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⁽¹⁾ Text with EEA relevance.

EN

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

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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1590

of 20 September 2017

determining the quantities to be added to the quantity fixed for the subperiod 1 January to 31 March 2018 under the tariff quotas opened by Regulation (EC) No 442/2009 in the pigmeat sector

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ⁽¹⁾, and in particular Article 188(2) and (3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 442/2009 ⁽²⁾ opened annual tariff quotas for imports of pigmeat products. The quotas listed in Part B of Annex I to that Regulation are managed using the simultaneous examination method.
- (2) The quantities covered by import licence applications lodged from 1 to 7 September 2017 for the subperiod 1 October to 31 December 2017 are smaller than those available. The quantities for which applications have not been lodged should therefore be determined and these should be added to the quantity fixed for the following quota subperiod.
- (3) In order to ensure the efficient management of the measure, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities for which import licence applications have not been lodged under Regulation (EC) No 442/2009, to be added to the subperiod 1 January to 31 March 2018, are set out in the Annex to this Regulation.

Article 2

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

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ Commission Regulation (EC) No 442/2009 of 27 May 2009 opening and providing for the administration of Community tariff quotas in the pigmeat sector (OJ L 129, 28.5.2009, p. 13).

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

Done at Brussels, 20 September 2017.

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

ANNEX

Order No	Quantities not applied for, to be added to the quantities available for the subperiod 1 January to 31 March 2018 (kg)
09.4038	17 007 500
09.4170	2 461 000
09.4204	2 312 000

DECISIONS

COUNCIL DECISION (EU) 2017/1591

of 14 September 2017

appointing a member, proposed by the Republic of Austria, of the Committee of the Regions

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

Having regard to the proposal of the Austrian Government,

Whereas:

- (1) On 26 January 2015, 5 February 2015 and 23 June 2015, the Council adopted Decisions (EU) 2015/116 ⁽¹⁾, (EU) 2015/190 ⁽²⁾ and (EU) 2015/994 ⁽³⁾ appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020.
- (2) A member's seat on the Committee of the Regions has become vacant following the end of the term of office of Mr Markus LINHART,

HAS ADOPTED THIS DECISION:

Article 1

The following is hereby appointed as a member of the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2020:

— Mr Hannes WENINGER, *Gemeinderat (Gießhübl) und Abgeordneter zum Nationalrat*.

Article 2

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

Done at Brussels, 14 September 2017.

For the Council
The President
A. ANVELT

⁽¹⁾ Council Decision (EU) 2015/116 of 26 January 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 20, 27.1.2015, p. 42).

⁽²⁾ Council Decision (EU) 2015/190 of 5 February 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 31, 7.2.2015, p. 25).

⁽³⁾ Council Decision (EU) 2015/994 of 23 June 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 159, 25.6.2015, p. 70).

COMMISSION DECISION (EU) 2017/1592**of 15 May 2017****on the measure SA.35429 — 2017/C (ex 2013/NN) implemented by Portugal for the extension of use of public water resources for hydro-electricity generation***(notified under document C(2017) 3110)***(Only the Portuguese 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 on the Functioning of the European Union and having regard to their comments,

Whereas:

1. PROCEDURE

- (1) On 18 September 2012, the Commission received a complaint filed by private citizens against alleged illegal State aid granted by Portugal to EDP — Energias de Portugal, S.A. ⁽¹⁾ ('EDP') regarding both stranded costs in Portugal and the extension of use of public water resources for hydro electricity generation.
- (2) On 30 October 2012, the Commission forwarded the complaint to Portugal and also requested additional information, which Portugal supplied by letter dated 8 January 2013. A meeting with the Portuguese authorities took place on 25 January 2013. Portugal supplied further information on 7 March 2013.
- (3) On 18 September 2013, the European Commission sent a letter to Portugal to notify its decision to initiate the formal investigation procedure, following the procedure of Article 108(2) of the Treaty on the Functioning of the European Union (TFEU) regarding only the extension of use of public water resources for hydro electricity generation.
- (4) The Commission received comments from Portugal on 21 October 2013 and a corrigendum was adopted accordingly on 29 January 2014.
- (5) The Commission's decision to initiate the formal investigation procedure ⁽²⁾ ('the opening decision') was published in the *Official Journal of the European Union* on 16 April 2014.
- (6) In May 2014, the Commission received observations from third parties.
- (7) Portugal sent its reply to the observations sent by third parties on 3 July 2014.
- (8) The Commission requested additional information by letter of 15 April 2016. Portugal sent its reply on 19 August 2016.
- (9) The present decision closes the formal investigation procedure, which was opened under Article 108 TFEU. It does not address compliance of the measure with other provisions of EU law, such as EU public procurement rules and antitrust rules based on Articles 106 and 102 TFEU.

⁽¹⁾ Formerly 'Electricidade de Portugal' until 2004.

⁽²⁾ State aid SA.35429 (2013/C) (ex 2012/CP) — Extension of use of public water resources for hydro electricity generation — Invitation to submit comments pursuant to Article 108(2) of the Treaty on the Functioning of the European Union (OJ C 117, 16.4.2014, p. 113).

2. DESCRIPTION OF THE MEASURE

2.1. The energy market in Portugal

- (10) Before the liberalisation of the Portuguese electricity market in 2007, the electricity produced in Portugal was not sold directly on the market but acquired by the public operator of the electricity network, Rede Eléctrica Nacional, S.A. ('REN'), based on long-term Power Purchase Agreements ('PPAs'). According to those PPAs, REN was obliged to buy a guaranteed amount of electricity from authorised producers, at a guaranteed price covering precisely identified cost items, and for a guaranteed period of time, namely until 2027.

2.2. The decision on stranded costs

- (11) Following the implementation of Directive 2003/54/EC of the European Parliament and of the Council ⁽¹⁾, Portugal decided to proceed with the early termination of the PPAs and their replacement by the payment of a compensation relating to stranded costs (the costs of maintenance of contractual equilibrium ('CMEC') mechanism). Decree-Law No 240/2004, of 27 December 2004, sets the parameters and the methodology for calculating the CMEC.
- (12) Portugal notified the measure for compensation for stranded costs on 1 April 2004, on the basis of the Communication from the Commission relating to the methodology for analysing State aid linked to stranded costs ⁽²⁾. These stranded costs were to be paid for early termination of the PPAs between EDP and REN for 34 power plants, of which 27 were hydro power plants, in consideration of the expected burden of past investments in a liberalised market. The decision on stranded costs also refers to Tejo Energia and Turbogas. Portugal notified its intention to also grant stranded costs to Tejo Energia and Turbogas. The measure was planned to be financed through revenue resulting from a levy imposed on final electricity consumers, based on subscribed power.
- (13) The Commission approved the measure in 2004 to cover the potential losses made by three undertakings including the incumbent ⁽³⁾ in the Decision concerning State aid N161/2004 — Stranded costs in Portugal ⁽⁴⁾.
- (14) As laid down in that Commission Decision, the CMEC compensation paid to EDP each year since July 2007 consists of two elements, namely a fixed component which is a share of the *ex ante* computed maximum annual amount and an adjustment component that takes into account the real value of the difference between the actual revenues and the costs of the plants concerned, computed at the level of the consolidated company group, EDP in this case. A final adjustment of the CMEC amount will be calculated at the beginning of 2018, which will be the 11th year following the early termination of the PPA. This final adjustment will be calculated on the basis of the forecasted income up to the end of 2027, which is the end of the implementation of the CMEC mechanism, following the Commission Decision.

