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## Legislation

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<sup>(1)</sup> 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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<sup>(1)</sup> Text with EEA relevance.

## II

(Non-legislative acts)

## REGULATIONS

## COUNCIL IMPLEMENTING REGULATION (EU) 2017/1897

of 18 October 2017

**implementing Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007 <sup>(1)</sup>, and in particular Article 47(1) thereof,

Having regard to the proposal of the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 30 August 2017, the Council adopted Regulation (EU) 2017/1509.
- (2) On 3 October 2017, the United Nations Security Council ('UNSC') Committee established pursuant to UNSC Resolution ('UNSCR') 1718 (2006) designated four vessels pursuant to paragraph 6 of UNSCR 2375 (2017).
- (3) Annex XIV to Regulation (EU) 2017/1509 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex XIV to Regulation (EU) 2017/1509 is amended as set out in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on the date 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, 18 October 2017.

*For the Council*  
*The President*  
M. MAASIKAS

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<sup>(1)</sup> OJ L 224, 31.8.2017, p. 1.

## ANNEX

The following vessels are added to the list of vessels subject to restrictive measures set out in Annex XIV to Regulation (EU) 2017/1509.

**Vessels designated pursuant to paragraph 6 of UNSCR 2375 (2017):**

1. Name: PETREL 8

*Additional information*

IMO: 9562233. MMSI: 620233000

2. Name: HAO FAN 6

*Additional information*

IMO: 8628597. MMSI: 341985000

3. Name: TONG SAN 2

*Additional information*

IMO: 8937675. MMSI: 445539000

4. Name: JIE SHUN

*Additional information*

IMO: 8518780. MMSI: 514569000

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**COMMISSION IMPLEMENTING REGULATION (EU) 2017/1898****of 18 October 2017****entering certain names in the register of traditional specialities guaranteed (Półtorak staropolski tradycyjny (TSG), Dwójniak staropolski tradycyjny (TSG), Trójniak staropolski tradycyjny (TSG), Czwórniak staropolski tradycyjny (TSG), Kielbasa jałowcowa staropolska (TSG), Kielbasa myśliwska staropolska (TSG) and Olej rydzowy tradycyjny (TSG))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs <sup>(1)</sup>, and in particular Article 26 and Article 52(2) thereof,

Whereas:

- (1) In accordance with Article 26 of Regulation (EU) No 1151/2012, Poland submitted the names 'Półtorak staropolski tradycyjny', 'Dwójniak staropolski tradycyjny', 'Trójniak staropolski tradycyjny', 'Czwórniak staropolski tradycyjny', 'Kielbasa jałowcowa staropolska', 'Kielbasa myśliwska staropolska', 'Olej rydzowy tradycyjny' and 'Kabanosy staropolskie' in view of enabling them to be registered in the register of Traditional Specialities Guaranteed provided for in Article 22 of Regulation (EU) No 1151/2012 with reservation of name.
- (2) The names 'Półtorak', 'Dwójniak', 'Trójniak', 'Czwórniak', 'Kielbasa jałowcowa', 'Kielbasa myśliwska', 'Olej rydzowy' and 'Kabanosy' had previously been registered <sup>(2)</sup> as traditional speciality guaranteed without reservation of name in accordance with Article 13(1) of Council Regulation (EC) No 509/2006 <sup>(3)</sup>.
- (3) Following the national opposition procedure referred to in the second subparagraph of Article 26(1) of Regulation (EU) No 1151/2012, the names 'Półtorak', 'Dwójniak', 'Trójniak' and 'Czwórniak' were complemented by the term 'staropolski tradycyjny', the names 'Kielbasa jałowcowa' and 'Kielbasa myśliwska' were complemented by the term 'staropolska', the name 'Olej rydzowy' was complemented by the term 'tradycyjny', the name 'Kabanosy' was complemented by the term 'staropolskie'. These complementing terms identify the traditional character of the name, in accordance with the third subparagraph of Article 26(1) of Regulation (EU) No 1151/2012.
- (4) The submission of the names 'Półtorak staropolski tradycyjny', 'Dwójniak staropolski tradycyjny', 'Trójniak staropolski tradycyjny', 'Czwórniak staropolski tradycyjny', 'Kielbasa jałowcowa staropolska', 'Kielbasa myśliwska staropolska', 'Olej rydzowy tradycyjny' and 'Kabanosy staropolskie' was examined by the Commission and subsequently published in the *Official Journal of the European Union* <sup>(4)</sup>.
- (5) The Commission received a statement of opposition concerning the registration of 'Kabanosy staropolskie'. The registration of this name is therefore subject to the outcome of the opposition procedure which is carried out separately.
- (6) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission as regards the names other than 'Kabanosy staropolskie', the names 'Półtorak staropolski tradycyjny', 'Dwójniak staropolski tradycyjny', 'Trójniak staropolski tradycyjny', 'Czwórniak staropolski tradycyjny', 'Kielbasa jałowcowa staropolska', 'Kielbasa myśliwska staropolska' and 'Olej rydzowy tradycyjny' should therefore be entered in the register with reservation of name,

<sup>(1)</sup> OJ L 343, 14.12.2012, p. 1.

<sup>(2)</sup> Commission Regulation (EC) No 729/2008 of 28 July 2008 entering certain designations in the register of the traditional specialities guaranteed (Czwórniak (TSG), Dwójniak (TSG), Półtorak (TSG), Trójniak (TSG)) (OJ L 200, 29.7.2008, p. 6).

Commission Implementing Regulation (EU) No 379/2011 of 18 April 2011 entering a name in the register of the traditional specialities guaranteed (Kielbasa jałowcowa (TSG)) (OJ L 103, 19.4.2011, p. 2).

Commission Implementing Regulation (EU) No 382/2011 of 18 April 2011 entering a name in the register of the traditional specialities guaranteed (Kielbasa myśliwska (TSG)) (OJ L 103, 19.4.2011, p. 6).

Commission Regulation (EC) No 506/2009 of 15 June 2009 entering a designation in the register of the traditional specialities guaranteed (Olej rydzowy (TSG)) (OJ L 151, 16.6.2009, p. 26).

Commission Implementing Regulation (EU) No 1044/2011 of 19 October 2011 entering a name in the register of the traditional specialities guaranteed (Kabanosy (TSG)) (OJ L 275, 20.10.2011, p. 16).

<sup>(3)</sup> Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialities guaranteed (OJ L 93, 31.3.2006, p. 1). Regulation repealed and replaced by Regulation (EU) No 1151/2012.

<sup>(4)</sup> OJ C 188, 27.5.2016, p. 6.

HAS ADOPTED THIS REGULATION:

*Article 1*

The names 'Półtorak staropolski tradycyjny' (TSG), 'Dwójniak staropolski tradycyjny' (TSG), 'Trójniak staropolski tradycyjny' (TSG), 'Czwórniak staropolski tradycyjny' (TSG), 'Kiełbasa jałowcowa staropolska' (TSG), 'Kiełbasa myśliwska staropolska' (TSG), 'Olej rydzowy tradycyjny' (TSG) are hereby entered in the register with reservation of name.

The product specification of the TSG 'Półtorak', TSG 'Dwójniak', TSG 'Trójniak', TSG 'Czwórniak', TSG 'Kiełbasa jałowcowa', TSG 'Kiełbasa myśliwska' and TSG 'Olej rydzowy' shall be deemed to be the specification referred to in Article 19 of Regulation (EU) No 1151/2012 for the TSG 'Półtorak staropolski tradycyjny', TSG 'Dwójniak staropolski tradycyjny', TSG 'Trójniak staropolski tradycyjny', TSG 'Czwórniak staropolski tradycyjny', TSG 'Kiełbasa jałowcowa staropolska', TSG 'Kiełbasa myśliwska staropolska' and TSG 'Olej rydzowy tradycyjny' with reservation of name, respectively.

'Półtorak staropolski tradycyjny' (TSG), 'Dwójniak staropolski tradycyjny' (TSG), 'Trójniak staropolski tradycyjny' (TSG) and 'Czwórniak staropolski tradycyjny' (TSG) denote products in Class 1.8. other products listed in Annex I to the Treaty (spices etc.), as listed in Annex XI to Commission Implementing Regulation (EU) No 668/2014 <sup>(1)</sup>; 'Kiełbasa jałowcowa staropolska' (TSG) and 'Kiełbasa myśliwska staropolska' (TSG) denote products in Class 1.2. Meat products (cooked, salted, smoked, etc.), as listed in that annex; 'Olej rydzowy tradycyjny' (TSG) denotes a product in Class 1.5. Oils and fats (butter, margarine, oil, etc.), as listed in in that same annex.

*Article 2*

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

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

Done at Brussels, 18 October 2017.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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<sup>(1)</sup> Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).

**COMMISSION IMPLEMENTING REGULATION (EU) 2017/1899****of 18 October 2017****entering certain names in the register of traditional specialities guaranteed (Tradiční Lovecký salám/Tradičná Lovecká saláma (TSG) and Tradiční Špekáčky/Tradičné Špekačky (TSG))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs <sup>(1)</sup>, and in particular Article 26 and Article 52(2) thereof,

Whereas:

- (1) In accordance with Article 26 of Regulation (EU) No 1151/2012, Czech Republic submitted the names ‘Tradiční Lovecký salám’/‘Tradičná Lovecká saláma’ and ‘Tradiční Špekáčky’/‘Tradičné Špekačky’ in view of enabling them to be registered in the register of Traditional Specialities Guaranteed provided for in Article 22 of Regulation (EU) No 1151/2012 with reservation of name.
- (2) The names ‘Lovecký salám’/‘Lovecká saláma’ and ‘Špekáčky’/‘Špekačky’, had previously been registered <sup>(2)</sup> as traditional speciality guaranteed without reservation of name in accordance with Article 13(1) of Council Regulation (EC) No 509/2006 <sup>(3)</sup>.
- (3) Following the national opposition procedure referred to in the second subparagraph of Article 26(1) of Regulation (EU) No 1151/2012, the names ‘Lovecký salám’/‘Lovecká saláma’ were complemented by the terms ‘Tradiční’ and ‘Tradičná’ respectively and the names ‘Špekáčky’/‘Špekačky’ were complemented by the terms ‘Tradiční’ and ‘Tradičné’ respectively. These complementing terms identify the traditional character of the names, in accordance with the third subparagraph of Article 26(1) of Regulation (EU) No 1151/2012.
- (4) The submission of the names ‘Tradiční Lovecký salám’/‘Tradičná Lovecká saláma’ and ‘Tradiční Špekáčky’/‘Tradičné Špekačky’ was examined by the Commission and subsequently published in the *Official Journal of the European Union* <sup>(4)</sup>.
- (5) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the names ‘Tradiční Lovecký salám’/‘Tradičná Lovecká saláma’ and ‘Tradiční Špekáčky’/‘Tradičné Špekačky’ should therefore be entered in the register with reservation of name,

HAS ADOPTED THIS REGULATION:

*Article 1*

The names ‘Tradiční Lovecký salám’/‘Tradičná Lovecká saláma’ (TSG) and ‘Tradiční Špekáčky’/‘Tradičné Špekačky’ (TSG) are hereby entered in the register with reservation of name.

The product specification of the TSG ‘Lovecký salám’/‘Lovecká saláma’ and TSG ‘Špekáčky’/‘Špekačky’ shall be deemed to be the specification referred to in Article 19 of Regulation (EU) No 1151/2012 for the TSG ‘Tradiční Lovecký salám’/‘Tradičná Lovecká saláma’ and TSG ‘Tradiční Špekáčky’/‘Tradičné Špekačky’ with reservation of name.

The names specified in the first paragraph denote products in Class 1.2. Meat products (cooked, salted, smoked, etc.), as listed in Annex XI to Commission Implementing Regulation (EU) No 668/2014 <sup>(5)</sup>.<sup>(1)</sup> OJ L 343, 14.12.2012, p. 1.<sup>(2)</sup> Commission Regulation (EU) No 160/2011 of 21 February 2011 entering a name in the register of traditional specialities guaranteed (‘Lovecký salám’/‘Lovecká saláma’ (TSG)) (OJ L 47, 22.2.2011, p. 7).

Commission Regulation (EU) No 158/2011 of 21 February 2011 entering a name in the register of traditional specialities guaranteed (‘Špekáčky’/‘Špekačky’ (TSG)) (OJ L 47, 22.2.2011, p. 3).

<sup>(3)</sup> Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialities guaranteed (OJ L 93, 31.3.2006, p. 1). Regulation repealed and replaced by Regulation (EU) No 1151/2012.<sup>(4)</sup> OJ C 167, 11.5.2016, p. 21.<sup>(5)</sup> Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).

*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, 18 October 2017.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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**COMMISSION IMPLEMENTING REGULATION (EU) 2017/1900****of 18 October 2017****entering a name in the register of protected designations of origin and protected geographical indications (Varaždinsko zelje (PDO))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs <sup>(1)</sup>, and in particular Article 52(3)(b) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Croatia's application to register the name 'Varaždinsko zelje' as protected designation of origin was published in the *Official Journal of the European Union* <sup>(2)</sup>.
- (2) 'Varaždinsko zelje' is a cabbage product derived from the autochthonous conservation variety 'Varaždinski kupus' (*Brassica oleracea var. capitata f. alba*) produced in the administrative boundaries of Varaždin County in Croatia.
- (3) On 7 October 2015 the Commission received the notice of opposition from Slovenia. The related reasoned statement of opposition was received by the Commission on 4 December 2015.
- (4) Finding such opposition admissible, by letter dated 28 January 2016, the Commission invited Croatia and Slovenia to engage in appropriate consultations for a period of 3 months to seek agreement among themselves in accordance with their internal procedures.
- (5) At the request of the applicant the deadline for consultation was extended for 3 additional months.
- (6) No agreement was reached between the parties. The information concerning the appropriate consultations carried out between Croatian and Slovenian parties was duly provided to the Commission. Therefore, the Commission should adopt a decision in accordance with the procedure referred to in Article 52(3)(b) of Regulation (EU) No 1151/2012, taking into account the results of these consultations.
- (7) In accordance with Article 10(1)(b) and (c) of Regulation (EU) No 1151/2012 the opponents alleged that the registration of 'Varaždinsko zelje' as a Protected Designation of origin is contrary to Article 6(2) of Regulation (EU) No 1151/2012 and that it would jeopardise the existence of an identical product's name which has been legally on the market for more than 5 years preceding the date of the publication provided for in point (a) of Article 50(2).
- (8) The name 'Varaždinsko zelje' is claimed to be in conflict with the homonymous name of a cabbage variety which is registered since 1967. The variety 'Varaždinski' was entered in the List of domestic or domesticated foreign seed varieties of agricultural plant species of the Socialist Federal Republic of Yugoslavia (SFRY) in 1967. Then, in 1989, it was registered in that same List as 'Varaždinski kupus'/'Varaždinsko zelje'. At present, this variety is listed in the Lists of all the states which have emerged after the dissolution of the SFRY. The Republic of Slovenia registered the variety 'Varaždinski'/'Varaždinsko' after the independence. The Croatian variety 'Varaždinski kupus' and the Slovenian varieties 'Varaždinsko 2' and 'Varaždinsko 3' are all listed in the Common catalogue of varieties and vegetable species of the European Union.
- (9) According to the opponent, the produce from these varieties is known as 'Varaždinsko zelje' in Slovenia, Serbia, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Montenegro. In the Republic of Slovenia, Varaždinsko cabbage has allegedly been produced for more than 75 years. In particular, the market production of fresh Varaždinsko cabbage in Slovenia is estimated around 2 800-4 000 tonnes per year.
- (10) In the opinion of the opponent, the registration of 'Varaždinsko zelje' could mislead Slovenian consumers, since producers and consumers in the Republic of Slovenia do not associate 'Varaždinsko zelje' with the origin or territory indicated in point 4 of the single document, but above all with quality and suitability for pickling.

