure concerning the measure in favour of NEC by letter dated 6 June 2013, which included the comments from the municipality of Nijmegen (hereinafter: 'the municipality') as an interested party. A meeting with the Netherlands took place on 27 February 2015, in which the municipality also participated. Further information from the Netherlands was received on 10 April 2015, on 11 May 2015, on 13 May 2015 and on 16 July 2015. The Commission received no comments from other interested parties.

(5) Following the opening decision, and in agreement with the Netherlands, the investigations for the different clubs were pursued separately. The investigation regarding NEC was registered under case number SA.41617.

2. DETAILED DESCRIPTION OF THE MEASURE

2.1. The measure and its beneficiary

(6) The national football federation Koninklijke Nederlandse Voetbal Bond (hereinafter: 'KNVB') is the umbrella organisation for professional and amateur football competition. Professional football in the Netherlands is organised in a two-tier system. In the 2014/2015 season it consisted of 38 clubs, of which 18 played in the top league (eredivisie) and 20 in the lower league (eerste divisie).

([1]) Commission Decision in Case SA.33584 (2013/C) (ex 2011/NN) — Netherlands aid to certain professional Dutch football clubs in 2008-11 — Invitation to submit comments pursuant to Article 108(2) of the Treaty on the Functioning of the European Union (OJ C 116, 23.4.2013, p. 19).

([2]) Cf. footnote 1.

(7) Nijmegen Eendracht Combinatie (hereinafter: 'NEC') was founded in 1900 and plays its home matches in Nijmegen. The legal structure of NEC is as follows: the companies Nijmegen Eendracht Combinatie B.V., Exploitatie-Maatschappij De Goffert B.V. and N.E.C. horeca B.V. are owned by the foundation Stichting Administratiekantoor N.E.C.. The company Exploitatie-Maatschappij De Goffert B.V. is the beneficiary of the measure. According to the information submitted by the Netherlands, NEC is a medium-sized enterprise with 62,3 FTE employees in the year 2015 (69,5 FTE in 2010). In the period concerned by this investigation NEC played in the top league. It last played in a European tournament (UEFA cup) in the season 2008/2009.

(8) Since 2003, NEC is the main — but not the only — user of the multifunctional stadium Goffert stadion, located in the large Goffert park in Nijmegen. Next to the stadium in the Goffert park, a multifunctional sports complex *De Eendracht* was built in 2003 by the municipality with support from the European Regional Development Fund (ERDF). The De Eendracht complex is let to NEC and it is also used by others for training purposes.

(9) The relations between the municipality and NEC concerning De Eendracht are laid down in two contracts concluded in 2003: an intention agreement to develop the area where De Eendracht is located in the context of the municipality's broader sports policy vision as well as a lease contract for De Eendracht.

(10) In 2008 and 2009, NEC wrote to the municipal authorities with regard to a clause in the contracts, according to which it was entitled to acquire De Eendracht from the municipality. Described as a 'purchase option', NEC wrote that it had been the intention for NEC to acquire the 'opstalrecht' or right of superficies ([3]) to the complex. In its first letter NEC proposed to waive its purchase option in exchange for compensation of the sum of EUR 2,3 million, which it calculated on the basis of the estimated book value and the real value of the complex according to outside expertise. In NEC's view, the difference between both values corresponds to the benefit it would receive if it exercised its purchase option. In a second letter NEC informed the municipality that it wished to exercise its purchase option.

(11) In 2010, the municipality received legal opinions from two law firms on this issue: one in January 2010, the other in September 2010. The first opinion noted a clause in the lease contract according to which the contract covered the period until De Eendracht would be acquired by the tenant (NEC) and noted that it had been the intention of the municipality and NEC that the complex would be acquired by NEC once there would be no objections to this from the ERDF. It concluded that NEC held a firm (hard) right to claim the purchase. The second opinion was requested at the insistence of the municipal council concerning the alleged solidity of NEC's claim. This opinion concluded that there was only an obligation for the municipality to negotiate with NEC, given that the clause in question does not stipulate a price or pricing mechanism.

(12) The municipality agreed to buy the claim for EUR 2,2 million in September 2010. The Netherlands did not notify, pursuant to Article 108(3) of the Treaty, their intention to reimburse NEC for waiving its purchase option. It is in relation to this transaction that the formal investigation procedure was opened and as such it is the subject of the current decision.

2.2. **Grounds for initiating the procedure**

(13) In the opening decision, the Commission took the position that aid measures to professional football clubs are likely to distort competition and to affect trade between Member States within the meaning of Article 107(1) of the Treaty. The Commission moreover arrived at the preliminary conclusion that the municipality had provided a selective advantage to NEC with the use of State resources and had, hence, provided aid to the football club.

(14) Firstly, with regard to the existence of a purchase option, the Commission concluded that by basing itself exclusively on the first legal opinion and disregarding the more elaborate second opinion, the Netherlands did not demonstrate that NEC had a purchase option at a price that had not been laid down in the contract and that had not been negotiated either.