2.3. Extension of the concession period

- (15) The termination agreement for EDP's PPAs in relation to hydro power plants were concluded in February 2005 after the adoption of Decree-Law No 240/2004. The PPAs termination agreement contains a clause with suspensive effect on the agreed termination. That clause makes PPA termination conditional upon the right to use public water resources for a period not less than the end life of the equipment and civil engineering works. In any case, the right to use public water resources were to be granted to the energy producer, namely EDP, for the same period.
- (16) Pursuant to the Portuguese Water Act No 58/2005, of 29 December 2005, and Decree-Law No 226-A/2007, of 31 May 2007, concerning the regime of use of water resources, the use of public water resources for energy

⁽¹⁾ Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC (OJ L 176, 15.7.2003, p. 37).

⁽²⁾ Adopted by the Commission on 26 July 2001 and communicated to Member States by letter SG(2001) D/290869 of 6 August 2001.

⁽³⁾ Namely EDP, Tejo Energia and Turbogas.

⁽⁴⁾ Commission Decision C(2004)3468 of 22 September 2004 concerning State aid N 161/2004, *Stranded costs in Portugal* (OJ C 250, 8.10.2005, p. 9).

production is subject to a concession. The choice of the entity receiving the concession had to be made through one of the specific procedures determined by law. Pursuant to Decree-Law No 240/2004 and Decree-Law No 226-A/2007, at the end of the concession, the assets pertaining to the activity subject to the concession revert free of charge to the State. If, however, the entity receiving the concession made investments authorised by the grantor that were not and could not be amortised, the State could either repay the residual value or extend the terms of the concession for the remaining time for the assets to be depreciated, but in no event exceeding 75 years ⁽¹⁾.

2.4. Value of the extension of hydro concessions

- (17) Portugal carried out three studies which detail the calculation of the possible economic value resulting from the extension in 2007. The main results of the studies were as follows:
- (a) REN estimates the value of the extension of the concession to EUR 1 672 million, based on a single discount rate of 6,6 % corresponding to EDP's self-reported value of weighted average cost of capital ("WACC").
 - (b) Caixa Banco de Investimento estimates a value between EUR 650 million and EUR 750 million, based on the use of two discount rates: the residual value of the PPAs discounted at 4,57 %, resulting from a spread of 50 basis points over the 4,05 % yield of 15-year Government bonds; and the free cash flows discounted with a WACC of 7,72 % based on a capital asset pricing model supplied with data indirectly derived from similar European utilities' equity and risk cost estimates.
 - (c) Credit Suisse First Boston ("CSFB") estimates a value of EUR 704 million depending on an assumed electricity price of 50 EUR/MWh, based on a set of discount rates of 7,89 % for WACC and 4,55 % for the residual value, respectively. The WACC rate is, like for Caixa Banco de Investimento, based on a capital asset pricing model fed with data indirectly derived from similar European utilities' equity and risk cost estimates.
- (18) Decree-Law No 226-A/2007 gave legal support to the suspensive clauses of PPAs by extending the term of the rights to use the public water resources held by hydro power plants operated by EDP whose PPA had been terminated by Decree Law No 240/2004.
- (19) Pursuant to Article 91(6) of Decree-Law No 226-A/2007, the transmission of rights to electricity producers (*de facto* EDP) was subject to payment of an amount reflecting an economic and financial balance. As defined in Article 92(1) of Decree Law No 226-A/2007, this amount corresponded, for each power plant, to the difference between the market value of operation until the end of the extended term expressed in cash flows and the residual value of the investment, as set out in the PPA and discounted at appropriate discount rates for each of those two components of the price. That provision allowed the transaction not to be treated as one single investment in financial terms, since different interest rates are used to discount the following:
- (a) the residual value (to be paid to EDP);
 - (b) the financial free cash flows accruing to EDP from subsequent sales of electricity generated by those hydro plants (to be paid to Portugal by EDP and eventually the consumers).
- (20) In accordance with the provisions of Decree-Law No 226-A/2007, EDP paid to the Portuguese State the sum of EUR 759 million in consideration for the economic and financial balance of the extension of all 27 hydro power plants concessions. This figure includes the amount of EUR 55 million corresponding to the water resource tax rate. It follows that the net amount of that consideration paid by EDP was EUR 704 million.

2.5. The complaint

- (21) In the complaint received in September 2012, it was alleged that Portugal had granted unlawful State aid, incompatible with the internal market, to EDP, which resulted from two distinct measures as follows:
- (a) the compensation for stranded costs to EDP pre-dating the liberalisation of electricity markets, which the Commission approved in its Decision concerning State aid N 161/2004 — Stranded costs in Portugal

⁽¹⁾ The Portuguese authorities explained that the principle that non-amortised investments are compensated when the relevant assets revert to the State at the end of a concession was already provided for before the liberalisation of the sector under Portuguese law.

(as referred to in recital 12 ⁽¹⁾): the complainant argues that, due to changes in circumstances since the adoption of the Commission Decision, and the inconsistency with the terms of the Communication from the Commission relating to the methodology for analysing State aid linked to stranded costs ⁽²⁾, the aid approved in 2004 would no longer be compatible with Union State aid rules;

- (b) the low price that EDP paid to Portugal in 2007 for the extension without public tender of the duration of concessions for the right of using public water resources for hydropower generation, thereby foregoing State income to the advantage of EDP.

2.6. The opening decision

- (22) In the opening decision, the Commission rebutted the part of the complaint related to stranded cost compensation and concluded that there were no reasons to declare that the aid was no longer compatible with the internal market.
- (23) However, the Commission raised doubts on the possible State aid to EDP in the implementation of the regime of use of water resources. The Commission preliminarily concluded in its opening decision that the possibly low amount paid by EDP for the extension of the right to use public water resources in implementation of Decree-Law No 226-A/2007, if confirmed, would appear as having entailed a selective economic advantage to EDP.
- (24) On compatibility, the Commission did not discern, at that stage, any appropriate legal basis for the compatibility with the internal market of the possible State aid to EDP.

2.6.1. Absence of tender

- (25) Firstly, the Commission noted that the award of use of public water resources under concession for the purpose of operation of a service supplied on a market may not involve an economic advantage to the beneficiary where the concession is awarded as a result of an open and non-discriminatory tender procedure gathering a sufficient number of interested operators. However, in the case at hand, the PPA termination agreements *de facto* prolonged by around 25 years on average the exclusive right of EDP to operate the power plants concerned without any tender procedure. Indeed, the organisation of a tender had been pre-empted by the suspensive clauses of the 27 PPA termination agreements between REN and EDP.
- (26) Considering the significant share of the Portuguese market accounted for by the power plants (27 %), the position of EDP on the Portuguese electricity generation and wholesale supply market (55 %) and the specific interest of hydro plants in an electricity generation portfolio, the Commission considered that such suspension clauses may have triggered a foreclosure effect on a lasting basis for market entry of prospective competitors which could have bid in an open tender. Therefore, an economic advantage unduly benefitting EDP could be established in case the tender had resulted in a higher price than the price paid by EDP, net of the residual value owed to this undertaking.