<sup>(1)</sup> OJ L 343, 14.12.2012, p. 1.<sup>(2)</sup> OJ C 223, 8.7.2015, p. 7.

- (11) The opponent claims that the registration of the proposed name would jeopardise the existence of the identical Slovenian name 'Varaždinsko zelje' with regard to the variety, as to the products that were legally on the market of the Republic of Slovenia. Registration of the proposed name would result in economic damage for the producers of 'Varaždinsko zelje' in the Republic of Slovenia, since they would be forced to abandon production. This would also jeopardise production of seeds for two Slovenian varieties of cabbage that are registered in the Common Catalogue of the European Union, Varaždinsko 2 and Varaždinsko 3, since their product is sold in Slovenia as the cabbage Varaždinsko.
- (12) The Commission has assessed the arguments provided in the reasoned statements of opposition and in the information provided to the Commission regarding the consultations between the interested parties and it has concluded that the name 'Varaždinsko zelje' should be registered as PDO.
- (13) The requirements for the registration of 'Varaždinsko zelje' as PDO are fulfilled. The product has characteristics, in particular high total phenol and flavonoid content, high dry matter content and exceptionally high sugar content, which are essentially due to the natural and human factors of its particular geographical environment. The high dry matter content and exceptionally high sugar content of 'Varaždinsko zelje' are due to the production method, i.e. the fact that the product, which can tolerate low temperatures, is left in the field until late autumn. The high total phenol and flavonoid content in 'Varaždinsko zelje' is due to the product's genetic properties, as well as environmental and growing conditions. 'Varaždinsko zelje' is produced only from the seed of the conservation variety 'Varaždinski kupus' entered in the EU variety register. The term 'conservation variety' indicates that the seed is produced only in the defined geographical area and nowhere else.
- (14) As regards the claim concerning the misleading nature of the name, the Commission considers that the name refers to the area where the product is produced. It cannot per se mislead consumers on the origin of the product.
- (15) As regards the claim that the name to be registered is homonymous with two registered cabbage varieties and that the registration jeopardises the existence of the produce from these varieties, which is known as Varaždinsko zelje, in Slovenia, Serbia, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Montenegro, the Commission observes that, as regards the product marketed in Slovenia, the term 'Varaždinsko', used as an attribution of 'zelje' (cabbage in Slovenian language), just denotes the variety of the cabbage. The name 'Varaždinsko zelje', as used in Slovenia, indicates that the product consists of a cabbage of the Varaždinsko variety. No evidence of the use of the name irrespectively of the cabbage variety was found. In the light of the above, the function of variety indicator of the term 'Varaždinsko' being predominant, the Commission considers not appropriate to grant a transitional period for the use of the Slovenian name 'Varaždinsko zelje' as such.
- (16) However, the use on labelling of the names of the varieties Varaždinsko 2 and Varaždinsko 3, registered in the common Catalogue of Varieties of Vegetable Species of the European Union, is still allowed for seeds and cabbage products produced outside the geographical area without limitation of time. In accordance with Article 42 of Regulation (EU) No 1151/2012, notwithstanding the registration of the name 'Varaždinsko zelje' as PDO, the names Varaždinsko 2 and Varaždinsko 3 may be used on the labelling provided that the conditions listed thereto are met. In particular, for the cabbage product, the label should clearly show the indication of the country of origin and not include any allusion to Croatia. This will, in addition, guarantee the correct information of consumers in comparison with the product marketed under the registered PDO.
- (17) In the light of the above, the name 'Varaždinsko zelje' should be entered in the Register of protected designations of origin and protected geographical indications.
- (18) The measures provided for in this Regulation are in accordance with the opinion of the Agricultural Product Quality Policy Committee,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

The name 'Varaždinsko zelje' (PDO) is registered.

The name in the first paragraph identifies a product from class 1.6. Fruit, vegetables and cereals fresh or processed of annex XI of Commission Implementing Regulation (EU) No 668/2014 <sup>(1)</sup>.

<sup>(1)</sup> Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).

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*Article 2*

Where, in accordance with Article 42(1) of Regulation (EU) No 1151/2012, the term ‘Varaždinsko’ is used on labelling with reference to the variety of the cabbage product, the country of origin shall be also indicated in the same field of vision, in letters of the same size as those of the name.

In such cases, the use of any flags, emblems, signs or other graphic representations on the labels that might mislead consumers, in particular as regards the characteristics, origin or provenance of the product, shall be prohibited.

*Article 3*

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

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

Done at Brussels, 18 October 2017.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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**COMMISSION IMPLEMENTING REGULATION (EU) 2017/1901****of 18 October 2017****entering a name in the register of protected designations of origin and protected geographical indications [Danbo (PGI)]**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs <sup>(1)</sup>, and in particular Article 52(3)(b) thereof,

Whereas:

- (1) Regulation (EU) No 1151/2012 entered into force on 3 January 2013. It repealed and replaced Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs <sup>(2)</sup>.
- (2) Pursuant to Article 6(2) of Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, Denmark's application to register the name 'Danbo' as a protected geographical indication (PGI) was published in the *Official Journal of the European Union* <sup>(3)</sup>.
- (3) Austria, Argentina together with Centro de la Industria Lechera — Dairy Industry Federation of Argentina, Australia together with Dairy Australia, New Zealand together with Dairy Companies Association of New Zealand, Uruguay, the Office of the United States Trade Representative and the Consortium for Common Food Names of the United States submitted oppositions to the registration pursuant to Article 7(2) of Regulation (EC) No 510/2006. These oppositions were deemed admissible under Article 7(3) of that Regulation, except for the one from Austria that was not received within the prescribed time-limit.
- (4) The oppositions concerned non-compliance with the conditions laid down in Article 2 of Regulation (EC) No 510/2006, replaced by Article 5 of Regulation (EU) No 1151/2012, in particular arguing that 'Danbo' does not possess a specific quality, reputation or other characteristics that are attributable to the geographical origin. They also assert that the name 'Danbo' would not qualify as a traditional non-geographical name and that no exceptional circumstances exist that would justify the designation of the whole of Denmark as the delimited geographical area. The oppositions further claimed that the name 'Danbo' has become a generic name as provided for in Article 3(1) of Regulation (EC) No 510/2006, replaced by Articles 6(1) and 41 of Regulation (EU) No 1151/2012. In this respect they pointed out that 'Danbo' has been subject to a Codex Alimentarius Standard since 1966 as well as it has been included in the Annex B of the Stresa Convention of 1951. The generic nature of the name would be demonstrated by the fact that 'Danbo' has also its own tariff line. The oppositions further indicate the importance of the production and consumption of 'Danbo' in several EU and non-EU countries, certain of which have a specific legal standard for it.
- (5) By letters of 18 September 2012, in accordance with Article 7(5) of Regulation (EC) No 510/2006, the Commission invited the interested parties to engage in appropriate consultations.
- (6) Given that no agreement was reached within the designated timeframe, the Commission should adopt a decision in accordance with the procedure referred to in Article 52(3)(b) of Regulation (EU) No 1151/2012.
- (7) Concerning the alleged failure of the name 'Danbo' to comply with Article 2 of Regulation (EC) No 510/2006, replaced by Article 5 of Regulation (EU) No 1151/2012, it should be noted that the relevant provision in force does not distinguish a country as an exceptional case for a geographical indication. Likewise, appreciation whether or not 'Danbo' is a 'traditional non-geographical name' is not any more required. The registration of 'Danbo' as a PGI is actually applied for on the basis of its reputation that is attributable to its geographical origin within the meaning of Article 5(2)(b) of Regulation (EU) No 1151/2012 and which is extensively described in the published single document and in the product specification. The opponents did not provide a valid reasoning challenging that description.

<sup>(1)</sup> OJ L 343, 14.12.2012, p. 1.

<sup>(2)</sup> OJ L 93, 31.3.2006, p. 12.

<sup>(3)</sup> OJ C 29, 2.2.2012, p. 14.

- (8) The opponents submitted several pieces of evidence that allegedly show that the name in question is generic. However, having a specific Codex Alimentarius Standard as well as an inclusion of 'Danbo' in Annex B to the Stresa Convention does not imply that the said name has become *ipso facto* generic. As indicated by the Court of Justice in its standing case law, tariff codes relate to customs issues and are therefore not relevant to the intellectual property rights. Furthermore, the limited data that were submitted concerning, in particular, the production of 'Danbo' outside the European Union are not relevant considering the principle of territoriality inherent to Regulation (EU) No 1151/2012, according to which the possibly generic nature of a name is to be assessed in relation to the territory of the EU. The perception of this term outside the European Union and the possible existence of related regulatory production standards in third countries are not deemed relevant to the present decision.
- (9) No evidence has been provided in the opposition procedure as regards imports of such cheese from third countries to the European Union. As a consequence, there are no grounds for a transitional period under Article 15(1) of Regulation (EU) No 1151/2012 to be granted to specific producers in third countries.
- (10) The link between Denmark and Danbo is based on reputation. Denmark has submitted a high number of specialised publications and references that demonstrate that a reputational link exists between Denmark and Danbo. Its reputation is further confirmed for its taking part in exhibitions and competitions both nationally and internationally and for winning a large number of awards.
- (11) As regards the EU territory, Danbo is produced essentially in Denmark and it is also essentially marketed in Denmark.
- (12) Denmark provided undisputed evidence that consumption and knowledge of 'Danbo' are heavily concentrated in Denmark, and that the overwhelming majority of the Danish consumers does recognise its persistent link with Denmark. Outside Denmark, knowledge of this cheese is extremely limited. Such unawareness may not lead to Danbo being considered a generic name.
- (13) In the light of the above, the name 'Danbo' should be entered in the 'register of protected designations of origin and protected geographical indications'.
- (14) The measures provided for in this Regulation are in accordance with the opinion of the Agricultural Product Quality Policy Committee,

HAS ADOPTED THIS REGULATION:

#### Article 1

The name 'Danbo' (PGI) is registered.

The name in the first paragraph identifies a product from Class 1.3. Cheeses set out in Annex XI to Commission Implementing Regulation (EU) No 668/2014 <sup>(1)</sup>.

#### 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*.

<sup>(1)</sup> Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).

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

Done at Brussels, 18 October 2017.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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**COMMISSION REGULATION (EU) 2017/1902****of 18 October 2017****amending Commission Regulation (EU) No 1031/2010 to align the auctioning of allowances with Decision (EU) 2015/1814 of the European Parliament and of the Council and to list an auction platform to be appointed by the United Kingdom****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC <sup>(1)</sup>, and in particular Articles 3d(3) and 10(4) thereof,

Whereas:

- (1) Commission Regulation (EU) No 1031/2010 <sup>(2)</sup> provides for rules on the timing, administration and other aspects of the auctioning of allowances under Directive 2003/87/EC. In particular, Regulation (EU) No 1031/2010 determines the volumes of allowances to be auctioned each year. Regulation (EU) No 1031/2010 thus ensures that the auctioning of allowances is a well functioning process. It is currently conducted by a common auction platform for 25 Member States and by a small number of opt-out platforms.
- (2) Pursuant to Decision (EU) 2015/1814 of the European Parliament and of the Council <sup>(3)</sup>, a market stability reserve (the 'reserve') is to be established in 2018 and is to start operating from 1 January 2019. In accordance with the pre-defined rules of this Decision volumes of allowances are to be placed in or released from the reserve adjusting the volumes of allowances to be auctioned over a period of 12 months beginning on 1 September of a given year. That rules for the functioning of the reserve are necessary to address situations where the total number of allowances in circulation for the previous year, published by the Commission on 15 May of the given year, is outside a predefined range. In the first year of the reserve's operation, the first adjustment to the auction volumes is to be made from 1 January to 1 September 2019.
- (3) Decision (EU) 2015/1814 also provides that 900 million allowances originally planned to be reintroduced in 2019 and 2020, as determined by Commission Regulation (EU) No 176/2014 <sup>(4)</sup>, are no longer to be auctioned but are to be placed in the reserve. Furthermore, Decision (EU) 2015/1814 provides that the allowances not allocated from the new entrant reserve, or those not allocated to installations because of their closure or partial cessation in accordance with Articles 10a(7), 10a(19) and 10a(20) of Directive 2003/87/EC, are to be placed in the reserve in 2020 rather than auctioned.
- (4) Pursuant to Decision (EU) 2015/1814, the auction calendars of the common auction platform and, where applicable, of opt-out auction platforms are to be adjusted to take account of the volume of allowances placed in or to be released from the reserve.
- (5) In view of providing clarity and certainty to market participants about the volumes of allowances to be auctioned within a period of at least 12 months, the changes to the auction calendar of a given year stemming from the application of Decision (EU) 2015/1814 should be made together with the determination and publication of the

<sup>(1)</sup> OJ L 275, 25.10.2003, p. 32.

<sup>(2)</sup> Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community (OJ L 302, 18.11.2010, p. 1).

<sup>(3)</sup> Decision (EU) 2015/1814 of the European Parliament and of the Council of 6 October 2015 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (OJ L 264, 9.10.2015, p. 1).

<sup>(4)</sup> Commission Regulation (EU) No 176/2014 of 25 February 2014 amending Regulation (EU) No 1031/2010 in particular to determine the volumes of greenhouse gas emission allowances to be auctioned in 2013-20 (OJ L 56, 26.2.2014, p. 11).

auction calendar of the subsequent year. Furthermore, in order to ensure a smooth implementation of the adjustments to the auction volumes, avoiding negative impacts on the auctions, market participants should be timely informed about the impact of Decision (EU) 2015/1814 on the auction volumes for the next 12 months. Accordingly, the relevant changes to the auction calendars of a given year and the auction calendars for the subsequent year should be published well in advance before 1 September of a given year when the relevant adjustments to the auction volumes will start to apply.