([3]) According to Article 5:101 of Dutch Civil Law, a 'right of superficies' (Latin: ius superficiarium) is a real property right which enables its proprietor — the 'superficiary' — to have or acquire for himself buildings, constructions or plants (vegetation) in, on or above an immovable thing owned by someone else.

(15) Secondly, with regard to the market conformity of the price paid in exchange for waiving the alleged purchase option, the Commission reiterated that the guidance provided by the Commission Communication concerning aid elements in land sales by public authorities [4] (hereinafter: 'the land sales Communication'), which had been invoked by the Netherlands, only 'concerns sales of publicly owned land and buildings. It does not concern the public acquisition of land and buildings or the letting or leasing of land and buildings by public authorities. Such transactions may also include State aid elements.' Furthermore, the Commission stated that operators in a market economy would arguably also look at the likelihood of a tenant exercising his purchase option, presuming it exists. They would, inter alia, look at the financial means at his disposal.

(16) Thirdly, the Commission noted that NEC had been in financial difficulties at the time the aid was awarded, serious enough to endanger its future as a professional football club. The KNVB, when verifying NEC's business plan for 2010/2011, had asked NEC for an external guarantee for EUR 1 967 000 in July 2010, in the absence of which NEC would risk losing its license. This guarantee (which, according to the information available to the Commission, was provided by a private, commercial company and therefore not with State resources) was needed in addition to the EUR 2,2 million covered by the present Decision. NEC itself indicated in June 2010 that its financial position was worrying, with a negative equity, a negative operational result in 2009/2010 and a bad liquidity position. NEC had stopped paying rent in September 2009.

(17) In order to assess the compatibility of the aid with the Guidelines on State aid for rescuing and restructuring of firms in difficulty [5] (hereinafter: 'the Guidelines'), the Commission requested information on the compliance with all requirements set out in the Guidelines.

(18) The Commission was notably unable to verify whether the conditions set out in points 34-37 of the Guidelines concerning the nature and fulfilment of a restructuring plan had been respected. The Commission was also unable to verify whether adequate compensatory measures within the meaning of points 38-42 had been taken. It furthermore needed to be demonstrated that the aid had been limited to the minimum necessary, that the beneficiary itself had paid an adequate own contribution to its restructuring, that the Netherlands would provide monitoring reports and that the 'one time last time' principle would be respected.

3. COMMENTS FROM THE NETHERLANDS

(19) The Netherlands disagrees that the measure constitutes State aid.

(20) In this regard, the Netherlands firstly stresses the important context of the transaction. According to the Netherlands, the opening decision contained a few factual errors in this regard. Contrary to what was stated in the opening decision, the Goffert stadium had a multifunctional nature even before 2003. The municipality considers the use of De Eendracht (and the Goffert stadium) for non-sports purposes to be an important contextual factor.

(21) In particular, the Netherlands stresses the interest the municipality had in the development of the top sport and innovation park (hereinafter: 'TIP') [6], which would integrate the existing Goffert stadium and De Eendracht. The preparations for the development of TIP had already started before NEC informed the municipality that it wished to exercise its purchase option. The De Eendracht complex played an important role in the plans with regard to TIP, which were led by the municipality. The Netherlands underlines that preparations for TIP continued until well after the transaction that took place in September 2010. Only in March 2012 did the municipal council decide to halt the TIP preparations. According to the Netherlands, the Commission should explicitly take into account the essential importance for the municipality at the time to retain full ownership over De Eendracht (including both the underlying land and the building on it) in order to enable the development of TIP.

(4) OJ C 209, 10.7.1997, p. 3.

(5) Communication from the Commission — Community Guidelines on State aid for rescuing and restructuring firms in difficulty (OJ C 244, 1.10.2004, p. 2). The application of those guidelines was prolonged by the Commission communication concerning the prolongation of the application of the Community guidelines on State aid for rescuing and restructuring firms in difficulty of 1 October 2004 (OJ C 296, 2.10.2012, p. 3).

(6) The municipality intended to develop a large part of the Goffert park into a 'Topsport- en Innovatie Park' ('TIP'), with a multidisciplinary approach covering sports, education, health and science. This project has since been abolished. The future financing of the TIP was not covered by the opening Decision.

(22) In this regard the Netherlands refers to the report on the expected economic effects of TIP, published by European and Regional Affairs Consultants in April 2009. According to this report, TIP was expected to have a positive impact on the municipality's economy, including an increase in employment and spending, but also various indirect positive economic effects in the areas of knowledge development, innovation, education and overall levels of activity. The report 'TIP Nijmegen Impact and Opportunities', prepared by the municipality and Buck Consultants, specifically points towards the exemplary function of De Eendracht in the development of TIP.