2.6.2. Supporting economic studies used to estimate the transaction price

- (27) Secondly, in its opening decision, the Commission considered that a second best solution in the absence of tender could have been an arm's length negotiation between the Portuguese authorities and EDP. Portugal acting as market operator would have aimed at obtaining a highest return on the public goods put to concession. With this approach, the negotiation with EDP would have been backed by the valuation carried out in 2007 ⁽³⁾ proving to be the most beneficial to Portugal, i.e. the valuation proposed by REN.
- (28) As referred to in recital 44 of the opening decision, Portugal had consented to a final price amounting to nearly half of the price evaluated by REN. Should the valuation proposed by REN proved the most accurate, it seems implausible that the State would have acted as a market operator in negotiating with EDP.

⁽¹⁾ Commission Decision C(2004)3468 of 22 September 2004 concerning State aid N 161/2004, *Stranded costs in Portugal* (OJ C 250, 8.10.2005, p. 9).

⁽²⁾ Adopted by the Commission on 26 July 2001 and communicated to Member States by letter SG(2001) D/290869 of 6 August 2001.

⁽³⁾ See recital 16 of the opening decision.

2.6.3. Financial methodology used to determine the transaction price

- (29) Thirdly, additional doubts were raised regarding the methodology used to determine the transaction price. The method determined in Decree Law No 226-A/2007 closely follows the approach presented by Caixa Banco da Investimento which uses two discount rates ⁽¹⁾.
- (30) The Commission expressed its doubts that an absence of use of the same discount rate, based solely on the cost of capital of EDP, as proposed by REN, could entail an economic advantage to EDP. The Commission noted that if the rate used to discount the residual value and the free cash flows had been a single WACC rate based on the typical cost of capital of a European electricity generator (7,55 %), EDP should have paid EUR 1 340 million, that is, EUR 581 million more than the amount actually paid by EDP.
- (31) The Commission considered therefore in its opening decision that, taking into account the choice made by the Portuguese authorities of extending the concessions to the exclusive benefit of EDP rather than via a tender procedure opened to other competitors, it could have been more appropriate to use a discount rate based on EDP's actual WACC to reflect its own and true cost of capital. REN reported that EDP's actual WACC in 2007 was 6,6 % and therefore it could be appropriate to use this value rather than 7,55 %. Thus, the Commission concluded that an economic advantage unduly benefiting EDP could be established.

3. COMMENTS FROM INTERESTED PARTIES

- (32) During the formal investigation, the Commission received observations from the complainants and EDP.
- (33) The complainants considered that through the extension of the concessions, EDP received State aid. According to them, the measure constitutes a compensation for lost revenue.
- (34) In its answer dated 19 May 2014, EDP considered conversely that the measure does not constitute State aid. Firstly, EDP argues that it did not gain any economic advantage from the recognition in 2007 of the right to use public water resources until the end of the useful life of the equipment in the 27 hydroelectric power plants with PPAs, considering that that right was granted under normal market conditions.
- (35) According to EDP, the presence of an economic advantage can be excluded if the State acts as a private vendor in an arm's length transaction on the open market and seeks to obtain the best price for the asset.
- (36) EDP claims that it is entitled to receive the residual value of the hydroelectric power plants if the PPAs terminate prior to the end of the useful life of the plants. Therefore, it was not economically viable for the State to open a public tender in 2007 to award new water resource concessions.
- (37) EDP considers that if the State had sought to obtain a higher value than the one arising from the independent studies, EDP would have opted not to extend the right to use the water resources and to receive the residual value of the power plants immediately, as it was entitled to do.
- (38) Moreover, EDP considers that the REN study on the economic value of the extension of the concessions contains inappropriate economic and financial assumptions which significantly reduce the value of the rights, which means that EDP would never have accepted the findings of that study for the purpose of a 'bilateral negotiation'.
- (39) Therefore, EDP argues that the unilateral setting of the value of the extension of the concessions, on the basis of an objective valuation methodology, is sufficient to avoid the existence of an economic advantage.
- (40) Secondly, EDP argues that the methodology established in Decree-Law No 226-A/2007 is objective and is based on generally accepted principles of economic calculation. Its application enables coherent, justifiable and non-arbitrary compensation calculation.

⁽¹⁾ See recital 16 of the opening decision.

- (41) Regarding the appropriate discount rates that must be used for the financial flows of each plant, both Caixa Banco de Investimento and CSFB concludes that the discount rate of the residual value of the plants should reflect the contractual risk inherent in that value. EDP points out that, since they came into force in 1995, all the PPAs already entitled EDP to receive from REN the residual value of the plant if the contracts were to cease prior to their expiry date. If EDP was not interested in extending its right to use public water resources, it would therefore have received the residual value from REN on the expiry date of each PPA.
- (42) Moreover, EDP explains that the residual value of the hydro power plants it is entitled to recoup is in fact a credit held by EDP over the State, through REN, from the entry into force of the PPAs in 1995. REN is an undertaking controlled by the Portuguese State. The risk of failure to meet its obligations is therefore to be associated to the State's debt risk. EDP concludes that the relevant discount rate for updating that value should thus only take into account the risk associated to REN's failure to comply with that obligation.

4. COMMENTS AND ANSWERS FROM PORTUGAL

- (43) Portugal sent a reply to the comments of the interested parties, but focused on the issue of stranded costs on which the Commission did not raise any doubts.
- (44) In April 2016, the Commission requested additional information from Portugal. Portugal replied on 16 April 2016 and provided legal clarifications on the provisions of Decree-Law No 240/2004 and annexes to the concession contracts.

5. ASSESSMENT OF THE MEASURE

5.1. Existence of aid

- (45) Article 107(1) TFEU provides that any aid granted 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 shall, in so far as it affects trade between Member States, be incompatible with the internal market.
- (46) In order to conclude whether State aid is present, the Commission must assess whether the cumulative criteria of Article 107(1) TFEU (i.e. transfer of State resources and imputability to the State, selective advantage, potential distortion of competition and affectation of intra-Union trade) are met for the measure under assessment.

5.1.1. Imputability

- (47) Regarding imputability, in cases where a public authority grants an advantage to a beneficiary, the measure is by definition imputable to the State.
- (48) The extension of the right to use public water resources for the purpose of hydropower generation to the benefit of EDP acting as a subentity receiving the concession of REN results from the implementation of Decree-Law No 226-A/2007 concerning the regime of use of water resources. The provisions of this Decree-Law also set out the rules to be followed by the State for the determination of the payment made by EDP in consideration of the economic benefits of the extension. Decree-Law No 226-A/2007 is a public act adopted and enacted by the Portuguese authorities. It follows that aid measures possibly contained therein would be imputable to the Portuguese Republic.

5.1.2. State resources

- (49) Regarding the qualification of State resources, granting access to a public domain or natural resources, or granting special or exclusive rights without adequate remuneration in line with market rates, can constitute a foregoing of State revenues ⁽¹⁾.