- (6) Articles 1(5) and 1(8) of Decision (EU) 2015/1814 contain derogations from the general rules for the functioning of the reserve concerning the 10 % of total quantity of allowances to be auctioned being distributed among some Member States for solidarity purposes pursuant to Article 10(2)(b) of Directive 2003/87/EC. Therefore, Member States' shares of allowances to be auctioned for any given year are to be established also in accordance with the provisions of the second subparagraph of Article 1(5) and of Article 1(8) of Decision (EU) 2015/1814 regarding the specific rules for determining Member States' shares contributing to the placement of allowances in the reserve until the end of 2025 and the subsequent release of allowances from the reserve.
- (7) Article 60(1) of Regulation (EU) No 1031/2010 provides a non-exhaustive list of non-confidential information to be published on the dedicated up-to-date auctioning web-site maintained by the auction platform concerned. The list of persons admitted to bid in the auctions should be deemed to constitute a non-confidential piece of information pertinent to the auctions on a given auction platform.
- (8) Regulation (EU) No 1031/2010 contains several inconsistencies stemming from previous amendments to that Regulation, which should be corrected. In particular, Article 10(3) should be amended to clarify that the calculation of the volume of allowances to be auctioned each year takes into account any adjustment pursuant to Articles 24 and 27 of Directive 2003/87/EC. Commission Regulation (EU) No 1143/2013 <sup>(1)</sup> introduced in Regulation (EU) No 1031/2010 the rule that an entity may only be appointed as auction platform if it is authorised as a regulated market whose operator organises a secondary market in allowances or allowances derivatives. In order to ensure consistency with that rule, it is necessary to amend Articles 19, 20 and 35 of Regulation (EU) No 1031/2010.
- (9) In accordance with Article 30(4) of Regulation (EU) No 1031/2010, on 18 February 2011 the United Kingdom informed the Commission of its decision not to participate in the joint action as provided in Article 26(1) and (2) of that Regulation, and to appoint its own auction platform.
- (10) On 30 April 2012, the United Kingdom notified the Commission of its intention to appoint ICE Futures Europe ('ICE') as an auction platform referred to in Article 30(1) of Regulation (EU) No 1031/2010. The terms of appointment and the applicable conditions for ICE as auction platform for the United Kingdom for the period from 10 November 2012 until 9 November 2017 were introduced in Annex III to Regulation (EU) No 1031/2010 by Commission Regulation (EU) No 1042/2012 <sup>(2)</sup>.
- (11) On 16 November 2016, the United Kingdom notified the Commission of its intention to appoint ICE Futures Europe ('ICE') as its second auction platform pursuant to in Article 30(1) of Regulation (EU) No 1031/2010. Under the notification, the terms and requirements of ICE's appointment remain the same as those notified on 30 April 2012 and the exchange rules of ICE applicable to the auctions have been amended to ensure compliance with the conditions and obligations for its listing in Annex III to Regulation (EU) No 1031/2010, in accordance with point 6 of the row on obligations of the table for Auction platforms appointed by the United Kingdom set out in that Annex. In addition, following a request from the Commission, the United Kingdom has provided further information and clarification supplementing the notification accordingly.
- (12) In order to ensure that the proposed appointment of ICE as the second United Kingdom auction platform referred to in Article 30(1) of Regulation (EU) No 1031/2010 and in particular that the exchange rules of ICE satisfy the requirements of that Regulation and are in conformity with the second subparagraph of Article 10(4) of Directive 2003/87/EC, it is appropriate to extend the conditions and obligations on ICE set out in Annex III to

<sup>(1)</sup> Commission Regulation (EU) No 1143/2013 of 13 November 2013 amending Regulation (EU) No 1031/2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community in particular to list an auction platform to be appointed by Germany (OJ L 303, 14.11.2013, p. 10).

<sup>(2)</sup> Commission Regulation (EU) No 1042/2012 of 7 November 2012 amending Regulation (EU) No 1031/2010 to list an auction platform to be appointed by the United Kingdom (OJ L 310, 9.11.2012, p. 19).



Regulation (EU) No 1031/2010 to the listing of ICE as the second United Kingdom opt-out auction platform with the adaptations necessary to ensure that their objective is achieved taking into account the specific terms of implementation provided in the applicable exchange rules of ICE.

- (13) Regulation (EU) No 1031/2010 should therefore be amended accordingly.
- (14) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS REGULATION:

#### Article 1

Regulation (EU) No 1031/2010 is amended as follows:

(1) Article 10 is amended as follows:

(a) paragraph 2 is amended as follows:

(i) the first and the second subparagraphs are replaced by the following:

‘2. The volume of allowances covered by Chapter III of Directive 2003/87/EC to be auctioned in 2013 and 2014 shall be the quantity of allowances determined pursuant to Articles 9 and 9a of that Directive for the calendar year concerned, less the allocation free of charge provided for in Articles 10a(7) and 11(2) of that Directive, less half of the total volume of any allowances auctioned in 2012.

The volume of allowances covered by Chapter III of Directive 2003/87/EC to be auctioned each calendar year in 2015-2018 shall be the quantity of allowances determined pursuant to Articles 9 and 9a of that Directive for the calendar year concerned, less the allocation free of charge provided for in Articles 10a(7) and 11(2) of that Directive.’;

(ii) the fifth subparagraph is replaced by the following:

‘The volume of allowances covered by Chapter III of Directive 2003/87/EC to be auctioned as from 2019 shall be the quantity of allowances established in accordance with Articles 10(1) and 10(1a) of that Directive.’;

(iii) the ninth subparagraph is replaced by the following:

‘Without prejudice to Decision (EU) 2015/1814 of the European Parliament and of the Council (\*), the volume of allowances covered by Chapter III of Directive 2003/87/EC to be auctioned in the final year of each trading period shall take account of any cessation of operations of an installation pursuant to Article 10a(19) of that Directive, any adaptation of the level of free allocation pursuant to Article 10a(20) of that Directive and of allowances remaining in the reserve for new entrants provided for in Article 10a(7) of that Directive.’;

(\*) Decision (EU) 2015/1814 of the European Parliament and of the Council of 6 October 2015 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (OJ L 264, 9.10.2015, p. 1).’;

(b) paragraph 3 is replaced by the following:

‘3. The volume of allowances covered by Chapter III of Directive 2003/87/EC to be auctioned each calendar year as from 2013 shall be based on Annex I and on the Commission’s determination and publication pursuant to Article 10(1) of that Directive of the estimated amount of allowances to be auctioned or on the most recent amendment of the Commission’s original estimate as published by 31 January of the preceding year, taking into account Decision (EU) 2015/1814 where relevant and to the extent possible any transitional free allocations deducted or to be deducted from the quantity of allowances that a given Member State would otherwise auction pursuant to Article 10(2) of Directive 2003/87/EC as provided for in Article 10c(2) of that Directive, as well as any adjustment pursuant to Articles 24 and 27 of that Directive.

Without prejudice to Decision (EU) 2015/1814, any subsequent change to the volume of allowances to be auctioned in a given calendar year shall be accounted for in the volume of allowances to be auctioned in the subsequent calendar year.;

(c) paragraph 4 is replaced by the following:

‘4. Without prejudice to Article 10a(7) of Directive 2003/87/EC, for any given calendar year each Member State’s share of allowances to be auctioned covered by Chapter III of that Directive shall be the share determined pursuant to Article 10(2) of the same Directive, taking into account any transitional free allocation made by that Member State pursuant to Article 10c of Directive 2003/87/EC in that calendar year, any allowances to be auctioned by that Member State in the same calendar year pursuant to Article 24 of that Directive, as well as the allowances to be placed in or released from the market stability reserve pursuant to the second subparagraph of Article 1(5) and to Article 1(8) of Decision (EU) 2015/1814.’;

(2) in Article 11, paragraph 1 is replaced by the following:

‘1. The auction platforms appointed pursuant to Article 26(1) or (2) of this Regulation shall determine and publish the bidding windows, individual volumes, auction dates as well as the auctioned product, payment and delivery dates of the allowances covered by Chapter III of Directive 2003/87/EC to be auctioned in individual auctions each calendar year, by 30 June of the previous year or as soon as practicable thereafter, having previously consulted the Commission and obtained its opinion thereon. The auction platforms concerned shall take the utmost account of the Commission’s opinion.’;

(3) in Article 14, paragraph 1 is amended as follows:

(a) point (k) is replaced by the following:

‘(k) the necessity for an auction platform to avoid conducting an auction in breach of this Regulation or Directive 2003/87/EC’;

(b) the following point (l) is added:

‘(l) adjustments necessary pursuant to Decision (EU) 2015/1814 which shall be determined and published by 15 July of the given year, or as soon as practicable thereafter.’;

(4) Article 19 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Members or participants of the secondary market organised by an auction platform appointed pursuant to Article 26(1) or 30(1) that are eligible persons pursuant to Article 18(1) or (2) shall be admitted to bid directly in the auctions conducted by that auction platform without any further admission requirements, provided that all of the following conditions are fulfilled:

(a) the requirements for admission of the member or participant to trade allowances through the secondary market organised by the auction platform appointed pursuant to Article 26(1) or 30(1) are no less stringent than those listed under paragraph 2 of this Article;

(b) the auction platform appointed pursuant to Article 26(1) or 30(1) receives any additional information necessary to verify the fulfilment of any requirements referred to in paragraph 2 of this Article that have not been previously verified.’;

(b) in paragraph 2, the second subparagraph is deleted;

(5) in Article 20(1), the second subparagraph is replaced by the following:

‘Members or participants in the secondary market organised by the auction platform concerned fulfilling the requirements of Article 19(1) shall be admitted to bid without applying under the first subparagraph of this paragraph.’;

(6) in Article 30(6), point (b) is replaced by the following:

‘(b) the detailed operative rules that would govern the auction process to be conducted by the auction platform(s) it proposes to appoint, including the contractual provisions concerning the appointment of the auction platform concerned including any clearing system(s) and settlement system(s) connected to the proposed auction platform stipulating the terms and conditions governing the structure and level of fees, collateral management, payment and delivery;’;

(7) Article 32 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The volume of allowances covered by Chapter III of Directive 2003/87/EC auctioned in individual auctions conducted by an auction platform appointed pursuant to Article 30(1) or (2) of this Regulation shall be no greater than 20 million allowances and no less than 3,5 million allowances; save where the total volume of allowances, covered by Chapter III of Directive 2003/87/EC, to be auctioned by the appointing Member State is less than 3,5 million in a given calendar year, in which case the allowances shall be auctioned in a single auction per calendar year. However, the volume of allowances covered by Chapter III of Directive 2003/87/EC auctioned in an individual auction conducted by those auction platforms shall be no less than 1,5 million allowances in the respective periods of 12 months when a number of allowances is to be deducted from the volume of allowances to be auctioned pursuant to Article 1(5) of Decision (EU) 2015/1814.’

(b) in paragraph 4, the first subparagraph is replaced by the following:

‘4. The auction platforms appointed pursuant to Article 30(1) or (2) of this Regulation shall determine and publish the bidding windows, individual volumes, auction dates as well as the auctioned product, payment and delivery dates of the allowances to be auctioned in individual auctions each year, covered by Chapter II of Directive 2003/87/EC, by 31 October of the previous year or as soon as practicable thereafter, and for those covered by Chapter III of that Directive, by 15 July of the previous year or as soon as practicable thereafter. The auction platforms concerned shall make their determination and publication only after the determination and publication pursuant to Articles 11(1) and 13(1) of this Regulation by the auction platforms appointed pursuant to Article 26(1) or (2) of this Regulation, unless such an auction platform has not yet been appointed. The auction platforms concerned shall make their determination and publication only after having consulted the Commission and obtained its opinion thereon. The auction platforms concerned shall take the utmost account of the Commission’s opinion.’

(8) in Article 35, paragraph 1 is replaced by the following:

‘1. Auctions shall only be conducted on an auction platform authorised as a regulated market whose operator organises a secondary market in allowances or allowances derivatives.’;

(9) in Article 60(1), the first subparagraph is replaced by the following:

‘1. All legislation, guidance, instructions, forms, documents, announcements, including the auction calendar, any other non-confidential information pertinent to the auctions on a given auction platform, including the list of persons admitted to bid in the auctions, any decision, including any decision pursuant to Article 57, to impose a maximum bid-size and any other remedial measures necessary to mitigate an actual or potential discernible risk of money- laundering, terrorist financing, criminal activity or market abuse on that auction platform, shall be published on a dedicated up-to-date auctioning web-site maintained by the auction platform concerned.’;

(10) Annex III is amended in accordance with Annex I to this Regulation;

(11) Annex IV is replaced by the text in Annex II 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, 18 October 2017.

*For the Commission*

*The President*

Jean-Claude JUNCKER

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## ANNEX I

In Annex III of Regulation (EU) No 1031/2010, the following part 4 is added:

<b>'Auction platforms appointed by the United Kingdom</b>		
4	Auction platform	ICE Futures Europe (ICE)
	Legal Basis	Article 30(1)
	Term of appointment	From 10 November 2017 at the earliest until 9 November 2022 at the latest without prejudice to the second subparagraph of Article 30(5).
	Definitions	<p>For the purposes of the condition and obligations applying to ICE the following definitions shall apply:</p> <p>(a) 'ICE exchange rules' — means ICE Regulations, including in particular contract rules and procedures relating to the ICE FUTURES EUA AUCTION CONTRACT and the ICE FUTURES EUAA AUCTION CONTRACT;</p> <p>(b) 'exchange member' — means a member as defined in Section A.1 of ICE exchange rules;</p> <p>(c) 'client' — means a client of an exchange member, as well as clients of their clients down the chain, who facilitate the admission of persons to bid and act on behalf of bidders.</p>
	Conditions	Admission to the auctions shall not be dependent on becoming an exchange member of or a participant in the secondary market organised by ICE or of any other trading place operated by ICE or by any third party.
	Obligations	<p>1. ICE shall require that any decisions that have been taken by ICE's exchange members or their clients with respect to granting admission to bid in the auctions, revoking or suspending such admission, regardless of whether the decision is taken with regard to an admission to bid in the auction only or to an admission to bid in the auctions and also become a member of or participant in the secondary market, be communicated to ICE by the exchange members or their clients taking such decisions in the following way:</p> <p>(a) in case of decisions refusing to grant admission to bid and decisions revoking or suspending access to auctions, on an individual basis without delay;</p> <p>(b) in case of other decisions, upon request.</p> <p>ICE shall ensure that any such decisions may be subject to examination by ICE with regard to their compliance with the obligations incumbent upon the auction platform under Regulation (EU) No 1031/2010, and that ICE's exchange members or their clients abide by the results of any such examination by ICE. This may include, but not be limited to, recourse to any applicable ICE exchange rules, including disciplinary procedures, or any other action as appropriate to facilitate admission to bid in the auctions.</p> <p>2. ICE shall draw up and maintain on its webpage a comprehensive and up-to-date list of exchange members or their clients that are eligible to facilitate admission to bid in the United Kingdom's auctions on ICE, and such list shall include auction only access providers as set out in the ICE exchange rules, and exchange members or their clients providing admission to bid in the auctions to persons who may also be members of or participants in the secondary market.</p> <p>In addition, ICE shall draw up and maintain on its webpage a readily comprehensible practical guidance informing SMEs and small emitters of the steps they need to take to access the auctions through such exchange members or their clients.</p>

		<p>3. All fees and conditions applied by ICE and its clearing system to persons admitted to bid or bidders shall be clearly stated, easily understandable and publicly available on ICE's webpage, which shall be kept up-to-date.</p> <p>ICE shall provide that where additional fees and conditions are applied by an exchange member or its client, for admission to bid, such fees and conditions shall also be clearly stated, easily understandable and publicly available on the webpages of those offering the services with direct references to those webpages available on ICE's webpage, distinguishing between fees and conditions which are being applied to persons admitted to bid only in the auctions, if these are available, from fees and conditions applied to persons admitted to bid in the auctions who are also a member of or participant in the secondary market.</p> <p>4. Without prejudice to other legal remedies, ICE shall provide for the availability of the ICE Complaints Resolution Procedures for complaints which may arise in connection with decisions on granting admission to bid in the auctions, refusing to grant admission to bid in the auctions, revoking or suspending admissions to bid in the auctions already granted as more specifically referred to in point 1, taken by ICE's exchange members or their clients, and all such complaints shall be eligible complaints for the purposes of ICE Complaints Resolution Procedures.</p> <p>5. Within six months after the start of the auctions, ICE shall report to the auction monitor, on the coverage obtained under its cooperation model with exchange members and their clients, including the level of geographic coverage obtained. ICE shall take the utmost account of any recommendations provided by the auction monitor, in this regard so as to ensure fulfilment of its obligations under points (a) and (b) of Article 35(3) of Regulation (EU) No 1031/2010.</p> <p>6. ICE shall ensure full compliance with the condition and obligations for its listing which are set out in this Annex.</p> <p>7. The United Kingdom shall notify the Commission of any substantive changes in the contractual arrangements with ICE notified to the Commission.'</p>
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## ANNEX II

## 'ANNEX IV

**Adjustments to the volumes of allowances (in million) to be auctioned in 2013-2020 referred to in Article 10(2)**

Year	Volume of reduction
2013	
2014	400
2015	300
2016	200
2017	
2018	
2019	
2020'	

**COMMISSION IMPLEMENTING REGULATION (EU) 2017/1903****of 18 October 2017****concerning the authorisation of the preparations of *Pediococcus parvulus* DSM 28875, *Lactobacillus casei* DSM 28872 and *Lactobacillus rhamnosus* DSM 29226 as feed additives for all animal species****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003 applications were submitted for the authorisation of the preparations of *Pediococcus parvulus* DSM 28875, *Lactobacillus casei* DSM 28872 and *Lactobacillus rhamnosus* DSM 29226. Those applications were accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (3) Those applications concern the authorisation of the preparations of *Pediococcus parvulus* DSM 28875, *Lactobacillus casei* DSM 28872 and *Lactobacillus rhamnosus* DSM 29226 as feed additives for all animal species to be classified in the additive category 'technological additives'.
- (4) The European Food Safety Authority ('the Authority') concluded in its respective opinions of 6 December 2016 <sup>(2)</sup> and 24 January 2017 <sup>(3)</sup> <sup>(4)</sup> that, under the respective proposed conditions of use, the preparation of *Lactobacillus rhamnosus* DSM 29226, *Pediococcus parvulus* DSM 28875 and *Lactobacillus casei* DSM 28872 do not have an adverse effect on animal health, human health or the environment. The Authority also concluded that those preparations have the potential to improve the production of silage prepared from easy and moderately difficult to ensile forage by reducing dry matter loss and enhancing protein preservation. The Authority does not consider that there is a need for specific requirements of post-market monitoring. The Authority also verified the reports on the methods of analysis of the feed additives concerned in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.
- (5) The assessment of the preparations of *Pediococcus parvulus* DSM 28875, *Lactobacillus casei* DSM 28872 and *Lactobacillus rhamnosus* DSM 29226 shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of those preparations should be authorised as specified in the Annex to this Regulation.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

*Article 1*

The preparations specified in the Annex, belonging to the additive category 'technological additives' and to the functional group 'silage additives', are authorised as additives in animal nutrition, subject to the conditions laid down in that Annex.