(23) Secondly, the Netherlands underlines the solidity of NEC's claim. It has clarified the background that led to the establishment of the purchase option. The municipality has highlighted that this is linked to NEC waiving the right of superficies on the then-existing amateur complex, in order to enable the municipality to replace this complex through the realisation of the new complex De Eendracht. In 2000 the right of superficies of the existing amateur complex had been in the hands of NEC, whereas the municipality owned the land beneath it. As the complex no longer complied with the KNVB requirements to continue football activities at that location, the municipality — in consultation with NEC — decided in 2002 to realise a new multifunctional accommodation, De Eendracht. De Eendracht was realised with public money, partly funded with support from the ERDF. To be able to apply for support from the ERDF, the complex had to be realised by the municipality and the building could not be sold for a period of five years. NEC therefore relinquished its right of superficies on the complex, but acquired a purchase option to (the right of superficies of) the new complex De Eendracht. According to the Netherlands, it was the intention that NEC would be able to take over the De Eendracht complex once the ERDF requirements no longer prohibited this, even if the acquisition price was not determined at the time.

(24) The Netherlands therefore refutes that the municipality has followed only one of the legal opinions (see recital 14). Instead, it emphasises that there has never been a conflict between the municipality and NEC about the claim, which was considered solid by both parties. The Netherlands refers here to Article 6:217 of the Dutch Civil Code, according to which a simple consensus between parties suffices to establish an agreement.

(25) The purchase option can be deducted from the intention and lease contracts between the municipality and the company Exploitatiemaatschappij De Goffert B.V. (see recital 9). The fact that the clauses on the purchase option do not stipulate a price or price mechanism is not relevant according to the Netherlands. In the context of purchase agreements whereby the parties did not determine any price, Article 7:4 of the Dutch Civil Code provides that the buyer has to pay a 'reasonable price'.

(26) In sum, the municipality claims that the decision not to follow the second legal opinion was based on solid and motivated grounds as it considered the arguments put forward in the second legal opinion to be unsound. This was reinforced as the writer of the first legal opinion reacted to the second opinion to maintain his advice. The municipality points out that the second opinion was clearly politically motivated as it was requested by the opposition parties in the municipal council. That the second opinion was more elaborate (recital 14) cannot lead to any conclusions about the validity of the arguments contained in it.

(27) The municipality moreover notes in this regard that the agreement between NEC and the municipality is subject to national private law and as such any evaluation of the validity of NEC's claim is to be done by a Dutch judge.

(28) Thirdly, concerning the determination of the value of the purchase option, the Netherlands has also provided further clarifications. The Netherlands points out that existence of an advantage (and hence State aid) cannot be supposed simply because the price is determined on the basis of negotiations. In the case of NEC, the price of the purchase option was determined on the basis of an independent valuation and is therefore market conform according to the Dutch authorities. Indeed, the Netherlands argues that the transaction was not selective and that it did not provide NEC with an advantage.

(29) The Netherlands refers to the fact that a measure is not selective if it is based on a general national measure. In particular, the transaction is based on the Civil Code, which has a general scope and is applicable to all undertakings. The value of the transaction was based on the provisions of the Civil Code, which provide for the payment of a 'reasonable price'. According to the Netherlands, this was the case as an independent valuation was made in April 2009. They conclude that the transaction was non-selective.

(30) Even if the transaction was considered selective, NEC would not have received an advantage, as the municipality was acting as a market investor and paying a market price. The Netherlands emphasises the decisional practice of the Commission of using the land sales Communication by analogy when cases relate to the valuation of other assets and property rights. As the transaction in this case is based on a valuation as set out in the land sales Communication, it can be considered market conform. Even if the land sales Communication was not applicable, the transaction would remain market conform as a private market investor would also have determined the value of the purchase option on the basis of an independent valuation.

(31) The municipality emphasised that there is a close connection between the value of the transaction and the value of the De Eendracht complex. The independent valuation report (dated 7 April 2009) centres on two values. On the one hand, it determined the sales price that a seller could receive from selling the right of superficies (for a period of 30 years) in relation to the complex on the basis of the existing lease agreement between the municipality and NEC […] (*). On the other hand, it determined the sales price that a seller could receive from selling the right of superficies in relation to the complex on the basis of existing sub-lease agreements between NEC and its sublessees, taking into account market rent evolutions. Indeed the complex was the subject of lease contracts between both NEC and the municipality and NEC and third parties (NEC acting as the operator of the complex), see also recital 8. This second value was set at EUR […].

(32) The two valuations are in other words based on the assumption that the complex would be sold in a rented state. The Netherlands argues that under Dutch legislation, a sales transaction does not alter the rental situation. The new owner of a property replaces the previous owner as the letting party. Therefore it is common to establish the sales value of a rented property on the basis of rental income.

(33) The independent valuations show that the municipality could sell the De Eendracht complex in a rented state to a third party for a price of maximum EUR […]. According to the Netherlands, this equals the maximum price that could be asked from NEC for the complex. Once NEC would acquire the right of superficies in relation to the De Eendracht complex, it could sell that right for a price of maximum EUR […]. According to the Netherlands, this means that NEC was foregoing a potential advantage of maximum […] EUR 2 064 000. During the negotiations with NEC, the final value of the purchase option was determined as […] EUR 2 223 000. […]. The Commission notes that the valuation did not explicitly take into account the concrete situation, i.e. where NEC would acquire the complex itself.