⁽¹⁾ See Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest (OJ C 8, 11.1.2012, p. 4), paragraph 33, where reference is made to the judgment of the Court of Justice of 22 May 2003, *Connect Austria Gesellschaft für Telekommunikation GmbH v Telekom-Control-Kommission, and Mobilkom Austria AG*, C-462/99, ECLI:EU:C:2003:297, paragraphs 92 and 93; and to the judgment of the Court of First Instance of 4 July 2007, *Bouygues and Bouygues Télécom SA v Commission*, T 475/04, ECLI:EU:T:2007:196, paragraphs 101, 104, 105 and 111.

- (50) Pursuant to the Portuguese Water Act No 58/2005 and Decree-Law No 226-A/2007, water resources within the Portuguese territory belong to the Portuguese State and cannot be privately appropriated and owned by natural or legal persons. It follows that, in principle, economic benefits derived from the utilisation of public water resources are provided through State resources within the meaning of Article 107(1) TFEU.
- (51) Natural resources with intangible values such as water or air may be necessary and sometimes essential for citizens. However, if their exploitation is non-marketable and/or no economic value is attributed to their use, such resources may not necessarily constitute a vehicle for the attribution of economic benefits of the kind that Article 107(1) TFEU captures, and escape the qualification of State resource. In this case the measure consists of the granting of an entitlement to use water resources which are part of the public domain. The existence of a transaction price shows that this entitlement is ascribed an economic value. Therefore, the Commission concludes that the measure entails State resources.
- (52) Article 9 of Directive 2000/60/EC of the European Parliament and of the Council ⁽¹⁾ lays down the principle of cost recovery for water services, adequate incentives in water pricing policies for the efficient use of water resources and adequate contribution from, inter alia, industry. These provisions of Union law recognise an economic value to different water uses. Moreover, in any event, in the case of Portugal, the provisions of Article 91 of Decree-Law No 226-A/2007 further determines that the use of public water resources for the purposes of electricity generation entails an economic, quantifiable and marketable value under Portuguese law.
- (53) It follows that the extension of the right to use water resources for the purpose of hydropower generation to the benefit of EDP, acting as a subentity receiving the concession of REN as set out in Decree-Law No 226-A/2007, appears to involve State resources within the meaning of Article 107(1) TFEU.

5.1.3. *Absence of advantage*

- (54) Whether a transaction is in line with market conditions can be established on the basis of a generally-accepted, standard assessment methodology ⁽²⁾. Such a methodology must be based on the available objective, verifiable and reliable data ⁽³⁾, which should be sufficiently detailed and should reflect the economic situation at the time at which the transaction was decided, taking into account the level of risk and future expectations ⁽⁴⁾.
- (55) In its opening decision, the Commission raised doubts whether the economic valuation of the extension of the concessions, valued in 2007, was underestimated due to the use of different discount rates applied to its two components, the residual value of unamortised assets and the free cash flows generated from the operation of the hydro plants.
- (56) The prolongation price estimated in 2007 is EUR 704 million (net of a tax withdrawal amounting to EUR 55 million) and has two components. Firstly, it is composed of the discounted free cash flows incurred by the operation of the hydro plants over the period 2020-2044 ⁽⁵⁾ (EUR 2 115 million discounted at 2007). Secondly, it is composed of the net present value, at 2007, of the residual value (EUR 1 356 million discounted at 2007). It should be noted that EDP would have been entitled to recover the value of these assets, had Portugal decided not to grant the extension of the concession to EDP.
- (57) The Commission questioned to what extent the application of a lower discount factor to the residual value of the unamortised assets was acceptable from a methodological point of view ⁽⁶⁾.
- (58) In order to reflect the fact that the value of these unamortised assets used to operate the plant will be known in 2020 and therefore less uncertain, as they are contracted with entities controlled by the Portuguese State,

⁽¹⁾ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

⁽²⁾ See judgment of the General Court of 29 March 2007, *Scott v Commission*, T-366/00, ECLI:EU:T:2007:99, paragraph 134; and judgment of the Court of Justice of 16 December 2010, *Seydaland Vereinigte Agrarbetriebe*, C-239/09, ECLI:EU:C:2010:778, paragraph 39.

⁽³⁾ See judgment of the General Court of 16 September 2004, *Valmont Nederland BV v Commission*, T-274/01, ECLI:EU:T:2004:266, paragraph 71.

⁽⁴⁾ See judgment of the General Court of 29 March 2007, *Scott v Commission*, T-366/00, ECLI:EU:T:2007:99, paragraph 158.

⁽⁵⁾ 2020 corresponds to the average end year of the PPAs and the stranded costs compensation period, for the 27 hydro power plants involved in the transaction. 2044 corresponds to the average date of the end of the extension period of the concessions for the 27 hydro power plants.

⁽⁶⁾ See recital 51 of the opening decision.

the banks used a lower discount rate than the WACC applied to the cash flows, in other words, the risk free rate plus a 50-80 bps spread (ca. 4,6 % v 7,8 % for the WACC). The application of a lower discount rate increases the net present value of the residual value and decreases the prolongation price. Considering that the residual value is not affected by the same economic uncertainties than the free cash flows, it can be concluded that the application of the risk free rate is justified.

- (59) On the other hand, the use of the WACC to estimate the net present value of the free cash flows (generated from 2020 to 2044 on average) corresponds to market practice. It is justified by the higher operational risk in a context of a liberalised market, the realisation of the Iberian electricity market ⁽¹⁾, the development of a more integrated energy market at European level, which entails overall more uncertainties on the cash generation. Therefore, the application of the WACC to the discounted cash flows is justified.
- (60) The evaluation of the WACC was made by Caixa Banco de Investimento and CSFB using a combination of a benchmarking approach (WACC of similar players in similar sectors) with a bottom up approach (recalculation of the WACC using public data obtained from Bloomberg). The WACC was estimated at 7,72 % and 7,88 % for Caixa Banco de Investimento and CSFB, respectively. This approach reflects market practice and is compliant with similar approaches already validated by the Commission in other cases ⁽²⁾.
- (61) The Commission also raised doubts on whether the methodology used by REN, the transmission system operator, to assess the prolongation price, resulting in a higher price (EUR 1 672 million) could not be seen as a more satisfactory approach than the valuations performed by the two financial institutions ⁽³⁾.
- (62) However, the methodology proposed by REN does not represent market practice. The proposed prolongation price cannot be retained for the following reasons:
- (a) REN applied one single discount rate to both the residual value and the free cash flows. This discount rate assumes the WACC is given by EDP's WACC (6,6 %). The WACC must however reflect the profitability required by a panel of investors of a given sector in a given country, for a certain type of project. WACCs are generally calculated based on both a benchmarking approach (WACC of comparable market players) and a bottom-up approach, involving a specific estimate of each component of the WACC (beta, market risk premium), which was not performed in the study. Therefore REN's method does not seem to apply the standard methodology generally applied by the market.
- (b) In addition, REN's evaluation could not be used by the Portuguese authorities due to its lack of independence. According to the Portuguese legal framework, the value of the concession was to be determined based on the evaluations performed by two independent institutions, CSFB and Caixa Banco de Investimento in the case at hand, and their valuations were used to establish the value of the prolongation price. As shown above, the evaluations provided by CSFB and Caixa Banco de Investimento used an appropriate methodology. The Commission finds no ground to consider these evaluations inappropriate to establish the market value of the extension period of the concessions.
- (63) As a conclusion, after due analysis, the methodology used by Portugal to assess the prolongation price can be considered to be satisfactory.
- (64) In the event of a tender, Portugal would have had to pay EDP for the amount of the unamortised assets at the end of the PPA concession period (2020). Secondly, the prolongation price is based on an assumption of electricity prices of 50 EUR/MWh. It should be pointed out that the compensation for stranded costs assessed at the same period was based on an estimate of 36 EUR/MWh. Should this assumption be retained for the calculation of the prolongation price, Portugal would have supported a negative price (EUR – 15,4 million of Net Present Value). Therefore, the price assumptions compared with assumptions used in the stranded cost decision are certainly more favourable to the Portuguese State, and reflect a conservative approach retained by both financial institutions in their valuation of the prolongation price.