<sup>(1)</sup> OJ L 268, 18.10.2003, p. 29.

<sup>(2)</sup> EFSA Journal 2017; 15(1):4673.

<sup>(3)</sup> EFSA Journal 2017; 15(3):4702.

<sup>(4)</sup> EFSA Journal 2017; 15(3):4703.



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*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, 18 October 2017.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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## ANNEX

Identification number of the additive	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
					CFU of additive/kg of fresh material			
<b>Technological additives: silage additives</b>								
1k21014	<i>Pediococcus parvulus</i> DSM 28875	<p><i>Additive composition</i></p> <p>Preparation of <i>Pediococcus parvulus</i></p> <p>DSM 28875 containing a minimum of <math>1 \times 10^{11}</math> CFU/g additive.</p> <p><i>Characterisation of the active substance</i></p> <p>Viable cells of <i>Pediococcus parvulus</i></p> <p>DSM 28875.</p> <p><i>Analytical method</i> (1)</p> <p>Enumeration in the feed additive: spread plate method: EN 15786:2009.</p> <p>Identification of the feed additive: Pulsed Field Gel Electrophoresis (PFGE).</p>	All animal species	—	—	—	<ol style="list-style-type: none"> <li>In the directions for use of the additive and premixtures, the storage conditions shall be indicated.</li> <li>Minimum content of the additive when used without combination with other micro-organisms used as silage additives: <math>5 \times 10^7</math> CFU/kg of easy and moderately difficult to ensile fresh material (2).</li> <li>For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks resulting from its use. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including breathing protection.</li> </ol>	8 November 2027
1k20755	<i>Lactobacillus casei</i> DSM 28872	<p><i>Additive composition</i></p> <p>Preparation of <i>Lactobacillus casei</i></p> <p>DSM 28872 containing a minimum of <math>1 \times 10^{11}</math> CFU/g additive.</p>	All animal species	—	—	—	<ol style="list-style-type: none"> <li>In the directions for use of the additive and premixtures, the storage conditions shall be indicated.</li> <li>Minimum content of the additive when used without combination with other micro-organisms as silage additives: <math>5 \times 10^7</math> CFU/kg of easy and moderately difficult to ensile fresh material (2).</li> </ol>	8 November 2027

Identification number of the additive	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
					CFU of additive/kg of fresh material			
		<p><i>Characterisation of the active substance</i></p> <p>Viable cells of <i>Lactobacillus casei</i></p> <p>DSM 28872</p> <p><i>Analytical method</i> <sup>(1)</sup></p> <p>Enumeration in the feed additive: spread plate method on MSR agar (EN 15787).</p> <p>Identification of the feed additive: Pulsed Field Gel Electrophoresis (PFGE).</p>					<p>3. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks resulting from its use. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including breathing protection.</p>	
1k20756	<p><i>Lactobacillus rhamnosus</i></p> <p>DSM 29226</p>	<p><i>Additive composition</i></p> <p>Preparation of <i>Lactobacillus rhamnosus</i></p> <p>DSM 29226 containing a minimum of <math>1 \times 10^{10}</math> CFU/g additive.</p> <p><i>Characterisation of the active substance</i></p> <p>Viable cells of <i>Lactobacillus rhamnosus</i></p> <p>DSM 29226</p>	All animal species	—	—	—	<p>1. In the directions for use of the additive and premixtures, the storage conditions shall be indicated.</p> <p>2. Minimum content of the additive when used without combination with other micro-organisms as silage additives: <math>5 \times 10^7</math> CFU/kg of easy and moderate difficult to ensile fresh material <sup>(2)</sup>.</p> <p>3. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks resulting from its use. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including breathing protection.</p>	8 November 2027

Identification number of the additive	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
					CFU of additive/kg of fresh material			
		<p><i>Analytical method</i> <sup>(1)</sup></p> <p>Enumeration in the feed additive: spread plate method on MSR agar (EN 15787).</p> <p>Identification of the feed additive: Pulsed Field Gel Electrophoresis (PFGE).</p>						

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

<sup>(2)</sup> Easy to ensile forage: > 3 % soluble carbohydrates in fresh material. Moderately difficult to ensile forage: 1,5 %-3,0 % soluble carbohydrates in the fresh material. Commission Regulation (EC) No 429/2008 (OJ L 133, 22.5.2008, p. 1).

**COMMISSION IMPLEMENTING REGULATION (EU) 2017/1904****of 18 October 2017****concerning the authorisation of a preparation of *Bacillus licheniformis* DSM 28710 as a feed additive for chickens for fattening and chickens reared for laying (holder of authorisation Huvepharma NV)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003 an application was submitted for the authorisation of a preparation of *Bacillus licheniformis* DSM 28710. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (3) That application concerns the authorisation of the preparation of *Bacillus licheniformis* DSM 28710 as a feed additive for chickens for fattening and chickens reared for laying, to be classified in the additive category 'zootechnical additives'.
- (4) The European Food Safety Authority ('the Authority') concluded in its opinion of 18 October 2016 <sup>(2)</sup> that, under the proposed conditions of use, the preparation of *Bacillus licheniformis* DSM 28710 does not have an adverse effect on animal health, human health or the environment, and that it has a potential to improve the feed to gain ratio of chickens for fattening and that this conclusion can be extended to chickens reared for laying. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.
- (5) The assessment of the preparation of *Bacillus licheniformis* DSM 28710 shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised as specified in the Annex to this Regulation.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

<sup>(1)</sup> OJ L 268, 18.10.2003, p. 29.

<sup>(2)</sup> EFSA Journal 2016;14(11):4615.

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*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, 18 October 2017.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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## ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						CFU/kg of complete feedingstuff with a moisture content of 12 %			
<b>Category of zootechnical additives. Functional group: gut flora stabilisers</b>									
4b1828	Huvepharma NV	<i>Bacillus licheniformis</i> DSM 28710	<p><i>Additive composition</i></p> <p>Preparation of <i>Bacillus licheniformis</i> DSM 28710 containing a minimum of <math>3,2 \times 10^9</math> CFU/g of additive.</p> <p>Solid form</p> <p><i>Characterisation of the active substance</i></p> <p>Viable spores of <i>Bacillus licheniformis</i> DSM 28710</p> <p><i>Analytical method</i> <sup>(1)</sup></p> <p>For the enumeration of <i>Bacillus licheniformis</i> DSM 28710 in additive, premixture and feeding-stuffs:</p> <p>Spread plate method EN 15784</p> <p>For the identification <i>Bacillus licheniformis</i> DSM 28710: Identification: Pulsed Field Gel Electrophoresis (PFGE)</p>	Chickens for fattening Chickens reared for laying	—	$1,6 \times 10^9$	—	<ol style="list-style-type: none"> <li>1. In the directions for use of the additive and premixtures, the storage condition and stability to heat treatment shall be indicated.</li> <li>2. The use is permitted in feed containing the following authorised coccidiostats: decoquinate, diclazuril, halofuginone, nicarbazin, robenidine hydrochloride, lasalocid A sodium, maduramicin ammonium, monensin sodium, narasin, or salinomycin sodium.</li> <li>3. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks resulting from their use. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment including skin and eyes protections.</li> </ol>	8 November 2027

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

**COMMISSION IMPLEMENTING REGULATION (EU) 2017/1905****of 18 October 2017****concerning an authorisation of the preparation of *Saccharomyces cerevisiae* CNCM I-1079 as a feed additive for chickens for fattening and for minor poultry species for fattening (holder of authorisation Danstar Ferment AG represented by Lallemand SAS)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003 an application was submitted for the authorisation of a preparation of *Saccharomyces cerevisiae* CNCM I-1079. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (3) That application concerns the authorisation of a preparation of *Saccharomyces cerevisiae* CNCM I-1079 as a feed additive for chickens for fattening and for minor poultry species for fattening, to be classified in the additive category 'zootechnical additives'.
- (4) The European Food Safety Authority ('the Authority') concluded in its opinion of 6 December 2016 <sup>(2)</sup> that, under the proposed conditions of use, the preparation of *Saccharomyces cerevisiae* CNCM I-1079 does not have an adverse effect on animal health, human health or the environment, and when used in feed for poultry, it is efficacious in reducing carcass contamination with *Salmonella* spp. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.
- (5) The assessment of the preparation of *Saccharomyces cerevisiae* CNCM I-1079 shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised as specified in the Annex to this Regulation.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

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

<sup>(1)</sup> OJ L 268, 18.10.2003, p. 29.

<sup>(2)</sup> EFSA Journal 2017;15(1):4674.



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

Done at Brussels, 18 October 2017.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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## ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						CFU/kg of complete feedingstuff with a moisture content of 12 %			

**Category of zootechnical additives. Functional group: other zootechnical additives (reduction of Salmonella contamination on carcasses through its decrease in faeces)**

4d1703	Danstar Ferment AG represented by Lallemand SAS	<i>Saccharomyces cerevisiae</i> CNCM I-1079	<p><i>Additive composition</i></p> <p>Preparation of <i>Saccharomyces cerevisiae</i> CNCM I-1079 containing a minimum of:</p> <ul style="list-style-type: none"> <li>— <math>2 \times 10^{10}</math> CFU/g of additive (Not-coated form)</li> <li>— <math>1 \times 10^{10}</math> CFU/g of additive (Coated form)</li> </ul> <p><i>Characterisation of the active substance</i></p> <p>Viable cells of <i>Saccharomyces cerevisiae</i> CNCM I-1079</p> <p><i>Analytical method</i> <sup>(1)</sup></p> <p>Enumeration: pour plate method using chloramphenicol glucose yeast extract agar (EN15789:2009)</p> <p>Identification: polymerase chain reaction (PCR) method</p>	Chickens for fattening Minor poultry species for fattening	—	$1 \times 10^9$	—	<ol style="list-style-type: none"> <li>1. In the directions for use of the additive and premixture, the storage conditions and stability to heat treatment shall be indicated.</li> <li>2. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks their use. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including breathing protection.</li> </ol>	8 November 2027
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<sup>(1)</sup> Details of the analytical methods are available at the following address of the Reference Laboratory: <https://ec.europa.eu/jrc/en/eurl/feed-additives/evaluation-reports>

**COMMISSION IMPLEMENTING REGULATION (EU) 2017/1906****of 18 October 2017****concerning the authorisation of a preparation of endo-1,4-b-xylanase (EC 3.2.1.8) produced by *Trichoderma citrinoviride* Bisset (IMI SD135) as a feed additive for chickens reared for laying and minor poultry species reared for laying (holder of authorisation Huvepharma NV)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003 an application was submitted for the authorisation of a preparation of endo-1,4-b-xylanase (EC 3.2.1.8) produced by *Trichoderma citrinoviride* Bisset (IMI SD135). That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (3) That application concerns the authorisation of a preparation of endo-1,4-b-xylanase (EC 3.2.1.8) produced by *Trichoderma citrinoviride* Bisset (IMI SD135) as a feed additive for chickens reared for laying and minor poultry species reared for laying to be classified in the additive category 'zootechnical additives'.
- (4) That preparation was already authorised as a feed additive for 10 years by Commission Implementing Regulation (EU) 2015/1043 <sup>(2)</sup> for chickens for fattening, turkeys for fattening, laying hens, minor poultry species for fattening and laying, weaned piglets and pigs for fattening.
- (5) The European Food Safety Authority ('the Authority') concluded in its opinion of 25 January 2017 <sup>(3)</sup> that, under the proposed conditions of use, the preparation of endo-1,4-b-xylanase (EC 3.2.1.8) produced by *Trichoderma citrinoviride* Bisset (IMI SD135) does not have an adverse effect on animal health, human health or the environment. The Authority concluded that the additive is considered efficacious for chickens reared for laying and minor poultry species reared for laying. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.
- (6) The assessment of a preparation of endo-1,4-b-xylanase (EC 3.2.1.8) produced by *Trichoderma citrinoviride* Bisset (IMI SD135) shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised as specified in the Annex to this Regulation.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

<sup>(1)</sup> OJ L 268, 18.10.2003, p. 29.

<sup>(2)</sup> Commission Implementing Regulation (EU) 2015/1043 of 30 June 2015 concerning the authorisation of the preparation of endo-1,4-b-xylanase (EC 3.2.1.8) produced by *Trichoderma citrinoviride* Bisset (IMI SD 135) as a feed additive for chickens for fattening, turkeys for fattening, laying hens, weaned piglets, pigs for fattening and minor poultry species for fattening and for laying, and amending Regulations (EC) No 2148/2004, (EC) No 828/2007 and (EC) No 322/2009 (holder of authorisation Huvepharma NV) (OJ L 167, 1.7.2015, p. 63).

<sup>(3)</sup> EFSA Journal 2017;15(2):4708.