(34) The Netherlands has provided further background information on the rent figures used in the valuation report to explain the important difference between both valuations. In particular, The Netherlands points out that a number of factors had a downward impact on the lease price as it was established for NEC:

(a) Exploitatiemaatschappij De Goffert B.V. not only leased the complex, but also acted as the operating company to sublet parts of the complex to third parties. De Eendracht had a clear experimental character and the municipality used the realisation of this new complex to strengthen the link of the complex with societal activities, the economic environment and the surrounding neighbourhoods. It was not certain whether these socioeconomic projects would be successful in practice and it was not excluded that third parties would drop out. This increased the risk for Exploitatiemaatschappij De Goffert B.V.

(b) Exploitatiemaatschappij De Goffert B.V. also took care of the maintenance and replacement of the fields, which were previously maintained by the municipality.

(c) NEC was the only possible partner that could realise the socioeconomic objectives of the municipality.

(d) NEC had originally held a right of superficies to the complex, but waived this for free (see recital 23).

On this basis The Netherlands considers the lease price paid by NEC, which forms the basis for the first value calculated in the taxation, to be market conform.

(35) Moreover, The Netherlands has noted that the lease contract between NEC and the municipality has to be considered a lease agreement for a fixed term that could not be terminated by the municipality before its end date, which coincides with the transfer of the right of superficies to NEC. This explains why the taxation calculates the first value on the basis of a static rent, whereas the second value takes into account market rent evolutions.

(*) Confidential information.

(36) The Netherlands emphasises that the sum of EUR 2,2 million due to NEC for the purchase option was not paid out, but rather used in part to cover outstanding claims on NEC and in part as an advance payment of the rent (guaranteed rent). At the same time, the lease agreement was prolonged until the end of February 2043 and the rent was increased […]. Assuming that the original rent was market conform, The Netherlands claim that this increase puts the new rent above market levels. Alternatively, the new rent should be considered market conform according to The Netherlands.

(37) Fourthly, the Netherlands argues that the municipality took the financial situation of NEC at the time of transaction into account. At the time of the transaction, the municipality had received information that made it presume that — despite its financial problems — it was possible that NEC would be able to exercise its purchase option. In particular, in one of its letters (see recital 10), NEC had explicitly informed the municipality of the interest a commercial party had in acquiring De Eendracht, possibly via NEC. Therefore any financial problems NEC was facing would not necessarily prohibit its purchase of De Eendracht. In addition, on 3 September 2010 the municipality was informed that NEC had received financing from a commercial party: a company […] had pre-purchased a part of the (season) tickets for the seasons 2011/2012, 2012/2013 and 2013/2014. This is the transaction referred to by the Commission in the opening decision, but — contrary to what was stated in the opening decision — the financing did not take the form of a guarantee and the price paid was much higher than the EUR 1,9 million mentioned in the opening decision (i.e. circa EUR 4 million) (see recital 16). This indication of confidence in NEC's financial situation by a commercial investor was further reason for the municipality at the time to accept as a possibility the exercise by NEC of its purchase option on De Eendracht.

(38) In conclusion, according to the Netherlands the municipality acted as a market investor, taking into account the (perceived) financial situation of NEC at the time.

(39) Alternatively, the Netherlands argues that even if the measure were to constitute aid, it would be compatible with the internal market. According to the Netherlands, the conditions of the Guidelines are fulfilled and the measure could as such be considered compatible under Article 107(3)(c) of the Treaty. It provided factual information to support this.

(40) With regard to the financial situation of NEC at the moment of the transaction, the Netherlands put forward further evidence demonstrating that NEC was a firm in difficulties. The municipality had requested a report on the financial position and future perspectives of the club, which was submitted by the accounting firm BDO ([7]) shortly after the transaction (on 29 October 2010). It refers to negative company results […], negative equity […] and a negative development of working capital […]. The report shows that the company results of NEC had been negative and diminishing over a period of three years. While NEC managed to keep its net results positive over that same period (due to income from transfer rights and the selling of players), the report clearly demonstrates declining income levels, whereas NEC's cost patterns remained largely unchanged. Moreover, the own equity had been negative over the past three years and the solvency of NEC had decreased in that same period.

(41) With regard to the restructuring plan, NEC set up a plan of improvement ('Plan van Aanpak') ([8]) to overcome its financial problems. This plan was submitted to the KNVB in August 2010. It includes a description of the circumstances of the financial situation, benchmark comparisons with similar football clubs and planned measures to achieve Category 2 status (i.e. indicating that the financial health of the club is 'sufficient', see also recital 75).

(42) With regard to compensatory measures, the Netherlands notes that, if there is aid, it is limited in size and as such the negative effects on competition are relatively small. Nevertheless several compensatory measures were included in the KNVB restructuring plan.

(43) Moreover, any support was limited to the minimum necessary. In this regard an important own contribution to the restructuring was made via the measure referred to in recitals 16 and 37, whereas a change in the repayment conditions of a loan led to a diminishing of fixed repayment costs with EUR 250 000 per year.

(44) With regard to monitoring, the Netherlands has committed to submit the required reports to the Commission.

([7]) '*Onderzoek naar financiële situatie en financieel toekomstperspectief N.E.C. Nijmegen*', report of 29 October 2010 by BDO, Nijmegen.
([8]) Plan van aanpak NEC, August 2010.