⁽¹⁾ The Iberian electricity market, or MIBEL, was defined in the International Agreement between the Portuguese Republic and the Kingdom of Spain for the Constitution of an Iberian Electricity Market. MIBEL was implemented through a series of laws adopted in Spain (for example, Order ITC/2129/2006, of 30 June 2006) and in Portugal (for example, Portaria 643/2006, of 26 June 2006).

⁽²⁾ See, for example, State aid — Hungary — SA. 38454 (2015/C)(ex 2015/N) — Possible aid to the Paks nuclear power station — Invitation to submit comments pursuant to Article 108(2) of the Treaty on the Functioning of the European Union (OJ C 8, 12.1.2016, p. 2), and T-319/12 and T-321/12 — *Spain and Ciudad de la Luz v Commission*, ECLI:EU:T:2014:604, paragraph 40, T-233/99 and T-228/99 — *Landes Nordrhein-Westfalen v Commission*, ECLI:EU:T:2003:57, paragraph 245.

⁽³⁾ See recitals 48 to 51 of the opening decision.

6. CONCLUSION

- (65) The Commission therefore concludes that the measure entitling EDP to operate hydro power plants for an extended period against the payment of a price of EUR 704 million does not meet all the cumulative conditions of Article 107(1) TFEU, and therefore it does not constitute State aid,

HAS ADOPTED THIS DECISION:

Article 1

The measure which Portugal has implemented for EDP — Energias de Portugal, S.A. regarding the extension of use of public water resources for hydro electricity generation, does not constitute State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union.

Article 2

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 15 May 2017.

For the Commission
Margrethe VESTAGER
Member of the Commission

COMMISSION IMPLEMENTING DECISION (EU) 2017/1593**of 20 September 2017****amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States***(notified under document C(2017) 6458)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽¹⁾, and in particular Article 9(4) thereof,Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽²⁾, and in particular Article 10(4) thereof,

Whereas:

- (1) Commission Implementing Decision (EU) 2017/247 ⁽³⁾ was adopted following outbreaks of highly pathogenic avian influenza of subtype H5 in a number of Member States ('the concerned Member States'), and the establishment of protection and surveillance zones by the competent authority of the concerned Member States in accordance with Article 16(1) of Council Directive 2005/94/EC ⁽⁴⁾.
- (2) Implementing Decision (EU) 2017/247 provides that the protection and surveillance zones established by the competent authorities of the concerned Member States in accordance with Directive 2005/94/EC are to comprise at least the areas listed as protection and surveillance zones in the Annex to that Implementing Decision. Implementing Decision (EU) 2017/247 also lays down that the measures to be applied in the protection and surveillance zones, as provided for in Article 29(1) and Article 31 of Directive 2005/94/EC, are to be maintained until at least the dates for those zones set out in the Annex to that Implementing Decision.
- (3) Since the date of its adoption, Implementing Decision (EU) 2017/247 has been amended several times to take account of developments in the epidemiological situation in the Union as regards avian influenza. In addition, Implementing Decision (EU) 2017/247 was amended by Commission Implementing Decision (EU) 2017/696 ⁽⁵⁾ in order to lay down rules regarding the dispatch of consignments of day-old chicks from the areas listed in the Annex to Implementing Decision (EU) 2017/247. That amendment took into account the fact that day-old chicks pose a very low risk for the spread of highly pathogenic avian influenza compared to other poultry commodities.
- (4) In addition, the Annex to Implementing Decision (EU) 2017/247 has been amended numerous times to take account of changes in the boundaries of the protection and surveillance zones established by the Member States concerned in accordance with Directive 2005/94/EC. That Annex was last amended by Commission Implementing Decision (EU) 2017/1519 ⁽⁶⁾, following the notification by Italy of outbreaks of highly pathogenic avian influenza of subtype H5N8 in poultry holdings in the regions of Lombardia and Veneto, and the establishment of protection and surveillance zones by that Member State around the infected poultry holdings in accordance with Directive 2005/94/EC.
- (5) Since the date of the last amendment made to Implementing Decision (EU) 2017/247 by Implementing Decision (EU) 2017/1519, Italy has detected and notified to the Commission new outbreaks of highly pathogenic avian

⁽¹⁾ OJ L 395, 30.12.1989, p. 13.

⁽²⁾ OJ L 224, 18.8.1990, p. 29.

⁽³⁾ Commission Implementing Decision (EU) 2017/247 of 9 February 2017 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 36, 11.2.2017, p. 62).

⁽⁴⁾ Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC (OJ L 10, 14.1.2006, p. 16).

⁽⁵⁾ Commission Implementing Decision (EU) 2017/696 of 11 April 2017 amending Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 101, 13.4.2017, p. 80).

⁽⁶⁾ Commission Implementing Decision (EU) 2017/1519 of 1 September 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 228, 2.9.2017, p. 1).

influenza of subtype H5N8 in poultry holdings, again located in the regions of Lombardia and Veneto of that Member State. Italy has also notified the Commission that it has taken the necessary measures required in accordance with Directive 2005/94/EC, including the establishment of protection and surveillance zones around the infected poultry holdings.