*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, 18 October 2017.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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## ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						Units of activity/kg of complete feedingstuff with a moisture content of 12 %			

**Category of zootechnical additives. Functional group: digestibility enhancers.**

4a1617	Huvepharma NV	Endo-1,4-beta-xylanase EC 3.2.1.8	<p><i>Additive composition:</i></p> <p>Preparation of endo-1,4-beta-xylanase (EC 3.2.1.8) produced by <i>Trichoderma citrinoviride</i> Bisset (IMI SD135) with a minimum activity of 6 000 EPU <sup>(1)</sup>/g (solid and liquid form)</p> <p><i>Characterisation of the active substance:</i></p> <p>endo-1,4-beta-xylanase (EC 3.2.1.8) produced by <i>Trichoderma citrinoviride</i> Bisset (IMI SD135)</p> <p><i>Analytical method <sup>(2)</sup></i></p> <p>For characterisation of endo-1,4-beta-xylanase activity:</p> <p>colorimetric method measuring water soluble dye released by action of endo-1,4-<math>\beta</math>-xylanase from azurine cross-linked wheat arabinoxylan substrates.</p>	Chickens reared for laying Minor poultry species reared for laying	—	1 500 EPU		<p>1. In the directions for use of the additive and premixture, the storage conditions and stability to heat treatment shall be indicated.</p> <p>2. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks resulting from their use. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including skin, eyes and breathing protections.</p>	8 November 2027
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<sup>(1)</sup> 1 EPU is the amount of enzyme which releases 0,0083  $\mu$ mol of reducing sugars (xylose equivalent) per minute from oat spelt xylan at pH 4,7 and 50 °C.

<sup>(2)</sup> Details of the analytical methods are available at the following address of the Reference Laboratory: <https://ec.europa.eu/jrc/en/eurl/feed-additives/evaluation-reports>

**COMMISSION IMPLEMENTING REGULATION (EU) 2017/1907****of 18 October 2017****concerning the authorisation of a preparation of *Lactobacillus plantarum* (KKP/593/p and KKP/788/p) and *Lactobacillus buchneri* (KKP/907/p) as a feed additive for cattle and sheep****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003 an application was submitted for the authorisation of a preparation of two strains of *Lactobacillus plantarum* (KKP/593/p and KKP/788/p) and of *Lactobacillus buchneri* (KKP/907/p). That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (3) That application concerns the authorisation of the preparation of *Lactobacillus plantarum* (KKP/593/p and KKP/788/p) and *Lactobacillus buchneri* (KKP/907/p) as a feed additive for cattle and sheep to be classified in the additive category 'technological additives'.
- (4) The European Food Safety Authority ('the Authority') concluded in its opinion of 4 December 2013 <sup>(2)</sup> that, under the proposed conditions of use, the preparation of *Lactobacillus plantarum* (KKP/593/p and KKP/788/p) and *Lactobacillus buchneri* (KKP/907/p) does not have an adverse effect on animal health, human health or the environment. The Authority also concluded that the preparation concerned has the potential to improve the production of silage from easy, moderately difficult and difficult to ensile forage materials. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.
- (5) The assessment of the preparation of *Lactobacillus plantarum* (KKP/593/p and KKP/788/p) and *Lactobacillus buchneri* (KKP/907/p) shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised as specified in the Annex to this Regulation.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

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

<sup>(1)</sup> OJ L 268, 18.10.2003, p. 29.

<sup>(2)</sup> EFSA Journal 2014; 12(1):3529.

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

Done at Brussels, 18 October 2017.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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## ANNEX

Identification number of the additive	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
					CFU of additive/kg of fresh material			
<b>Technological additives: silage additives</b>								
1k20754	<i>Lactobacillus plantarum</i> KKP/593/p <i>Lactobacillus plantarum</i> KKP/788/p <i>Lactobacillus buchneri</i> KKP/907/p	<p><i>Additive composition</i></p> <p>Preparation of <i>Lactobacillus plantarum</i> KKP/593/p, <i>Lactobacillus plantarum</i> KKP/788/p and <i>Lactobacillus buchneri</i> KKP/907/p containing a minimum of <math>1 \times 10^9</math> CFU/g additive, with a ration of 4:4:1 (<i>Lactobacillus plantarum</i> KKP/593/p: <i>Lactobacillus plantarum</i> KKP/788/p: <i>Lactobacillus buchneri</i> KKP/907/p)</p> <p><i>Characterisation of the active substance</i></p> <p>Viable cells of <i>Lactobacillus plantarum</i> KKP/593/p, <i>Lactobacillus plantarum</i> KKP/788/p and <i>Lactobacillus buchneri</i> KKP/907p.</p> <p><i>Analytical method</i> <sup>(1)</sup></p> <p>Enumeration in the feed additive: spread plate method on MRS agar (EN 15787).</p> <p>Identification of the feed additive: Pulsed Field Gel Electrophoresis (PFGE).</p>	Cattle Sheep	—	—	—	<ol style="list-style-type: none"> <li>1. In the directions for use of the additive and premixtures, the storage conditions shall be indicated.</li> <li>2. Minimum content of the additive when used without combination with other micro-organisms as silage additives: <math>1 \times 10^8</math> CFU/kg of fresh material.</li> <li>3. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks resulting from their use. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including breathing protection.</li> </ol>	8 November 2027

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



# DECISIONS

## COUNCIL DECISION (EU) 2017/1908

of 12 October 2017

### on the putting into effect of certain provisions of the Schengen *acquis* relating to the Visa Information System in the Republic of Bulgaria and Romania

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Act of Accession of the Republic of Bulgaria and Romania, and in particular Article 4(2) thereof,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Whereas:

- (1) According to the first subparagraph of Article 4(2) of the 2005 Act of Accession, the provisions of the Schengen *acquis* other than those listed in Annex II to that Act, to which Bulgaria and Romania accede upon accession, are to apply in Bulgaria and Romania pursuant to a Council decision to that effect after verification that the necessary conditions for the application of all parts of the Schengen *acquis* have been met.
- (2) On 9 June 2011, the Council concluded, in accordance with the applicable Schengen evaluation procedures, that the conditions in all the areas of the Schengen *acquis* relating to Air Borders, Land Borders, Police Cooperation, Data Protection, the Schengen Information System, Sea Borders and Visas had been fulfilled by Bulgaria and Romania.
- (3) A simplified regime for controls of persons at the external borders was introduced in accordance with Decision No 565/2014/EU of the European Parliament and of the Council <sup>(2)</sup>. That regime is based on the unilateral recognition by Bulgaria, Croatia, Cyprus and Romania of certain documents, notably Schengen visas, as equivalent to their national visas for transit through or intended stays on their territories, not exceeding 90 days in any 180-day period.
- (4) It is appropriate, as from the entry into force of this Decision, to allow Bulgaria and Romania access to consult, in a read-only mode, the Visa Information System (VIS) data without the right to enter, amend or delete data in the VIS. This is to facilitate their national visa application procedure to prevent fraud and any abuse of Schengen visas by verifying their validity and authenticity against the data stored in the VIS, to facilitate — with regard to third country nationals holding a Schengen visa — checks at border crossing points at external borders and within the territory of the Member States, to facilitate the determination of the Member State responsible for applications for international protection, to facilitate the examination of such applications, and to increase the level of internal security in the territory of the Member States by facilitating the fight against serious crime and terrorism. The access for the consultation and use of the VIS data should also assist in the identification of any person who may not, or may no longer, fulfil the conditions for entry to, or stay in, the territory of the Member States concerned.
- (5) It is therefore desirable to adopt a decision putting into effect the corresponding provisions of the VIS as referred to in the Annex, as well as all the subsequent developments of those provisions. The putting into effect of such provisions should be limited to the extent that they are related to the access for the consultation of VIS data

<sup>(1)</sup> Opinion delivered on 4 October 2017 (not yet published in the Official Journal).

<sup>(2)</sup> Decision No 565/2014/EU of the European Parliament and of the Council of 15 May 2014 introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Croatia, Cyprus and Romania of certain documents as equivalent to their national visas for transit through or intended stays on their territories not exceeding 90 days in any 180-day period and repealing Decisions No 895/2006/EC and No 582/2008/EC (OJ L 157, 27.5.2014, p. 23).

in read-only format. Therefore, Bulgaria and Romania should be authorised to access the VIS data for consultation and in accordance with the procedures and conditions specified in the provisions put into effect. The Annex should contain the relevant *acquis* related to the access for consultation of VIS data. However, Regulation (EU) No 1077/2011 of the European Parliament and of the Council <sup>(1)</sup>, Council Decision 2004/512/EC <sup>(2)</sup> and Commission Decision 2006/648/EC <sup>(3)</sup> already apply to Bulgaria and Romania. Therefore, they are not included in the Annex.

- (6) It is also desirable to set a date from which those provisions of the Schengen *acquis* relating to the VIS should start to apply as determined in accordance with Regulation (EC) No 767/2008 of the European Parliament and of the Council <sup>(4)</sup> with regard to Bulgaria and Romania. This should happen as soon as Bulgaria and Romania have notified the Commission that all related comprehensive testing to be carried out by eu-LISA has been successfully completed.
- (7) The lifting of checks at internal borders of the Member States concerned and their full participation in the Schengen *acquis* relating to the common policy on visas should be subject to a separate decision of the Council adopted by unanimity in accordance with Article 4(2) of the 2005 Act of Accession. Until the adoption of that decision, which will put into effect the provisions applicable in the field of short-stay visas other than those listed in the Annex to this Decision with regard to Bulgaria and Romania, and which include notably the Visa Code <sup>(5)</sup> and the provisions adopted for the purpose of its implementation, Bulgaria and Romania are not permitted to issue Schengen visas and are to continue to issue short-stay visas under their national law. Until the date set out in that Decision, restrictions on the use of the VIS resulting from this Decision, notably those concerning the right to introduce relevant data to it, should be maintained.
- (8) However, it is desirable to grant to the competent visa authorities of Bulgaria and Romania during that transitional period, access for consultation to VIS data in read-only format for the purposes of the examination of applications for short-stay visas issued by them under their national law and the decisions relating to those applications. This is to include the decision of whether to annul, revoke, extend or shorten the validity of the visa issued in accordance with their relevant national provisions.
- (9) Given that the verification in accordance with the applicable Schengen evaluation procedures concerning Bulgaria and Romania has already been completed pursuant to Article 4(2) of the 2005 Act of Accession, the verification under Article 1(1)(b) of Council Regulation (EU) No 1053/2013 <sup>(6)</sup> will not be carried out in respect of those Member States. Following the adoption of this Decision, the provisions listed in the Annex should only come into effect after Bulgaria and/or Romania have successfully undergone comprehensive tests carried out by eu-LISA and after these have been duly notified to the Commission. Moreover, it is desirable that Bulgaria and Romania invite experts from Member States and the Commission to perform reviews of the application of those provisions.
- (10) As regards Iceland and Norway, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* <sup>(7)</sup> which fall within the area referred to in Article 1, points B and G of Council Decision 1999/437/EC <sup>(8)</sup>.

<sup>(1)</sup> Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p. 1).

<sup>(2)</sup> Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS) (OJ L 213, 15.6.2004, p. 5).

<sup>(3)</sup> Commission Decision 2006/648/EC of 22 September 2006 laying down the technical specifications on the standards for biometric features related to the development of the Visa Information System (OJ L 267, 27.9.2006, p. 41).

<sup>(4)</sup> Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

<sup>(5)</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

<sup>(6)</sup> Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).

<sup>(7)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(8)</sup> Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

- (11) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* <sup>(1)</sup> which fall within the area referred to in Article 1, points B and G of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC <sup>(2)</sup>.
- (12) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* <sup>(3)</sup> which fall within the area referred to in Article 1, points B and G of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU <sup>(4)</sup>.

HAS ADOPTED THIS DECISION:

#### Article 1

1. The provisions of the Schengen *acquis* relating to the VIS referred to in the Annex shall apply to Bulgaria and Romania, amongst themselves and in their relations with the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden as well as with the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation. These provisions shall apply following the successful completion of all related comprehensive tests with regard to the provisions listed in the Annex to be carried out by eu-LISA, Bulgaria and Romania and the Commission being notified that those tests have been successfully completed. In addition, Bulgaria and Romania may invite experts from Member States and the Commission to perform reviews of the application of those provisions.

2. Until the adoption of the Council decision lifting the checks at internal borders of the Member States, the competent visa authorities of Bulgaria and Romania may access the VIS for consultation in read-only format, for the purposes of:

- (a) the examination of applications for short-stay visas to be issued by Bulgaria and Romania under their national law;
- (b) deciding upon those applications, including the decision whether to annul, revoke, extend or shorten the validity of the visa issued in accordance with their relevant national provisions.

#### Article 2

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

It shall apply from the date, to be determined by the Commission, when Bulgaria and Romania notify the Commission that the comprehensive tests referred to in Article 1(1) have been successfully completed.

<sup>(1)</sup> OJ L 53, 27.2.2008, p. 52.

<sup>(2)</sup> Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

<sup>(3)</sup> OJ L 160, 18.6.2011, p. 21.

<sup>(4)</sup> Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

*Article 3*

This Decision shall apply in accordance with the Treaties.

Done at Luxembourg, 12 October 2017.

*For the Council*  
*The President*  
U. REINSALU

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## ANNEX

**List of the provisions of the Schengen *acquis* related to VIS to be rendered applicable to Bulgaria and Romania**

1. Articles 1 and 126 to 130 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ('the Schengen Convention') (OJ L 239, 22.9.2000, p. 19) to the extent that they relate to other provisions referred to in this Annex;
  2. Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS) (OJ L 213, 15.6.2004, p. 5);
  3. The following provisions of Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60):
    - Chapter I with the exception of Article 6(1)
    - Article 15, which shall apply *mutatis mutandis* to the examination of applications for short-stay visas to be issued by Bulgaria and Romania under their national law, including decisions regarding those applications
    - Chapter III
    - Chapter V, with the exclusion of Article 31(2) and (3)
    - Chapter VI and VII with the exception of Article 50(6)
  4. Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences (OJ L 218, 13.8.2008, p. 129);
  5. Article 21(2), Article 37(1) and 43(5) of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1);
  6. Commission Decision 2009/756/EC of 9 October 2009 laying down specifications for the resolution and use of fingerprints for biometric identification and verification in the Visa Information System (OJ L 270, 15.10.2009, p. 14);
  7. Commission Decision 2009/876/EC of 30 November 2009 adopting technical implementing measures for entering the data and linking applications, for accessing the data, for amending, deleting and advance deleting of data and for keeping and accessing the records of data processing operations in the Visa Information System (OJ L 315, 2.12.2009, p. 30), to the extent that this Decision relates to the examination of visa applications;
  8. Title II and the Annexes to Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1) to the extent that they relate to VIS.
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**COUNCIL IMPLEMENTING DECISION (CFSP) 2017/1909**  
**of 18 October 2017**  
**implementing Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic**  
**People's Republic of Korea**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 31(2) thereof,

Having regard to Council Decision (CFSP) 2016/849 of 27 May 2016 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2013/183/CFSP<sup>(1)</sup>, and in particular Article 33(1) thereof,

Having regard to the proposal of the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 27 May 2016, the Council adopted Decision (CFSP) 2016/849.
- (2) On 3 October 2017, the United Nations Security Council ('UNSC') Committee established pursuant to UNSC Resolution ('UNSCR') 1718 (2006) designated four vessels pursuant to paragraph 6 of UNSCR 2375 (2017).
- (3) Annex IV to Decision (CFSP) 2016/849 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

Annex IV to Decision (CFSP) 2016/849 is amended as set out in the Annex to this Decision.

*Article 2*

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

Done at Brussels, 18 October 2017.

*For the Council*  
*The President*  
M. MAASIKAS

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<sup>(1)</sup> OJ L 141, 28.5.2016, p. 79.

## ANNEX

The following vessels are added to the list of vessels subject to restrictive measures set out in Annex IV to Decision (CFSP) 2016/849.