(45) Lastly, the Netherlands confirms that no other aid measures to NEC have been or will be implemented.

4. ASSESSMENT OF THE MEASURE

4.1. Presence of State aid according to Article 107(1) of the Treaty

(46) According to Article 107(1) of the Treaty, State aid is aid awarded by a Member State or through State resources in any form whatsoever, which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods in so far as it affects trade between Member States. The conditions laid down in Article 107(1) of the Treaty are cumulative and therefore for a measure to be qualified as State aid all the conditions must be fulfilled.

(47) The acquisition by the municipality of the alleged right of NEC to buy De Eendracht for EUR 2,2 million was financed with State resources, given that the money for the transaction in question was furnished by the municipality. This is not disputed by the Netherlands.

(48) With regard to the potential impact on the internal market, the Commission points out that NEC has been a participant in European football tournaments. Furthermore, professional football clubs deploy economic activities in several markets other than participating in football competitions, such as the transfer market for professional players, publicity, sponsorship, merchandising or media coverage. Aid to a professional football club strengthens its position on each of those international markets. Therefore, if State resources are used to provide a selective advantage to a professional football club, regardless of the league in which it plays, such aid is likely to have the potential of distorting competition and to affect trade between Member States within the meaning of Article 107(1) of the Treaty ([9]).

(49) The selectivity of the measure, which was specifically approved by the municipal council, cannot be doubted either. The Netherlands has argued that the measure was based on general national legislation (see recital 29) and was therefore not selective. However, the Commission considers that, even if the agreement between NEC and the municipality can be considered an agreement subject to general Dutch law, the specifics of the agreement are not based on general principles only, but also on the specific provisions of the contract(s) between NEC and the municipality. Hence it is clear that the measure targets a specific undertaking, NEC, and is therefore selective.

(50) The Netherlands is of the opinion that no advantage accrued to NEC and that instead the transaction took place at market conditions. They notably point out that NEC had a solid purchase option for De Eendracht and that the price for buying that right was established according to an independent valuation.

(51) With regard to the solidity of the claim, the Netherlands has submitted additional clarifications on the reasons why the first legal opinion was followed instead of the second. Moreover, the Netherlands underlined that the development of TIP was probably not possible if De Eendracht was sold to NEC. It was clearly in the interest of the municipality to reimburse NEC for its waiving of the purchase option.

(52) It should be noted that it is unclear what price NEC would have had to pay the municipality if it had exercised the purchase option and acquired De Eendracht. The Netherlands have argued that where no price is agreed, under the Dutch Civil Code the buyer has to pay a reasonable price. To the extent that such a reasonable price approximates or equals the market value of the right of superficies pertaining to De Eendracht, the purchase option would appear to have only a limited economic value. In that situation, the compensation of EUR 2,2 million appears to be unreasonably high and would constitute an advantage to NEC.

(53) Regardless of the question whether NEC in fact had a solid purchase option and other arguments pertaining to the interpretation of Dutch civil law, the Commission considers that the core question to assess is whether the transaction took place on market terms and the municipality acted as a private operator.

([9]) Commission Decisions regarding Germany of 20 March 2013 on Multifunktionsarena der Stadt Erfurt (Case SA.35135 (2012/N)), point 12, and Multifunktionsarena der Stadt Jena (Case SA.35440 (2012/N)), summary notices in OJ C 140, 18.5.2013, p. 1, and of 2 October 2013 on Fußballstadion Chemnitz (Case SA.36105 (2013/N)), summary notice in OJ C 50, 21.2.2014, p. 1, points 12-14; Commission Decisions regarding Spain of 18 December 2013 on possible State aid to four Spanish professional football clubs (Case SA.29769 (2013/C)), point 28, Real Madrid CF (Case SA.33754 (2013/C)), point 20, and alleged aid in favour of three Valencia football clubs (Case SA.36387 (2013/C)), point 16, published in OJ C 69, 7.3.2014, p. 99.

(54) In this regard, it is necessary that the Commission assesses whether a private investor would have entered into the transaction under assessment on the same terms. The attitude of the hypothetical private investor is that of a prudent investor whose goal of profit maximisation is tempered with caution about the level of risk acceptable for a given rate of return. The MEIP would not be respected if the price for the purchase option was set at a higher level than the market price. The Commission considers that a number of elements in the valuation process show that it does not pass the MEIP test.

(55) Firstly, it is not clear why the value of the purchase option would equal the difference between, on the one hand, the sales value of the complex on the basis of the lease agreement between the municipality and NEC and, on the other hand, the sales value on the basis of the lease agreements between NEC and its sub-letters, taking into account also the market rent evolutions. The Commission notes that the municipality requested the independent valuation of these two sales values, not the valuation of the purchase option as such. No further context or arguments are given as to why the difference between these values equals the value of the purchase option.