- (6) The Commission has examined the measures taken by Italy in accordance with Directive 2005/94/EC, following the recent outbreaks of avian influenza of subtype H5N8 in that Member State, and it has satisfied itself that the boundaries of the protection and surveillance zones, established by the competent authority of Italy, are at a sufficient distance to any holding where an outbreak of highly pathogenic avian influenza of subtype H5N8 has been confirmed.
- (7) In order to prevent any unnecessary disturbance to trade within the Union, and to avoid unjustified barriers to trade being imposed by third countries, it is necessary to rapidly describe at Union level, in collaboration with Italy, the protection and surveillance zones established in Italy, in accordance with Directive 2005/94/EC, following the recent outbreaks of highly pathogenic avian influenza of subtype H5N8 in that Member State. Therefore, the entries for Italy in the Annex to Implementing Decision (EU) 2017/247 should be updated to take account of the up-to-date epidemiological situation in that Member State as regards that disease. In particular, new entries for certain areas in the regions of Lombardia and Veneto need to be added in order to address this new situation.
- (8) The Annex to Implementing Decision (EU) 2017/247 should therefore be amended to update regionalization at Union level to include the protection and surveillance zones established by Italy following the new outbreaks of highly pathogenic avian influenza in the regions of Lombardia and Veneto, in accordance with Directive 2005/94/EC and the duration of the restrictions applicable therein.
- (9) Implementing Decision (EU) 2017/247 should therefore be amended accordingly.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Implementing Decision (EU) 2017/247 is amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 20 September 2017.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX

The Annex to Implementing Decision (EU) 2017/247 is amended as follows:

(1) in Part A, the entry for Italy is replaced by the following:

Member State: Italy

Area comprising:	Date until applicable in accordance with Article 29(1) of Directive 2005/94/EC
<ul style="list-style-type: none"> — Municipality of SAN PIETRO DI MORUBIO (VR): East of via Casari, via Borgo, via Farfusola — Municipality of ROVERCHIARA (VR): South of via Molaro, South West of via Anesi, West of via Borcola, South of via Viola, West of via Bussè, South of SP3, South and West of via Casalino — Municipality of CERIA (VR): North of SP44c, East of via Polesella, North of via Guanti, West of SP45, North of via Cesare Battisti, East of SP2, via Isolella Bassa — Municipality of ANGIARI (VR): North West of SP44c, West of via Lungo Bussè, North and West and South of via Boscarola. 	20.9.2017
<ul style="list-style-type: none"> — Municipality of CHIGNOLO PO (PV): East of SP193, South of via Don Sbarsi, East of via Mariotto. — Municipality of MONTICELLI PAVESE (PV). — Municipality of ROTTOFRENO (PC): North of E70. — Municipality of SARMATO (PC): North of E70. — Municipality of PIEVE PORTO MORONE (PV): East of SP412, South of SP193. — Municipality of BADIA PAVESE (PV): South East of SP193, via Roma 	21.9.2017
<ul style="list-style-type: none"> — The area of the parts of Lombardia and Emilia Romagna Regions (ADNS 17/0036) contained within a circle of radius of three kilometres, centred on WGS84 dec. coordinates N45.046214 and E10.186550 	30.9.2017
<ul style="list-style-type: none"> — The area of the parts of Veneto Region (ADNS 17/0037) contained within a circle of radius of three kilometres, centred on WGS84 dec. coordinates N45.137063 and E11.664795 	5.10.2017'

(2) in Part B, the entry for Italy is replaced by the following:

Member State: Italy

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
<ul style="list-style-type: none"> — Municipality of RONCO ALL'ADIGE (VR): West of via Mazza, North and East of via Pezze Albaro, North West of via Lasta, West of via Ponzilovo, West of via Pieve, South of via Cantonà, West of via Ronchi, North of SP19, West of via Fornetto — Municipality of ZEVIO (VR): East of via S. Spirito, South of via Botteghe, East of via Bertolda — Municipality of PALU' (VR): North East of via Rizza, North East and North of Località Stagnà Nuovo/Vecchio, East of via Piave, North West of via Casoti, West of via Ponte Rosso, North West of Località Motte I/II. 	22.9.2017

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
<ul style="list-style-type: none"> — Municipality of ZIMELLA (VR): East of via Fedriga, South of via Fiorette and via Baffa, East and South of via S. Martino; West of SP500, South of via Callesella, West of via Larga — Municipality of VERONELLA(VR): North East of SP7b, South East of via Fiume, South of via Colonnello Rossi, piazza S. Gregorio, East of via Brusco; North West and North East of via Giavone — Municipality of ALBAREDO D'ADIGE (VR): North East of via Cadelseite, East of SP18 — Municipality of COLOGNA VENETA (VR): West and North of via S. Giustina, West of SP7 	23.9.2017
<ul style="list-style-type: none"> — Municipality of CERVIGNANO D'ADDA (LO) — Municipality of BOFFALORA D'ADDA (LO): West of SP1, SP25 — Municipality of MULAZZANO (LO): North East of SP202, SP158, East of via Quartiano, North East of via Roma, Piazza della Chiesa, East of via Cassino, SP 158 — Municipality of ZELO BUON PERSICO (LO): West of SP16, South and East of country road that connect SP16 to SP16d, East of SP16d, South East of Circonvalazione Zelo Buon Persico, North East of via Dante — Municipality of GALGAGNANO (LO) — Municipality of SPINO D'ADDA (CR): South of Canale Vacchelli, West of SP1, viale della Vittoria, South and West of SP1 	25.9.2017
<ul style="list-style-type: none"> — Municipality of RONCO ALL'ADIGE (VR): East of SP19 — Municipality of ZIMELLA (VR): West of via Fedriga, North of via Fiorette, via Baffa, North and West of via S. Martino; East of SP500, North of via Callesella, East of via Larga — Municipality of VERONELLA (VR): West of via Brusco; North of Piazza S.Gregorio, West of via Fiume, West of SP7b, North of country road that connect SP7b to SP18. — Municipality of COLOGNA VENETA (VR): East and South of via S. Giustina, East of SP7 — Municipality of BELFIORE (VR): East of SP39, North of str. Porcilana, East of SP38b — Municipality of SAN BONIFACIO (VR): South of via Circonvalazione, East of via Masetti, South East of SP38, East of SP7 and Cavalcavia Monteforte, South of SR11 — Municipality of ARCOLE (VR) — Municipality of LONIGO (VI): South of via Trassegno, East of via Albaria, South of via Fontane — Municipality of ALONTE (VI) — Municipality of ORGIANO (VI): West of via Borgomale, via Cree Storte, via Ca' Muzzana, via Perara, South West of via S. Feliciano — Municipality of ASIGLIANO VENETO (VI). — Municipality of PRESSANA (VR): North East of SP40b, East of SP500 — Municipality of ROVEREDO DI GUA' (VR): South of via Ca' Dolfina, West of Scolo Giacomelli Centrale and Scolo Sperona — Municipality of MONTAGNANA: West of SP90 and North of SR10 	23.9.2017
<ul style="list-style-type: none"> — Municipality of LEGNAGO (VR): South West of SP46, South of SP46b, via Valverde, East of via Scolo Pisani, South East of via Villabona, West of SS434. — Municipality of CEREIA (VR): South West of Località Muri. 	24.9.2017