**Vessels designated pursuant to paragraph 6 of UNSCR 2375 (2017):**

1. Name: PETREL 8

*Additional information*

IMO: 9562233. MMSI: 620233000

2. Name: HAO FAN 6

*Additional information*

IMO: 8628597. MMSI: 341985000

3. Name: TONG SAN 2

*Additional information*

IMO: 8937675. MMSI: 445539000

4. Name: JIE SHUN

*Additional information*

IMO: 8518780. MMSI: 514569000

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**COMMISSION IMPLEMENTING DECISION (EU) 2017/1910****of 17 October 2017****amending Decision 93/52/EEC as regards the brucellosis (*B. melitensis*)-free status of certain regions of Spain, Decision 2003/467/EC as regards the official bovine brucellosis-free status of Cyprus and of certain regions of Spain, and as regards the official enzootic-bovine-leucosis-free status of Italy, and Decision 2005/779/EC as regards the swine vesicular disease-free status of the region of Campania of Italy***(notified under document C(2017) 6891)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine <sup>(1)</sup>, and in particular paragraph 7 of Annex A.II and Section E of Chapter I of Annex D thereto,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 <sup>(2)</sup>, and in particular Article 10(4) thereof,Having regard to Council Directive 91/68/EEC of 28 January 1991 on animal health conditions governing intra-Community trade in ovine and caprine animals <sup>(3)</sup>, and in particular Section II of Chapter 1 of Annex A thereto,

Whereas:

- (1) Directive 91/68/EEC establishes the animal health conditions governing trade in the Union in ovine and caprine animals. It lays down the conditions whereby Member States or regions thereof may be recognised as being officially free of brucellosis (*Brucella melitensis*).
- (2) Commission Decision 93/52/EEC <sup>(4)</sup> provides that the regions of the Member States referred to in Annex II thereto are recognised as officially free of brucellosis (*B. melitensis*) in accordance with the conditions laid down in Directive 91/68/EEC.
- (3) Spain has submitted to the Commission documentation demonstrating that the Autonomous Communities of La Rioja and of Valencia, and the Provinces of Albacete, Cuenca and Guadalajara of the Autonomous Community of Castilla-La Mancha, comply with the conditions laid down in Directive 91/68/EEC in order to be recognised as officially free of brucellosis (*B. melitensis*) as regards ovine and caprine herds.
- (4) Following the evaluation of the documentation submitted by Spain, the Autonomous Communities of La Rioja and of Valencia, and the Provinces of Albacete, Cuenca and Guadalajara of the Autonomous Community of Castilla-La Mancha, should be recognised as being officially free of brucellosis (*B. melitensis*) as regards ovine and caprine herds.
- (5) The entry for Spain in Annex II to Decision 93/52/EEC should therefore be amended accordingly.
- (6) Directive 64/432/EEC applies to trade within the Union in bovine animals and swine. It lays down the conditions whereby a Member State or a region thereof may be declared officially brucellosis-free or officially enzootic-bovine-leucosis-free as regards bovine herds.

<sup>(1)</sup> OJ L 21, 29.7.1964, p. 1977/64.

<sup>(2)</sup> OJ L 224, 18.8.1990, p. 29.

<sup>(3)</sup> OJ L 46, 19.2.1991, p. 19.

<sup>(4)</sup> Commission Decision 93/52/EEC of 21 December 1992 recording the compliance by certain Member States or regions with the requirements relating to brucellosis (*B. melitensis*) and according them the status of a Member State or region officially free of the disease (OJ L 13, 21.1.1993, p. 14).



- (7) Commission Decision 2003/467/EC <sup>(1)</sup> provides that the Member States and regions thereof which are listed respectively in Chapters 1 and 2 of Annex II thereto are declared officially brucellosis-free as regards bovine herds. Decision 2003/467/EC also provides that the Member States and regions thereof which are listed respectively in Chapters 1 and 2 of Annex III thereto are declared officially enzootic-bovine-leucosis-free as regards bovine herds.
- (8) Cyprus has submitted to the Commission documentation demonstrating that its whole territory complies with the conditions laid down in Directive 64/432/EEC in order to be declared officially brucellosis-free as regards bovine herds.
- (9) Following the evaluation of the documentation submitted by Cyprus, that Member State should be recognised as an officially brucellosis-free Member State as regards bovine herds and listed accordingly in Chapter 1 of Annex II to Decision 2003/467/EC.
- (10) Spain has submitted to the Commission documentation demonstrating that the Autonomous Communities of Cataluña, Castilla-La Mancha, and Galicia, and the Province of Zamora of the Autonomous Community of Castilla y León, comply with the conditions laid down in Directive 64/432/EEC in order to be declared officially brucellosis-free as regards bovine herds.
- (11) Following the evaluation of the documentation submitted by Spain, the Autonomous Communities of Cataluña, Castilla-La Mancha, and Galicia, and the Province of Zamora of the Autonomous Community of Castilla y León should be declared officially brucellosis-free regions as regards bovine herds and listed accordingly in Chapter 2 of Annex II to Decision 2003/467/EC.
- (12) Certain regions of Italy are currently listed in Chapter 2 of Annex III to Decision 2003/467/EC as officially enzootic-bovine-leucosis-free regions. Italy has now submitted to the Commission documentation demonstrating that its whole territory complies with the conditions laid down in Directive 64/432/EEC in order to be declared officially enzootic-bovine-leucosis-free as regards bovine herds.
- (13) Following the evaluation of the documentation submitted by Italy, that Member State should be declared an officially enzootic-bovine-leucosis-free Member State as regards bovine herds and listed accordingly in Chapter 1 of Annex III to Decision 2003/467/EC, and the references to certain regions of that Member State in Chapter 2 of that Annex should be deleted.
- (14) Annexes II and III to Decision 2003/467/EC should therefore be amended accordingly.
- (15) Commission Decision 2005/779/EC <sup>(2)</sup> was adopted following outbreaks of swine vesicular disease in Italy. It lays down animal health rules as regards swine vesicular disease for the regions of that Member State that are recognised as free from swine vesicular disease and that are listed in Annex I to that Decision, and also for the regions of that Member State that are not recognised as free from that disease and that are listed in Annex II to that Decision.
- (16) A programme for the eradication and monitoring of swine vesicular disease has been implemented in Italy for several years, with a view to achieving swine vesicular disease-free status for all regions of that Member State. Italy has submitted new information to the Commission as regards the swine vesicular disease-free status of the region of Campania, demonstrating that the disease has been eradicated from that region.
- (17) Following the examination of the information submitted by Italy, the region of Campania should be recognised as free from swine vesicular disease and that region should be deleted from the list in Annex II to Decision 2005/779/EC and listed instead in Annex I to that Decision.
- (18) Annexes I and II to Decision 2005/779/EC should therefore be amended accordingly.
- (19) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

<sup>(1)</sup> Commission Decision 2003/467/EC of 23 June 2003 establishing the official tuberculosis, brucellosis, and enzootic-bovine-leucosis-free status of certain Member States and regions of Member States as regards bovine herds (OJ L 156, 25.6.2003, p. 74).

<sup>(2)</sup> Commission Decision 2005/779/EC of 8 November 2005 concerning animal health protection measures against swine vesicular disease in Italy (OJ L 293, 9.11.2005, p. 28).

HAS ADOPTED THIS DECISION:

*Article 1*

Annex II to Decision 93/52/EEC is amended in accordance with Annex I to this Decision.

*Article 2*

Annexes II and III to Decision 2003/467/EC are amended in accordance with Annex II to this Decision.

*Article 3*

Annexes I and II to Decision 2005/779/EC are amended in accordance with Annex III to this Decision.

*Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 17 October 2017.

*For the Commission*  
Vytenis ANDRIUKAITIS  
*Member of the Commission*

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## ANNEX I

In Annex II to Decision 93/52/EEC, the entry for Spain is replaced by the following:

'In Spain:

- Autonomous Community of Asturias,
  - Autonomous Community of the Balearic Islands,
  - Autonomous Community of the Canary Islands,
  - Autonomous Community of Cantabria,
  - Autonomous Community of Castilla-La Mancha: Provinces of Albacete, Cuenca and Guadalajara,
  - Autonomous Community of Castilla y León,
  - Autonomous Community of Extremadura,
  - Autonomous Community of Galicia,
  - Autonomous Community of La Rioja,
  - Autonomous Community of Navarra,
  - Autonomous Community of Pais Vasco,
  - Autonomous Community of Valencia.'
-

## ANNEX II

Annexes II and III to Decision 2003/467/EC are amended as follows:

(1) Annex II is amended as follows:

(a) Chapter 1 is replaced by the following:

**'CHAPTER 1****Officially brucellosis-free Member States**

<b>ISO code</b>	<b>Member State</b>
BE	Belgium
CZ	Czech Republic
DK	Denmark
DE	Germany
EE	Estonia
IE	Ireland
FR	France
CY	Cyprus
LV	Latvia
LT	Lithuania
LU	Luxembourg
MT	Malta
NL	Netherlands
AT	Austria
PL	Poland
RO	Romania
SI	Slovenia
SK	Slovakia
FI	Finland
SE	Sweden';

(b) in Chapter 2, the entry for Spain is replaced by the following:

'In Spain:

- Autonomous Community of Asturias,
- Autonomous Community of the Balearic Islands,
- Autonomous Community of the Canary Islands,
- Autonomous Community of Castilla-La Mancha,
- Autonomous Community of Castilla y León: Provinces of Burgos, Soria, Valladolid and Zamora,
- Autonomous Community of Cataluña,
- Autonomous Community of Galicia,
- Autonomous Community of La Rioja,
- Autonomous Community of Murcia,
- Autonomous Community of Navarra,
- Autonomous Community of Pais Vasco.';

(2) Annex III is amended as follows:

(a) Chapter 1 is replaced by the following:

**'CHAPTER 1**  
**Officially enzootic-bovine-leucosis-free Member States**

ISO code	Member State
BE	Belgium
CZ	Czech Republic
DK	Denmark
DE	Germany
EE	Estonia
IE	Ireland
ES	Spain
IT	Italy
CY	Cyprus
LV	Latvia
LT	Lithuania
LU	Luxembourg
NL	Netherlands
AT	Austria
PL	Poland
SI	Slovenia
SK	Slovakia
FI	Finland
SE	Sweden
UK	United Kingdom';

(b) in Chapter 2, the entry for Italy is deleted.

## ANNEX III

Annexes I and II to Decision 2005/779/EC are amended as follows:

(1) in Annex I, the following entry is inserted between the entry for Basilicata and the entry for Emilia-Romagna:

— Campania;

(2) in Annex II, the entry for Campania is deleted.

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## III

(Other acts)

## EUROPEAN ECONOMIC AREA

## EFTA SURVEILLANCE AUTHORITY DECISION

No 081/17/COL

of 26 April 2017

**to close the formal investigation into alleged state aid granted through the rent of land and property in the Gufunes area (Iceland) [2017/1911]**

THE EFTA SURVEILLANCE AUTHORITY (‘the Authority’),

Having regard to:

the Agreement on the European Economic Area (‘the EEA Agreement’), in particular to Article 61 and Protocol 26,

the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (‘the Surveillance and Court Agreement’), in particular to Article 24,

Protocol 3 to the Surveillance and Court Agreement (‘Protocol 3’), in particular to Article 1 of Part I and Articles 7(2) and 13 of Part II, and

having called on interested parties to submit their comments pursuant to those provisions <sup>(1)</sup>, and having regard to their comments,

Whereas:

## I. FACTS

## 1. PROCEDURE

- (1) By email dated 2 April 2014, Gámaþjónustan hf. (‘the complainant’) lodged a complaint with the Authority concerning alleged unlawful state aid granted by the City of Reykjavík (‘the City’) through the rent of property and land in the Gufunes area in Reykjavík, Iceland, to Íslenska Gámafélagið (‘ÍG’), allegedly below market price <sup>(2)</sup>.
- (2) Following a preliminary examination the Authority, on 30 June 2015, adopted Decision No 261/15/COL to initiate a formal investigation into the alleged aid. By letter dated 1 October 2015 <sup>(3)</sup>, the Icelandic authorities responded to the Authority’s decision.

<sup>(1)</sup> Decision No 261/15/COL to initiate the formal investigation procedure into potential state aid granted through the rent of land and property in the Gufunes area, published in OJ C 316, 24.9.2015, p. 22 and EEA Supplement No 57, 24.9.2015, p. 21.

<sup>(2)</sup> Document Nos 704341-704343.

<sup>(3)</sup> Document No 774957.

- (3) On 24 September 2015, the Authority's Decision to initiate the formal investigation procedure was published in the *Official Journal of the European Union* and in the EEA Supplement to it, giving interested parties one month to comment on the Authority's preliminary views <sup>(1)</sup>.
- (4) Having received a one week extension, ÍG submitted comments by letter dated 29 October 2015 <sup>(2)</sup>. The Authority received no other comments. After the expiry of the one month deadline to submit comments, the Authority received market information from the complainant by email dated 25 November 2015 <sup>(3)</sup>. By letter dated 26 November 2015 <sup>(4)</sup>, the Authority forwarded the comments and the market information to the Icelandic authorities who were given the opportunity to respond. By letter dated 5 January 2016, <sup>(5)</sup> the Icelandic authorities responded. The matter was also discussed between representatives of the Icelandic authorities and the Authority at a meeting in Reykjavík on 12 February 2016.
- (5) Finally, the Authority received additional information concerning developments in the Gufunes area, from the complainant by emails dated 21 May 2016 <sup>(6)</sup>, 27 May 2016 <sup>(7)</sup> and 15 December 2016 <sup>(8)</sup>.

## 2. DESCRIPTION OF THE MEASURE

### 2.1. THE GUFUNES AREA

- (6) The Gufunes area is situated in the Grafarvogur district of Reykjavík, Iceland. Until the year 2001, a fertiliser factory, Áburðarverksmiðjan, was operating in the area. In 2002, the planning fund of Reykjavík (Skipulagssjóður Reykjavíkur, 'SR') bought the factory and the surrounding area from the shareholders of Áburðarverksmiðjan ('the purchase agreement'). According to the Icelandic authorities, the plan at the time was to remove all the buildings and installations from the area. In 2007, SR was dissolved and a new fund, Eignasjóður, was founded to take over SR's assets and tasks.
- (7) According to the Reykjavík Municipal Zoning Plan 2001-2024, the Gufunes area is intended for residential purposes and not for industrial activities <sup>(9)</sup>. Additionally, the area is intended for the construction of the Sundabraut highway, connecting Laugarnes and Gufunes. Moreover, according to the Reykjavík Municipal plan for 2010-2030, the industrial area of Gufunes is regressing and a mixed urban area of residential units and clean commercial activities is anticipated in the future <sup>(10)</sup>. Neither plan foresees that industrial activities will continue to be located in the area in the future.

### 2.2. AGREEMENTS CONCLUDED BETWEEN THE CITY OF REYKJAVÍK AND ÍSLENSKA GÁMAFÉLAGIÐ FOR THE RENT OF LAND AND PROPERTIES IN THE GUFUNES AREA

- (8) In February 2002, when SR purchased the land and the properties in the Gufunes area, the area was occupied by several tenants (mainly contractors and developers). At the time, ÍG had a lease agreement with Áburðarverksmiðjan, which had been concluded 29 October 1999 ('the 1999 Agreement'). The 1999 Agreement set out a monthly rental fee of ISK 159 240, based on a price per square meter <sup>(11)</sup>. ÍG used the land for its waste management business. According to the purchase agreement, SR took over all obligations and rights from Áburðarverksmiðjan regarding the existing lease agreements, including the 1999 Agreement with ÍG.
- (9) According to the City, the Gufunes area was continually busy and difficult to manage. Moreover, the buildings and installations were in bad shape, some tenants were not paying rent and there had been an accumulation of scrap, such as car wreckages. It was therefore clear to the City that in order to serve its role as a landowner, it would have to hire staff to control the area during day and night.