(56) Secondly, the use of the two values to determine the worth of the purchase option seems to work on the assumption of a sale to any third party for one of the values, but not for the other. The first value […] is indeed established on the basis of a sale by the municipality to any third party of the rights of superficies in a rented state, i.e. with the lease contract to NEC as a given 'constraint' for any buyer. In contrast, as the Netherlands argue that the lease agreement could not be terminated before the transfer of the right of superficies to NEC, only NEC would have been able to continue to operate the complex towards third parties. Therefore the second value […] (the possible sales value in rented state on the basis of the sublease contracts) could only be realised by NEC and not by any third party. This 'mixed' approach reinforces the notion that the determination of the price of the purchase option on this basis would not have made sense for a market operator.

(57) Thirdly and linked to this, if one takes as a starting point that the purchase option was to be waived by not any third party, but by NEC, the resulting price to be paid in exchange for NEC waiving its purchase option does not seem to correctly assess the 'foregone benefits' for NEC of waiving the option. According to the Netherlands, NEC was foregoing a potential advantage of EUR 2 million by waiving its purchase option (recital 33). However, the Commission notes that NEC could be expected to remain the operator of the complex even after waiving its purchase option. Therefore it would continue to receive the same rental revenues that formed the basis for the second value used in determining the price of the transaction […]. The Commission considers that the actual advantage foregone by NEC by waiving its purchase option would instead equal the rents to the municipality that it would no longer have had to pay if it had acquired the complex.

(58) In any case, fourthly, the municipality paid more than the amount it determined on the basis of the valuation report ([…] see recital 33). The Commission considers that at the very least the difference between both values constitutes aid. According to the Dutch authorities, the difference finds its origin in negotiations with NEC and, in any case, the full sum of EUR 2,2 million is being reimbursed. Indeed, the Netherlands has explained that the prolongation of the lease period and increase of the yearly rent ensures the budgetary neutral nature of the transaction for the municipality (recital 36).

(59) With regard to this reimbursement, fifthly, the Commission notes that the use by NEC of the EUR 2,2 million sum to cover outstanding claims and rents that it was due the municipality cannot be considered a reimbursement. With regard to the increase of the rent paid on a yearly basis (recital 36), this can only be considered a reimbursement of aid if the increase fully represents above-market rent. The Netherlands did not provide evidence supporting the claim that the higher rent as of January 2011 can be considered a rent above market levels. In this respect, the Commission observes that the rent paid by NEC to the municipality for the entire complex is lower than the rent that NEC currently receives for sub-letting certain parts of the complex while the valuation report suggests that NEC could obtain even higher rents in the future.

(60) The Commission notes moreover that, even if the original rent level were market conform taking into account the context at the time (recital 34), at least some of the factors that had a downward impact on the then-established lease price seem no longer of relevance at the time of setting the new rent level. In particular, the risks associated with operating the complex can be assumed to have changed now that it has been running successfully for more than 5 years. The waiving of the option to acquire the right of superficies no longer played

a role either as the transaction in question settled the question of ownership for the future. Therefore it could be expected that, in January 2011, market rent levels would be higher than in 2003, when the lease contract between the municipality and NEC was concluded. If this is the case, then the increased rent cannot be fully considered to correspond to a reimbursement of aid.

(61) It should also be noted that the repayment takes place over a period of 33 years and that future payments have not been discounted.

(62) Most importantly, The Netherlands did not provide any evidence that the municipality made a thorough assessment and calculation of market rent levels before establishing the increased rent rate. Instead, the budgetary neutral nature of the transaction was the starting point in order to calculate the new rent levels.

(63) Sixthly, the benefits achieved by the municipality through this transaction and their proportionality to the direct cost of EUR 2,2 million are not clear. It appears that the municipality has paid much more than what it could ever have gained from selling the complex (in a rented state), simply to safeguard the ownership it already held. The municipality has argued that the economic stakes of developing TIP were very high given the expected effects of TIP on the economy of the municipality. The expected added value of remaining the owner of the complex might explain in part the willingness of the municipality to pay a higher price. However, the municipality has not explicitly made a cost-benefit assessment of the transaction that takes into account this long-term value of the TIP project. The Commission considers that a market operator would have made a more elaborate assessment of the expected return on investment of the acquisition of the purchase option.

(64) Lastly, the Commission remains of the opinion that, on the basis of the information available at the time, the municipality did not sufficiently take into account the financial difficulties NEC was facing at the time and their influence on its capacity to buy the right of superficies to De Eendracht. Even if third parties had demonstrated an interest in partnering with NEC, the overall financial picture could not be ignored and could be expected to influence the negotiation position of NEC to the benefit of the municipality.

(65) For all those reasons, the Commission considers that the municipality did not act like a market economy operator but rather granted aid to NEC by reimbursing NEC for waiving its purchase option for the sum of EUR 2,2 million. The exact aid amount cannot be determined on the basis of the information provided by the Netherlands. However, as long as the maximum amount of EUR 2,2 million can be considered necessary to fulfil the restructuring plan, the exact aid amount is irrelevant for the compatibility assessment.