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
<ul style="list-style-type: none"> — Municipality of CASALEONE (VR): South and East of via Carpania — Municipality of PRESSANA (VR): South-West of SP40b, East of SP500; North of SP40b, via Braggio, West of SP500 — Municipality of MINERBE (VR): North East of via Nuvolea, North of SR10, East of via Serraglio, via Amedeo di Savoia, North of SP41, East of via Comuni, SP500 — Municipality of BOSCHI SANT'ANNA (VR): South of via Scaranella, East of via Olmo, South of via Faro, East of SP42A — Municipality of BEVILACQUA (VR) — Municipality of TERRAZZO (VR): West of via Brazzetto, North West of SP42, West of SP41 — Municipality of VILLA BARTOLOMEA (VR): North-East of SP47, West of via Becascogliera, East of via Argine della Valle, West of via Zanardi, via Ferranti, North of via Arzaron, via Rodigina, West of via Brazzetto 	
<ul style="list-style-type: none"> — Municipality of ZEVIO (VR): West of via S. Spirito, North of via Botteghe, West of via Bertolda East of via Campagnol, via Casa Nuova, via Fienil Molino, South of via Speranza, East of via Monti Lessini, East and North of via Pontoncello — Municipality of PALU' (VR): South West of via Rizza, South West and South of Località Stagnà Nuovo/Vecchio, North East of via Piave, via Belledonne, West and South of SP20 — Municipality of OPPEANO (VR): East of SS434, South of via Spinetti, East of via Marco Biagi, South of via Ferruccio Busoni, East of SP2; and North East and North West of SP21, South and West of via degli Oppi, North and West of via Fornello, via Spin, via 44a — Municipality of SAN MARTINO BUON ALBERGO (VR): South of Marco Pantani pedestrian cycle track, via Casotton, South east of via Giarette, East of via Pantina, via Coetta, South West of and South East of via Ferraresa, South of via Mariona, East of SP20 — Municipality of LAVAGNO (VR): South of St. Porcilana, East of SP20 — Municipality of COLOGNOLA AI COLLI (VR): South and West of SP37, South of via Peschieria, SP37 — Municipality of SOAVE (VR): South of Località Val Ponsara, via Mondello, West of via Bassano, South of via Carantiga, West of via Ca' del Bosco, East of SP37a, South of via Ugo Foscolo, via Bissoncello di Sopra, via Ghiaia — Municipality of CALDIERO (VR) — Municipality of BOVOLONE (VR): North and West of via Capitello, North of SP21 — Municipality of BELFIORE (VR): West of SP39, South of str. Porcilana, West of SP38b — Municipality of SAN BONIFACIO (VR): North of via Circonvalazione, West of via Masetti, North West of SP38, West of SP7, Cavalcavia Monteforte, North of SR11, West of Francesco Perlini 	22.9.2017
<ul style="list-style-type: none"> — Municipality of CASALMAIOCCO (LO) — Municipality of TRIBIANO (MI) — Municipality of VAIANO CREMASCO (CR) — Municipality of SORDIO (LO) — Municipality of LODI (LO): 	25.9.2017

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
<ul style="list-style-type: none"> — Municipality of MELEGNANO (MI): North East of SS9, East of via Vittorio Veneto, via Camillo Benso di Cavour, Vicolo Monastero, via Stefano Bersani, South of via Frisi, via Conciliazione, East of viale S. Predabissi, East and South of via Giardino — Municipality of CERRO AL LAMBRO (MI): East of SP17 — Municipality of BOFFALORA D'ADDA (LO): East of SP1, SP25 — Municipality of CASALETTO LODIGIANO (LO): East of SP17, North of SP115 — Municipality of SALERANO SUL LAMBRO (LO): North of SP115, East of SP204, North of SP140 — Municipality of LODI VECCHIO (LO) — Municipality of PIEVE FISSIRAGA (LO): North and North West of SP235 — Municipality of CORNEGLIANO LAUDENSE (LO): North West of SP235 — Municipality of MULAZZANO (LO): South West of SP202, SP158, West of via Quartiano, South West of via Roma, Piazza della Chiesa, West of via Cassino, SP 158 — Municipality of ZELO BUON PERSICO (LO): East of SP16, North and West of country road that connect SP16 to SP16d, West of SP16d, North West of Circonvallazione Zelo Buon Persico, South West of via Dante — Municipality of VIZZOLO PREDABISSI (MI) — Municipality of SAN ZENONE AL LAMBRO (MI) — Municipality of TAVAZZANO CON VILLAVESCO (LO) — Municipality of MONTANASO LOMBARDO (LO) — Municipality of SPINO D'ADDA (CR): North of Canale Vacchelli, East of SP1, viale della Vittoria, North and East of SP1 — Municipality of MERLINO (LO) — Municipality of COMAZZO (LO) — Municipality of DRESANO (MI) — Municipality of COLTURANO (MI) — Municipality of PAULLO (MI) — Municipality of MONTE CREMASCO (CR) — Municipality of DOVERA (CR) — Municipality of PANDINO (CR) — Municipality of SAN GIULIANO MILANESE (MI): East of SS9, South and East of via L. Tolstoj, East of str. Vicinale Cascinetta, South east of str. Provinciale Mediglia S.Giuliano — Municipality of MEDIGLIA (MI): West of str. Provinciale Bettola Sondrio, South of Cascina Meleganello, East of via Piero Capponi, via della Liberazione — Municipality of PANTIGLIATE (MI) — Municipality of LISCATE (MI): South of SP14 — Municipality of TRUCCAZZANO (MI): South of SP14 — Municipality of RIVOLTA D'ADDA (CR): South of SP14, SP185 — Municipality of CRESPIATICA (LO) — Municipality of CORTE PALASIO (LO) — Municipality of SETTALA (MI) — Municipality of AGNADELLO (CR): West of SP472, SP34, South of SP34 — Municipality of PALAZZO PIGNANO (CR) 	

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
<ul style="list-style-type: none"> — Municipality of CHIGNOLO PO (PV): West of SP193, North of via Don Sbarsi, West of via Mariotto. — Municipality of BADIA PAVESE (PV): East of via Guglielmo Marconi — Municipality of SAN COLOMBANO AL LAMBRO (MI): South of SP19, viale F. Petrarca, West of SP23, South of S. Giovanni di Dio, West of via Privata Colombana, via del Pilastrello, West of Strada comunale per Campagna 	30.9.2017
<ul style="list-style-type: none"> — Municipality of RONCO ALL'ADIGE (VR): West of SP19, East of via Quadrelli, South and West of via Valmarana, South of via Casona, South and East of via Ponzilovo, East of via Lasta, West and South of via Pezze Albaro, East of via Mazza. — Municipality of PALU' (VR): East of via Piave, South East of via Casoti, East of via Ponte Rosso, South of Località Motte I/II. — Municipality of OPPEANO (VR): East of SP20, North of SP44. 	29.9.2017
<ul style="list-style-type: none"> — Municipality of ALBAREDO D'ADIGE (VR): South of via Caldasette, East of via Palazzetto, via Presina, North East of via Villaraspà, via Carotta, via Pascoloni. — Municipality of VERONELLA(VR): East and North West of via Giavone. 	29.9.2017
<ul style="list-style-type: none"> — Municipality of CERIA (VR): South of SP44c, West of via Palesella, South of via Guanti, East of SP45, South of via Cesare Battisti, East of via Paride da Cerea, East and North of SR10. — Municipality of ANGIARI (VR): South East of SP44c, East of via Lungo Bussè, South and East and North of via Boscarola. — Municipality of BONAVIGO (VR): West and South of SP44b. — Municipality of LEGNAGO (VR): North West of via Palazzina, SP46c dir, via G.B. Giudici, North of via Corradina, West of via Lungo Bussè, North West of viale Regina Margherita, North of via XXIV Maggio, East of via Passeggio, via Disciplina, North West and West of via degli Alpini, via Padana Inferiore Est, North West of SR10, West of Via Custoza, South East of via S. Vito, South of SP44b. 	29.9.2017
<ul style="list-style-type: none"> — Municipality of CHIGNOLO PO (PV): East of SP193, South of via Don Sbarsi, East of via Mariotto — Municipality of MONTICELLI PAVESE (PV) — Municipality of ROTTOFRENO (PC): North of E70 — Municipality of SARMATO (PC): North of E70 — Municipality of PIEVE PORTO MORONE (PV): East of SP412, South of SP193 — Municipality of BADIA PAVESE (PV): South East of SP193, via Roma 	From 22.9.2017 to 30.9.2017
<ul style="list-style-type: none"> — Municipality of SAN PIETRO DI MORUBIO (VR): East of via Casari, via Borgo, via Farfusola — Municipality of ROVERCHIARA (VR): South of via Molaro, South West of via Anesi, West of via Borcola, South of via Viola, West of via Bussè, South of SP3, South and West of via Casalino. — Municipality of CERIA (VR): North of SP44c, East of via Polesella, North of via Guanti, West of SP45, North of via Cesare Battisti, East of SP2, via Isolella Bassa. — Municipality of ANGIARI (VR): North West of SP44c, West of via Lungo Bussè, North and West and South of via Boscarola 	From 21.9.2017 to 29.9.2017