<sup>(1)</sup> Decision No 261/15/COL to initiate the formal investigation procedure into potential state aid granted through the rent of land and property in the Gufunes area, published in OJ C 316, 24.9.2015, p. 22 and EEA Supplement No 57, 24.9.2015, p. 21.

<sup>(2)</sup> Document No 778453.

<sup>(3)</sup> Document No 781877.

<sup>(4)</sup> Document No 781927.

<sup>(5)</sup> Document No 786716.

<sup>(6)</sup> Document No 805588.

<sup>(7)</sup> Document No 806264.

<sup>(8)</sup> Document No 831665.

<sup>(9)</sup> Available online at: <http://skipulagssja.skipbygg.is/skipulagssja/>. See also [http://reykjavik.is/sites/default/files/adalskipulag/08\\_grafarvogur.pdf](http://reykjavik.is/sites/default/files/adalskipulag/08_grafarvogur.pdf)

<sup>(10)</sup> Ibid.

<sup>(11)</sup> Document No 716986, page 17.



- (10) In light of that situation, it was not considered realistic to offer the area for rental purposes. It was therefore decided not to renew the current lease agreements and instead conclude an agreement with one party only. Consequently, SR decided to negotiate terms regarding lease, clean-up and supervision of the area with ÍG, which was the largest single tenant at the time, in addition to being on time with its rental payments <sup>(1)</sup>. The following is an overview of the agreements concluded between SR and ÍG:
- (i) **22 February 2005.** SR and ÍG concluded a lease agreement on some of the properties in the area, replacing the 1999 Agreement. The total monthly rental fee was set at ISK 960 000 for a total of 4 676 square meters (including a 500 square meter lot) <sup>(2)</sup>.
  - (ii) **14 October 2005.** SR and ÍG concluded an agreement ('the 2005 General Lease Agreement'), replacing the previous agreement from 22 February 2005, regarding lease, clean-up and supervision of land in the area of Gufunes. According to the agreement, ÍG had the obligation to carry out all maintenance work and improvements on the property. The 2005 General Lease Agreement was valid until 31 December 2009. The 2005 General Lease Agreement did not set out how many square meters of property ÍG rented. However, as an annex to the 2005 General Lease Agreement, an aerial printout demonstrated which parts of the area were rented to ÍG <sup>(3)</sup>. The Icelandic authorities have explained that the agreement covered an area of about 130 000 square meters. The 2005 General Lease Agreement did not set out the price paid per square meter or the value of ÍG's obligations. The total monthly rental fee was set at ISK 2 000 000, recalculated monthly in accordance with the consumer price index <sup>(4)</sup>.
  - (iii) **29 December 2006.** The validity of the 2005 General Lease Agreement was extended, through an amendment, until 31 December 2011. ÍG was also obliged to demolish specified properties and remove equipment on the ground. ÍG was allowed to keep devices and installations removed from the ground at its own expense <sup>(5)</sup>.
  - (iv) **21 December 2007.** The validity of the 2005 General Lease Agreement was extended, through an amendment, until 31 December 2015. The owner could at any time take over part or all of the leased land if necessary due to changes in land use planning. ÍG also committed to reconnect pipes for electricity, water and heating that had become unusable. Moreover, ÍG withdrew a tort claim against the City <sup>(6)</sup>.
  - (v) **15 June 2009.** The validity of the 2005 General Lease Agreement was extended, through an amendment, until 31 December 2018. ÍG undertook to handle the maintenance of the area and to raise a levee, and an existing lease of a boat storage owned by Reykjavík Yacht club was extended. ÍG also committed to withdraw a claim against the City regarding maintenance costs <sup>(7)</sup>.
- (11) According to the City, although the size of land rented by ÍG is 130 000 m<sup>2</sup>, only 110 000 m<sup>2</sup> is usable for their purposes. The total registered size of the buildings is 24 722 m<sup>2</sup>. According to the Icelandic Property Registry, the value of the land previously owned by Áburðarverksmiðjan is ISK 211 000 000. The value of the land which ÍG rents has not been assessed, but the value of the entire land previously owned by Áburðarverksmiðjan it is estimated by the City at around ISK 137 000 000. The total registered value of buildings rented by ÍG is ISK 850 323 512 <sup>(8)</sup>.
- (12) According to Article 4(2) of the Icelandic Act on Municipal Income No 4/1995, the property owner shall pay the property tax except where leased farms, leased lots or other contractual utilisation of land are involved, in which case the tax shall be paid by the resident or the user. The land, buildings and installations in question are on a defined harbour area which belongs to Faxaflóahafnir sf. and is leased to the City. The City therefore pays the property tax on the leased land and the properties rented out to ÍG.
- (13) Although none of the agreements include information concerning the value of the services provided by ÍG, the City has provided a table setting out an estimation of ÍG's costs stipulated in the 2005 General Lease Agreement and later amendments (hereafter collectively referred to as 'the rental agreements') from the time when the 2005 General Lease Agreement was concluded and until the end of the lease period in 2018 <sup>(9)</sup>. The estimation was

<sup>(1)</sup> Documents No 716985 and 742948.

<sup>(2)</sup> Document No 716986, page 21.

<sup>(3)</sup> See Document No 716985.

<sup>(4)</sup> Document No 716986, page 25.

<sup>(5)</sup> Document No 716986, page 29.

<sup>(6)</sup> Document No 716986, page 31.

<sup>(7)</sup> Document No 716986, page 33.

<sup>(8)</sup> Document No 716985.

<sup>(9)</sup> Document No 742948.

carried out by the City's expert analysts. Furthermore, the information provided contains the cost of both finished and unfinished demolition projects. According to the information provided, the average monthly cost borne by ÍG is ISK 10 815 624, including the rental fee. The rental fee per month is therefore approximately 25 % of ÍG's total cost per month.

- (14) When the lease agreement dated 22 February 2005 was concluded, SR did not impose any obligations on ÍG. ÍG's obligations were introduced with the 2005 General Lease Agreement of 14 October 2005 and determined in light of the proposed demolitions and estimated costs of cleaning, disposal and supervision of the area. The cleaning and disposal obligations were considered extensive in light of the area's condition. Below is an evaluation of ÍG's costs in accordance with their obligations stipulated in the 2005 General Lease Agreement (1):

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(1) All figures are in ISK.



Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
<b>Soil</b>	10 000 000	10 000 000	10 000 000	10 000 000	5 000 000	4 000 000	4 000 000	4 000 000	4 000 000	4 000 000	4 000 000	4 000 000	4 000 000
<b>Fire alarm</b>	10 000 000	1 000 000	1 000 000	1 000 000	1 000 000	1 000 000	1 000 000	1 000 000	1 000 000	1 000 000	1 000 000	1 000 000	1 000 000
<b>Total obligations</b>	138 393 684	109 393 684	104 893 684	112 593 684	95 394 284	91 594 284	89 394 284	81 894 284	91 494 284	90 494 284	90 494 284	90 494 284	79 894 284
<b>Total ISK</b>	170 763 999	141 763 999	137 263 999	144 963 999	127 764 599	123 964 599	121 764 599	114 264 599	123 864 599	122 864 599	122 864 599	122 864 599	112 264 599
<b>Average per month</b>	14 230 333	11 813 667	11 438 667	12 080 333	10 647 050	10 330 383	10 147 050	9 522 050	10 322 050	10 238 717	10 238 717	10 238 717	9 355 383
<b>Average</b>	<b>10 815 624</b>												

Source: City of Reykjavik.

## 2.3. RECENT DEVELOPMENTS IN THE GUFUNES AREA

- (15) In early 2014 the Reykjavík City Council agreed to establish a steering committee to present a vision for the Gufunes area <sup>(1)</sup>. The committee proposed an open idea competition concerning the future planning of the Gufunes area. At a meeting of the Reykjavík City Council in June 2015 it was agreed to publish an advertisement announcing a competition where interested parties were encouraged to submit ideas about the future organisation of the Gufunes area <sup>(2)</sup>. The City received four ideas following the advertisement. One of those submissions came from RVK Studios, a film production company, which expressed its interest to buy part of the buildings in the Gufunes area with the objective to establish a film industry in the area. The buildings which RVK Studios expressed an interest in purchasing are some of the old Áburðarverksmiðjan properties which were rented out to ÍG through the rental agreements.
- (16) The City and RVK Studios subsequently had two independent real estate agents appraise the part of the Gufunes area in question <sup>(3)</sup>. At a meeting of the City Council on 18 November 2015, the Council agreed to assign the Office of Property Management and Economic to begin negotiations with RVK Studios on the basis of the appraisals <sup>(4)</sup>. Furthermore, the Council assigned the Office to begin negotiations with ÍG on evacuation and possible relocation in accordance to the provisions of the 2005 General Lease Agreement.
- (17) On 19 May 2016, the Reykjavík City Council agreed to enter into an agreement with RVK Studios for the purchase of certain properties in the Gufunes area <sup>(5)</sup>. The City subsequently announced that ÍG would move its operations to the City's new industrial area in Esjumelar <sup>(6)</sup>. On 20 May 2016, the Mayor of Reykjavík and the CEO of ÍG signed agreements concerning the termination of the rental agreements and the relocation of ÍG, and broke ground on ÍG's new premises in Esjumelar. On 27 May 2016, the City signed an agreement with RVK Studios concerning the sale of some of the old Áburðarverksmiðjan properties <sup>(7)</sup>. The size of the properties sold to RVK Studios is 8 400 m<sup>2</sup> and the purchase price was ISK 301 650 000. The City also granted RVK Studios an option for the purchase of an area east of the buildings, totalling 19 200 m<sup>2</sup>. RVK Studios will pay ISK 1 000 per m<sup>2</sup> annually for the option.

## 3. THE COMPLAINT

- (18) According to the complainant, the City has granted unlawful state aid to ÍG through the rent of property and land in the Gufunes area at prices which are below market rates. In its complaint to the Authority, the complainant states that although it is difficult to pinpoint the exact aid amount, the price is clearly far below reasonable market price. Since ÍG is not paying normal market price, the company enjoys a competitive advantage. Furthermore, according to the complainant, the land at Gufunes is of interest for many companies that need spacious land for their operations, for instance transport hubs and storage companies.
- (19) The complainant noted that the rental price was set at ISK 2 million in the 2005 General Lease Agreement, with annual increases in accordance with the consumer price index (the property tax, which is not paid by ÍG, but by the owner of the property, i.e. the City, amounts to 41 % of the yearly rental amount). Furthermore, ÍG has certain maintenance obligations, which are considered as being a part of the rental price, although the approximate costs of those obligations are not to be found in the agreements. Moreover, the rental agreements do not forbid ÍG from subleasing the land to third parties. The complainant stressed that there is no evaluation in the rental agreements concerning the possible income from subletting parts of the property, and whether this affected the rental price.
- (20) The complainant also notes that it is unclear what the price per square meter is and how the rental price was determined. According to the complainant, the market price for the lease of the property should be between ISK 12 and 41 million per month, based on different recognised pricing methodologies. The complainant maintains that the renting of the property to ÍG at a price that is far below market value is contrary to EEA state aid rules.

<sup>(1)</sup> Document No 716985.

<sup>(2)</sup> Announcement available online at: <http://www.hugmyndasamkeppni.is/samkeppnir/gufunes-framtidharskipulag>.

<sup>(3)</sup> Document No 786718.

<sup>(4)</sup> Minutes of the City Council meeting are available online at: <http://reykjavik.is/fundargerð/fundur-nr-5386>.

<sup>(5)</sup> Minutes of the City Council meeting are available online at: <http://reykjavik.is/fundargerð/fundur-nr-5407>.

<sup>(6)</sup> Announcement available online at: <http://reykjavik.is/frettir/islenska-gamafelagid-flytur-esjumela>.

<sup>(7)</sup> Announcement available online at: <http://reykjavik.is/frettir/gengid-fra-kaupum-rvk-studios-fasteignum-undir-kvikmyndaver>.

## 4. GROUNDS FOR INITIATING THE FORMAL INVESTIGATION PROCEDURE

- (21) In Decision No 261/15/COL, the Authority preliminarily assessed whether the agreements concluded between the City and ÍG concerning the lease of the Gufunes area constitute state aid within the meaning of Article 61(1) of the EEA Agreement and, if so, whether the state aid could be considered compatible with the functioning of the EEA Agreement.
- (22) Having assessed the information submitted by the Icelandic authorities, the Authority came to the preliminary conclusion that it could not be excluded that the agreements between the City and ÍG constitute state aid within the meaning of Article 61(1) of the EEA Agreement. The following aspects were identified in Decision No 261/15/COL:
- (i) The State, for the purpose of Article 61(1) EEA, covers all bodies of the state administration, from the central government to the municipality level. Since the land and properties rented to ÍG belonged to the City, any discount on rental price would therefore constitute a transfer of state resources.
  - (ii) The Authority expressed doubts as to whether the City, when entering into the agreements with ÍG, had acted like a private lessor finding itself in a comparable legal and factual situation. The preliminary assessment of the Authority was that an economic advantage in favour of ÍG could not be excluded.
  - (iii) Since no other companies had the opportunity to negotiate with the City for the lease of the land and the properties, it was the Authority's preliminary view that the measures appeared to be selective.
  - (iv) Finally, the Authority noted that any aid granted to ÍG, in the form of discounted rent, would in theory have allowed the company to increase or at least maintain its activities as a result of the aid. The aid was thus liable to limit the opportunities for undertakings established in other Contracting Parties, which might have wanted to compete with ÍG on the Icelandic waste collection market. The aid was thus liable to distort competition and affect trade within the EEA.
- (23) According to the Authority, further evidence was needed in order to determine whether the terms of the rental agreements could be regarded as compatible with the functioning of the EEA Agreement.
- (24) Consequently, the Authority had doubts as to whether the rental agreements between the City and ÍG constituted state aid, and if so, whether they could be found to be compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(c).

## 5. COMMENTS BY THE CITY TO THE OPENING DECISION

- (25) According to the City, the agreements with ÍG do not involve state aid within the meaning of Article 61(1) of the EEA Agreement, since ÍG did not receive an advantage.
- (26) According to the City, the agreements dated 22 February 2005 and 14 October 2005 were entered into on normal market conditions, since the rental fee was based on the rental fee determined following an open advertising process towards the end of the year 2003 and was in line with analyses/estimations conducted by the City's experts.
- (27) The City rejects that the methodologies that the complainant had presented are suitable for determining the market rental price. Instead, the City draws a comparison with the rent of another property, *i.e.* the old State cement factory at Sævarhöfði 31, which is located in an industrial area similar to Gufunes.
- (28) In 2014, the City purchased the Sævarhöfði 31 property. In 2013, Central Public Procurement (*Ríkiskaup*), on behalf of the Icelandic State, advertised the property for rent. When the City purchased the property, it pledged to take the highest bid according to the advertisement. Central Public Procurement received four bids, the highest ISK 420 000 per month, without any special services or obligations set out for the lessee. The property evaluation of the property at Sævarhöfði 31 is ISK 293 028 000. Therefore, the highest rental bid as a percentage of the property evaluation is 0,147 %. By comparison the rental price according to the 2005 General Lease Agreement with ÍG is 0,320 % of the Gufunes property evaluation. The City highlights that the rental price of Sævarhöfði 31 was found after an open advertisement procedure and fairly reflects the market value of industrial areas in the City under normal market conditions. This comparison shows that the rental price paid by ÍG can by no means be considered below the market value of industrial areas in the City, especially bearing in mind that the rental price for Sævarhöfði 31 did not take into account the factors that affected the rental price for the Gufunes area.