4.2. **Assessment under Article 107(3)(c) of the Treaty**

(66) The Commission must assess whether the aid measure in favour of NEC can be considered to be compatible with the internal market. As regards the derogations provided for in Article 107(3) of the Treaty, the Commission notes that none of the Dutch regions falls under the derogation provided for in Article 107(3)(a) of the Treaty. The aid measure in question does not promote an important project of common European interest, nor does it serve to remedy any serious disturbance in the Dutch economy within the meaning of Article 107(3)(b). The aid measure can also not be said to promote culture or heritage conservation within the meaning of Article 107(3)(d) of the Treaty.

4.2.1. *Applicable guidelines*

(67) As regards the derogation in Article 107(3)(c) of the Treaty in favour of aid to facilitate the development of certain economic activities, where such aid does not adversely affect trading conditions to an extent contrary to the common interest, the Netherlands has argued that this derogation could be applied if the Commission, contrary to the opinion of the Netherlands, should find that the measure in question constitutes State aid.

(68) In its assessment of the notion of 'development of economic activities' in the sports sector, the Commission takes due account of Article 165(1) and the last indent of Article 165(2) of the Treaty, which provide that the Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function.

(69) For its assessment of aid measures under Article 107(3)(c) of the Treaty, the Commission has issued a number of Regulations, Frameworks, Guidelines and Communications concerning aid forms and horizontal or sector purposes for which aid is awarded.

(70) The Commission believes that it is appropriate to assess whether the criteria laid down in the Guidelines ([10]) might apply. In this regard the Commission notes that the Guidelines do not exclude professional football. This economic activity is, hence, covered by the Guidelines.

(71) In July 2014, the Commission published new Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty ([11]). They are, however, not applicable to this non-notified aid granted in 2010. According to point 137 of the new guidelines, this would only be the case for any rescue or restructuring aid granted without prior authorisation if some or all of the aid is granted after the publication of those guidelines in the *Official Journal of the European Union*. According to point 138 of the 2014 guidelines, in all other cases the Commission will conduct the examination on the basis of the guidelines which applied at the time the aid was granted, and therefore, in the present case, those applicable before 2014.

4.2.2. *NEC as company in difficulty*

(72) According to point 10(c) of the Guidelines, whatever the type of company concerned, it is considered to be in difficulty if it fulfils the criteria under its domestic law for being the subject of collective insolvency proceedings. Point 11 of the Guidelines indicates that, in the absence of these circumstances, a firm may still be considered to be in difficulties where the usual signs are present, such as increasing losses, mounting debt, declining cash flow and so on. A firm in difficulty is eligible only where, demonstrably, it cannot recover through its own resources or with the funds it obtains from its owners/shareholders or from market sources.

(73) The Netherlands had initially argued that NEC was not a firm in difficulty in 2008/2009. However, the facts outlined in recital 16 rather indicate that NEC was facing financial difficulties, serious enough to endanger its future as a professional football club. NEC therefore clearly was a company in difficulty according to the Commission. In their reaction to the opening decision, the Netherlands acknowledged that NEC was a company in difficulty and had been at the time of the transaction. It submitted further evidence in this regard (see recital 40), which notably showed that NEC 's company results had been negative and diminishing over time. Therefore, the compatibility of the State aid to NEC must be assessed under the Guidelines.

4.2.3. *Restoration of long term viability*

(74) In section 3.2, the Guidelines require that the granting of the aid must be conditional on the implementation of a restructuring plan (see points 34-37 of the Guidelines), which must restore the long-term viability of the firm within a reasonable time-scale. The Commission notes that such conditions were set within the context of the plan drawn up by NEC for the KNVB in August 2010.

(75) In this regard the Commission recalls that each Dutch professional football club receives a licence from the KNVB, under which it has to comply with various obligations. One of the obligations under the current system applicable relates to the financial health of the club. Three times per season, a club is subject to a financial rating on the basis of financial reports depicting, inter alia, its current financial situation, as well as the budget for the next season. On the basis of these reports, clubs are scaled in three categories (1: insufficient, 2: sufficient, 3: good). Clubs in category 1 may be obliged to present a plan for improvement in order to reach category 2 or 3 within a period of three years. If the club fails to comply with the plan, sanctions may be imposed by the KNVB, including an official warning, a reduction of competition points and — as the ultimate sanction — withdrawal of the licence. It should also be noted in this context that a professional football club in the Netherlands, which is declared bankrupt, loses its licence. If a successor club is founded, it would not be admitted to the professional football leagues directly, but it would have to start in the second-highest amateur league.

([10]) See footnote 5.
([11]) Communication from the Commission — Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1).

(76) NEC was scaled in category 1 on the basis of the financial data of the 2009/2010 season. Its restructuring plan set out measures to obtain the category 2 status after three seasons (by 2012/2013).

(77) The restructuring plan identified the problematic relation between turnover and costs as the main cause of NEC's financial problems. High personnel costs were in particular to blame, whereas reductions in media income also contributed to the negative results. The focus of the restructuring plan lay on cost reductions and savings were mainly sought in the area of players' costs. Measures included a reduction of personnel (including a reduction of the number of registered players), a salary freeze and cuts in the salaries for new players as well as a reduction in bonuses. Within three years, the ratio of personnel costs compared to turnover was to be brought under […] % (compared to […] % in March 2010). Cuts in several other expenses were foreseen, such as the costs of the youth training (football academy). Any investments in immaterial or material fixed assets of more than EUR […] had to be agreed by the KNVB licence commission, which actually meant that NEC could not do any transfers.