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
<ul style="list-style-type: none"> — Municipality of SAN PIETRO DI MORUBIO (VR): West of via Casari, via Borgo, via Farfusola — Municipality of ROVERCHIARA (VR): North of via Molaro, North East of via Anesi, East of via Borcola, North of via Viola, East of via Bussè, North of SP3, a North East of via Casalino. — Municipality of CEREIA (VR): South and West of SR10, West of via Paride da Cerea, West of SP2, via Isolella Bassa; and North East of Località Muri. — Municipality of BONAVIGO (VR): East and North of SP44b. — Municipality of LEGNAGO (VR): South East of via Palazzina, SP46c dir, via G.B. Giudici, South of via Corradina, East of via Lungo Bussè, South East of viale Regina Margherita, South of via XXIV Maggio, West of via Passeggio, via Disciplina, South East and East of via degli Alpini, via Padana Inferiore Est, South East of SR10, East of Via Custoza, North West of via S. Vito, North of SP44b; and North East of SP46, North of SP46b, via Valverde, West of via Scolo Pisani, North West of via Villabona, East of SS434. — Municipality of ALBAREDO D'ADIGE (VR): West of SP18, South of via Caldasette, West of via Palazzetto, via Presina, South West of via Villaraspa, via Carotta, via Pascoloni. — Municipality of RONCO ALL'ADIGE (VR): South of SP19, South East and South West of SP21, East of via Valle Tomba, via Paluvecchio. — Municipality of PALU' (VR): South West of via Piave, via Belledonne, East and North of SP20. — Municipality of OPPEANO (VR): South West and South East of SP21, North and East of via degli Oppi, South and East of via Fornello, via Spin, via 44a, South West and West of SP20, South West of SP44. — Municipality of ISOLA RIZZA (VR). — Municipality of BOVOLONE (VR): East of via Dosso, viale del Silenzio, North East of SP2, South and East of via Capitello, South of SP21. — Municipality of SALIZZOLE (VR): East of SP48c, South of SP20, East of via Capitello, South East of via Pascoletto. — Municipality of CONCAMARISE (VR). — Municipality of NOGARA (VR): East of SP48c, North of SR10. — Municipality of SANGUINETTO (VR). — Municipality of CASALEONE (VR): North and West of via Carpania. — Municipality of VERONELLA (VR): South East of via Giavone. — Municipality of PRESSANA (VR): West of SP500, South of via Braggio, via SP40b. — Municipality of MINERBE (VR): South West of via Nuvolea, South of SR10, West of via Serraglio, via Amedeo di Savoia, South of SP41, West of via Comuni, SP500. — Municipality of BOSCHI SANT'ANNA (VR): North of via Scaranella, West of via Olmo, North of via Faro, West of SP42A. 	29.9.2017
<ul style="list-style-type: none"> — Municipality of ROTTOFRENO (PC): South of E70 — Municipality of SARMATO (PC): South of E70 — Municipality of PIEVE PORTO MORONE (PV): West of SP412, North of SP193 — Municipality of BADIA PAVESE (PV): North West of SP193, via Roma, via Guglielmo Marconi — Municipality of GRAGNANO TREBBIENSE (PC): North of SP7, SP11 	30.9.2017

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
<ul style="list-style-type: none"> — Municipality of BORGONOVO VAL TIDONE (PC): North of SP11, East of SP412R, North and East of via Montanata — Municipality of CASTEL SAN GIOVANI (PC) — Municipality of ARENA PO (PV): East of SP199, North of SP75, North East of SP144 — Municipality of SAN ZENONE AL PO (PV): East and South of SP35 — Municipality of COSTA DE' NOBILI (PV): East of SP31 — Municipality of ZERBO (PV) — Municipality of SANTA CRISTINA E BISSONE (PV) — Municipality of MIRADOLO TERME (PV): South of via Privata dei Colli, West of SP189 — Municipality of GRAFFIGNANA (LO): South of SP125, East of SP19, South of via Monteleone — Municipality of SAN COLOMBANO AL LAMBRO (MI): North of SP19, viale F. Petrarca, East of SP23, North of via S. Giovanni di Dio, East of via Privata Colombana, via del Pilastrello, East of Strada comunale per Campagna — Municipality of BORGHETTO LODIGIANO (LO): West and South of SP125, South of SP23, South of SP125 — Municipality of BREMBIO (LO): South of SP168, West of SP141 — Municipality of LIVRAGA (LO) — Municipality of ORIO LITTA (LO) — Municipality of OSPEDALETTO LODIGIANO (LO) — Municipality of SENNA LODIGIANA (LO) — Municipality of CALENDASCO (PC) — Municipality of GUARDAMIGLIO (LO): West of Po river — Municipality of SAN ROCCO AL PORTO (LO): West of Po river — Municipality of SOMAGLIA (LO): West of SP223, SP142 	
<ul style="list-style-type: none"> — The area of the parts of Lombardy and Emilia Romagna Regions (ADNS 17/0036) contained within a circle of radius of three kilometres, centred on WGS84 dec. coordinates N45.046214 and E10.186550 	From 1.10.2017 to 9.10.2017
<ul style="list-style-type: none"> — The area of the parts of Lombardy and Emilia Romagna Regions (ADNS 17/0036) extending beyond the area described in the protection zone and within the circle of a radius of ten kilometres, centred on WGS84 dec. coordinates N45.046214 and E10.186550 	9.10.2017
<ul style="list-style-type: none"> — The area of the parts of Veneto Region (ADNS 17/0037) contained within a circle of radius of three kilometres, centred on WGS84 dec. coordinates N45.137063 and E11.664795 	From 6.10.2017 to 14.10.2017
<ul style="list-style-type: none"> — The area of the parts of Veneto Region (ADNS 17/0037) extending beyond the area described in the protection zone and within the circle of a radius of ten kilometres, centred on WGS84 dec. coordinates N45.137063 and E11.664795 	14.10.2017'

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