(78) The Commission finds that the restructuring plan tackles the causes of the financial difficulties of NEC, especially the cost of personnel and players in the form of wages and transfer payments. A professional football club cannot be expected to diversify into other markets in the sense of the Guidelines; it can, however be expected to make savings on its core activity and this NEC has done. The restructuring plan does not rely on external factors which NEC can pursue but not entirely control, such as finding additional sponsors or an increase in the number of spectators.

(79) In the budget for the season 2010/2011, NEC foresaw to improve its company results […] by reducing its costs […]. The end results were even better than foreseen: whereas the income declined (lower match revenue due to a bad cup season; lower media revenue; reallocation of barter revenues), the costs diminished […] as well (decline in personnel costs, savings in the football academy, reduction of commercial costs). In December 2011, the KNVB awarded NEC the category 2 status.

(80) The Commission concludes that the restructuring plan of August 2010 sufficiently addressed the causes of NEC's financial difficulties in view of making the club viable again in the long term.

4.2.4. *Avoidance of undue distortions of competition*

(81) Points 38-42 of the Guidelines require that compensatory measures be taken by the beneficiary in order to minimise the distortive effect of the aid and its adverse effects on trading conditions. In the decision opening the procedure the Commission noted the peculiar nature of professional football in this regard, and suggested a number of measures that could in professional football be interpreted as compensatory measures within the meaning of the Guidelines, such as the limitation of its registered players within the limits allowed by the national association, the acceptance of a cap on wages below the usual standards in the sector, a ban on paying transfer costs for new players for a certain period, or an increase in activities to the benefit of society.

(82) As explained in recital 77, NEC has indeed reduced the number of employees and the number of registered players, as well as the wages paid to them. The cost of wages was to be brought under 60 % of the turnover level. No transfer payments for new players could be made during the restructuring period. The Commission concludes that the compensatory measures required by the Guidelines were taken, which had the effect of weakening NEC's competitive position in professional football.

4.2.5. *Aid limited to a minimum*

(83) Points 43-45 of the Guidelines state that the amount and intensity of the aid must be limited to the strict minimum. Aid beneficiaries are expected to make a significant contribution to the restructuring plan from their own resources.

(84) The Commission notes that the restructuring plan is to a considerable extent based on financing by external private entities in addition to the internal savings made. The […] transaction (recital 37) provided NEC with circa EUR 4 million in external financing. In addition, the conditions of repayment on a loan by […] were changed in 2010. Instead of a yearly repayment obligation […], repayments were from then on based on transfer income, which had a positive effect on NEC's liquidity (See recital 43). External and own contributions in other words equal more than EUR 4,25 million and thus the aid, which amounts to maximum EUR 2,2 million, in any case

does not amount to more than circa 35 % of the overall restructuring effort. This meets the requirement in point 44 of the Guidelines that for a medium-sized company like NEC at least 40 % of the cost of the restructuring should be met by the own contribution of the beneficiary, including external financing demonstrating a belief in the viability of the beneficiary.

4.2.6. *Monitoring and annual report*

(85) Point 49 of the Guidelines requires that the Member State communicates on the proper implementation of the restructuring plan through regular detailed reports. Point 51 sets out less stringent conditions for small and medium-sized enterprises, where the transmission of yearly copies of the balance sheet and profit-and-loss accounts is normally considered sufficient. The Netherlands has committed to submit these reports.

4.2.7. *One time, last time*

(86) Points 72-77 of the Guidelines refer to the 'one time, last time' principle, according to which restructuring aid should be granted only once in a period of 10 years.

(87) The Netherlands committed to respect the 'one time last time' requirement in the Guidelines. They have confirmed that they did not award any rescue or restructuring aid to NEC during a period of 10 years preceding the transaction. Market conformity will also be the basis for any current or future negotiations with NEC.

5. **CONCLUSION**

(88) The Commission finds that the Netherlands has unlawfully implemented the aid measure in favour of NEC in breach of Article 108(3) of the Treaty. However, the aid can be considered compatible with the internal market as restructuring aid within the meaning of the Guidelines, as all conditions for such aid set out in the Guidelines are met.

HAS ADOPTED THIS DECISION:

Article 1

The State aid which the Netherlands has implemented in favour of the football club NEC in Nijmegen is compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty on the Functioning of the European Union.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 4 July 2016.

For the Commission

Margrethe VESTAGER

Member of the Commission

CORRIGENDA

Corrigendum to Council Decision (EU) 2016/1970 of 29 September 2016 on the signing, on behalf of the European Union, and provisional application of the Partnership Agreement on Relations and Cooperation between the European Union and its Member States, of the one part, and New Zealand, of the other part

(Official Journal of the European Union L 304 of 11 November 2016)

The publication of Council Decision (EU) 2016/1970 is to be considered null and void.

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