- (29) According to the City, the fact that other parties were later interested in the area is of little relevance when assessing the demand for the area at the time when the 2005 General Lease Agreement was concluded, i.e. in October 2005. At that time it was not considered realistic to offer the area for rental purposes. ÍG has carried all the costs of cleaning the area and bringing the buildings to proper conditions. Furthermore, other parties did not show an interest when the area was advertised for rent in 2003. It must therefore be presumed that the late interest is related to the condition of the area after ÍG took over the management of the area.
- (30) According to the City, the highest price is not the only factor that the Authority should take into account when the market economy operator test is applied. Instead, the relevant question is whether a market economy operator would have entered into the transaction in question on the same terms <sup>(1)</sup>. Furthermore, the comparison between the conduct of public and private investors must be made by reference to the attitude which a private investor would have had at the time of the transaction in question, having regard to the available information and foreseeable developments at that time.
- (31) When the agreements were concluded between the City and ÍG the market conditions were not normal as there was no active market to be found for industrial property of this type and in that condition. Therefore, according to the City, normal market conditions must be assessed from objective and verifiable perspective that existed at that time. With reference to the above, the City considers that such information is found in the documents Reykjavik has submitted in this case. Furthermore, if one could demonstrate normal market conditions for industrial areas of this type, the example of the rental price obtained in the year 2014 for the former State cement factory at Sævarhöfði 31 demonstrates the market value for industrial areas such as Gufunes.
- (32) According to the City, the obligations imposed on ÍG by the rental agreements cannot be compared to the obligations in dispute in the case of *Haslemoen Leir* <sup>(2)</sup>. The price reducing obligation disputed in that case concerned a possible loss for Haslemoen AS in not being able to lease out a certain building. However, the obligations imposed on ÍG concerned maintenance work and improvements on the property, demolition, reconnecting pipes for electricity, water and heating and other constructions on the area. The costs of these obligations were estimated by the City's expert analysts based on the results of recent tenders for similar projects. Despite the lack of documentation supporting the precise economic impact of the services entrusted to ÍG and the zoning uncertainty, the Authority must accept that these obligations had the effect of reducing the rental price. According to the City, discarding the impact of the obligations would be unreasonable, especially since the actual costs that ÍG has carried due to the obligations is in accordance to the estimation.
- (33) According to the City, it acted as a market economy operator and took into account zoning considerations when concluding the rental agreements with ÍG. The City included very onerous and short termination clauses to be able to clear the area in a short time, if and when the State agreed to start the construction of Sundabraut highway. SR was thoroughly acquainted with the properties and the area, and was in a good position to make an objective assessment of whether the condition of the area was proper enough so that it could be rented out on the market. A private investor would always pay attention to zoning plans when making decisions regarding the use of plot and properties.
- (34) In light of the above considerations, the City maintains that the rental agreements with ÍG comply with the market economy operator test.

#### 6. COMMENTS FROM ÍG

- (35) According to ÍG, the large size of the land is of very limited benefit for them as a tenant and only makes the maintenance and supervision obligations more cumbersome and costly. Moreover, although the buildings are voluminous in square meters they are in a very bad condition. ÍG highlights that the buildings were indeed bought in order to tear them down. A total demolition was planned and it was foreseen that there would be a residential area and a highway on the site. Therefore, any calculation based on square meters or the size of the land is irrelevant for the purposes of determining the market rental value of the area.
- (36) In 2003, SR had used the area and the buildings in Gufunes to provide storage for various individuals and companies that had been ordered by SR to evacuate other areas in the City. This arrangement soon became problematic for SR, from a logistical point of view, and therefore SR offered ÍG to rent the entire area with the aim of having the area cleaned up. ÍG was very reluctant in the beginning to take on the task as the area presented several problems, such as difficult tenants and a collection of car wrecks and industrial waste.

<sup>(1)</sup> Judgment in *Westdeutsche Landesbank Girozentrale v Commission*, T-228/99 and T-233/99, EU:T.2003:57.

<sup>(2)</sup> See the Authority's Decision No 90/12/COL of 15.3.2012 on the sale of certain buildings at the Inner Camp at Haslemoen Leir, available at: <http://www.eftasurv.int/media/decisions/90-12-COL.pdf>, paragraph 81.

- (37) For the last 10 years, ÍG has spent ISK 16,5 million on average each month in maintenance and other costs that should normally have been borne by a lessor. Those costs must be taken into consideration when assessing the market value of the rent.
- (38) According to ÍG, the conditions of the buildings in the Gufunes area are dire, despite the resources spent on renovations. Almost every building leaks and most of the roofs of the buildings are damaged and useless. Moreover, almost all windows apart from in the office building are damaged and useless, many floors of the buildings are in dangerous conditions and there are holes in some places and stairs that do not fulfil regulatory conditions. In addition, most of the buildings have no water, no toilets, and electricity that does not comply with regulatory measures.
- (39) Furthermore, ÍG has for the largest part of the rental period been faced with the fact that the City could have requested the land back on short notice. The short termination provision of 18 months and the obligation to return part of the land upon request with only 12 months' notice, was a drawback in running a business such as waste disposal, which involves heavy machines and equipment
- (40) According to ÍG, the late interest of the complainant has limited meaning when assessing the demand for the area when the 2005 General Lease Agreement was concluded. The situation in 2005 was such that at that time it was not considered realistic to offer the area for rental purposes. Since then, ÍG has spent considerable resources to renovate, clean up and maintain the area. Therefore it must be presumed that the late interest is related to the condition of the area after ÍG took over the management of the area.
- (41) Finally, ÍG submitted an independent lease assessment, dated 15 October 2015, from 101 Reykjavík Fasteignasala <sup>(1)</sup>. The lease assessment provides an estimate of the value of the 2005 General Lease Agreement in October 2005 based on the value and the condition of the individual properties. The conclusion of the appraiser is that the total monthly rental value of the properties and the area is ISK 1 870 000.

## II. ASSESSMENT

### 1. THE PRESENCE OF STATE AID

- (42) Article 61(1) of the EEA Agreement reads as follows:

'Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States 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 Contracting Parties, be incompatible with the functioning of this Agreement.'

- (43) This implies that a measure constitutes state aid within the meaning of Article 61(1) of the EEA Agreement if the following conditions are cumulatively fulfilled: the measure: (i) is granted by the State or through state resources; (ii) confers a selective economic advantage on the beneficiary; (iii) is liable to affect trade between Contracting Parties and to distort competition.

#### 1.1. NO ADVANTAGE

##### 1.1.1. General

- (44) In the following, the Authority sets out its reasoning for why it has come to the conclusion that the rental agreements do not provide ÍG with an advantage within the meaning of Article 61(1) of the EEA Agreement.
- (45) An advantage, within the meaning of Article 61(1) of the EEA Agreement, is any economic benefit which an undertaking would not have obtained under normal market conditions, *i.e.* in the absence of state intervention, thus placing it in a more favourable position than its competitors <sup>(2)</sup>. If the transaction was carried out under favourable terms, in the sense that ÍG was paying a rent below market price, the company would be receiving an advantage within the meaning of the state aid rules.

<sup>(1)</sup> Document No 778453.

<sup>(2)</sup> Judgment in *SFEI and Others*, C-39/94, ECLI:EU:C:1996:285, paragraph 60, and judgment in *Spain v Commission*, C-342/96, ECLI:EU:C:1999:210, paragraph 41.



- (46) To examine this question, the Authority applies the ‘*market economy operator*’ (‘MEO’) test whereby the conduct of states or public authorities when selling or leasing assets is compared to that of private economic operators <sup>(1)</sup>.
- (47) The purpose of the MEO test is to assess whether the State has granted an advantage to an undertaking by not acting like a private market economy operator with regard to a certain transaction, e.g. the sale or lease of assets <sup>(2)</sup>. The public authority must disregard public policy objectives and instead focus on the single objective of obtaining a market rate of return or profit on its investments and a market price for the sale or lease of assets <sup>(3)</sup>. The Authority notes, however, that this assessment normally must take into account any special rights or obligations attached to the asset concerned, in particular those that could affect the market value.
- (48) Compliance with market conditions, and whether the agreed price in a transaction corresponds to market price, can be established through certain proxies. Organising an open, transparent and unconditional bidding procedure is generally an appropriate means to ensure that the sale or lease by national authorities of assets is consistent with the MEO test and that a fair market value has been paid for the goods and services in question. However, this does not automatically mean that the absence of an orderly bidding procedure or a possible flaw in such a procedure justifies a presumption of state aid. The Authority can also rely on other proxies, including expert valuations.

#### 1.1.2. The absence of a competitive procedure

- (49) In light of the above consideration, the Authority must first examine whether the City organised a tender procedure, adequate and well-suited to establish a market price <sup>(4)</sup>. However, in this case it has been confirmed that no public tendering was initiated regarding the area in question. Additionally, an independent valuation was not performed in advance of the 2005 General Lease Agreement.
- (50) The City has nevertheless highlighted that the various existing rental agreements in the area, which were concluded following open advertisements in the Icelandic media in 2003, were considered when determining the rent in the 2005 General Lease Agreement with ÍG. However, the Authority considers that these advertisements were merely calls for interest and would not constitute an open and competitive bidding procedure. Moreover, they did not concern the area in its entirety, offered for lease to one tenant, but rather individual properties within that area.
- (51) The Authority therefore concludes that this advertisement procedure does not meet the requirements of the MEO test. Accordingly, this procedure cannot provide a reliable proxy for establishing the market price for the lease right in question.

#### 1.1.3. Expert valuation of the rental value

- (52) As stated above, the absence of a sufficient tender process does not exclude the possibility of the Authority applying the MEO test. However, the Authority needs to examine the substance of the transaction in question, and in particular compare the agreed price to the market price. For this purpose, the Authority normally refers to an independent expert valuation study as a proxy for the market price. Such a study should ideally be prepared at the time of the transaction. However, the Authority can also rely on an *ex post* valuation study in its assessment <sup>(5)</sup>.
- (53) The City has stated that there are several issues that affect the market rental price for the Gufunes area. Firstly, the buildings and installations were in poor shape, some tenants were not paying rent and there had been accumulation of scrap which needed clean-up. Secondly, uncertainty has reigned concerning the zoning plans for

<sup>(1)</sup> For the application of the MEO test, see Case E-12/11 *Asker Brygge* [2012] EFTA Ct. Rep. 536 and judgment in *Land Burgenland and Others v Commission*, C-214/12 P, C-215/12 P and C-223/12 P, EU:C:2013:682. These cases concern the sale of an outright property right in land. However, they also provide guidance for the sale of other rights in land, including the lease right in the present case.

<sup>(2)</sup> See the Authority’s Guidelines on the notion of State aid as referred to in Article 61(1) of the EEA Agreement, paragraph 133. Available at: <http://www.eftasurv.int/media/esa-docs/physical/EFTA-Surveillance-Auhtority-Guidelines-on-the-notion-of-State-aid.pdf>.

<sup>(3)</sup> Judgment in *Land Burgenland and Others v Commission*, C-214/12 P, C-215/12 P and C-223/12 P, EU:C:2013:682.

<sup>(4)</sup> EFTA Surveillance Authority Decision No 61/16/COL to close the formal investigation into potential aid through the lease of an optical fibre previously operated on behalf of NATO, not yet published, available online at: <http://www.eftasurv.int/media/esa-docs/physical/061-16-COL.pdf>, paragraph 80.

<sup>(5)</sup> Case E-12/11 *Asker Brygge* [2012] EFTA Ct. Rep. 536, paragraph 81 and EFTA Surveillance Authority Decision No 61/16/COL to close the formal investigation into potential aid through the lease of an optical fibre previously operated on behalf of NATO, not yet published, paragraph 88.

the Gufunes area. Industrial activity is retreating in the area according to previous and current Municipal Plans and the City is therefore unable to conclude a long term rental agreement for the property. Thirdly, ÍG has the obligation to return part of the land upon request upon 12 months' notice and the notice period for the entire area, including the buildings, was as short as 18 months.

- (54) As previously noted, the City had two independent real estate agents appraise the value of the properties and the lease rights when they conducted their negotiations with RVK Studios for the sale of the buildings in the Gufunes area. Although these independent assessment do not directly concern the market rental price for the properties, they do confirm the bad state of the properties and their market value. Both the independent appraisers highlight that the buildings leak, are insufficiently isolated, contain considerable industrial waste from the time the land was occupied by a fertiliser company, and are generally run down. In addition, some of the buildings contain asbestos, and others need to be torn down.
- (55) As previously noted, the City has also provided a comparison with a similar industrial property located at Sævarhöfði 31. The property was advertised for rent by Central Public Procurement and the highest of four bids, worth ISK 420 000 per month, was accepted. This rental agreement did not include any special services or obligations to be carried out by the lessee. The highest rental bid as a percentage of the property valuation is 0,147 % whereas the rental price according to the 2005 General Lease Agreement with ÍG is 0,320 % of the Gufunes area property valuation.
- (56) Moreover, 101 Reykjavík Fasteignasala has conducted an independent valuation of the 2005 General Lease Agreement <sup>(1)</sup>. The valuation is dated 15 October 2015. It is based on the value and the state of the individual properties, which were individually assessed and scrutinised. The valuation looks at the conditions of the properties and the area at the time the General Lease Agreement was concluded in 2005 as well as the prevailing market conditions then. The conclusion of the appraiser is that the total monthly rental value of the properties was ISK 1 870 000 in October 2005. However, in accordance with the 2005 General Lease Agreement the monthly rental fee for ÍG was set at ISK 2 000 000, recalculated monthly in accordance with the consumer price index <sup>(2)</sup>. The fee paid monthly by ÍG is thus higher than the market rental price according to the expert valuation.
- (57) Having taken into account all of the above, the Authority considers that the 2005 General Lease Agreement was not entered into below market price.
- (58) Finally, the Authority notes that neither the comparison to the property located at Sævarhöfði 31 nor the valuation prepared by 101 Reykjavík Fasteignasala take into account the special obligations contained in the rental agreements, in particular the short notice period (which has now been evoked) and the various maintenance obligations. The financial impact of these obligations on the rental price are difficult to quantify. However, they inherently favour the City at the expense of ÍG, further comforting the Authority's conclusion that the 2005 General Lease Agreement was concluded on market terms.
- (59) In light of the above, the Authority concludes that ÍG did not receive an economic advantage from the rental agreements.

## 2. CONCLUSION

- (60) Based on the above assessment, the Authority considers that the rental agreements concluded between the City and ÍG concerning the lease of the Gufunes area do not entail state aid within the meaning of Article 61(1) of the EEA Agreement.

HAS ADOPTED THIS DECISION:

### *Article 1*

The rental agreements concluded between the City of Reykjavík and Íslenska Gámafélagið concerning the lease of the Gufunes area do not constitute state aid within the meaning of Article 61(1) of the EEA Agreement. The formal investigation is hereby closed.

<sup>(1)</sup> Document No 778453.

<sup>(2)</sup> Document No 716986, page 25.

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*Article 2*

This Decision is addressed to Iceland.

*Article 3*

Only the English language version of this decision is authentic.

Done in Brussels, on 26 April 2017.

*For the EFTA Surveillance Authority*

Sven Erik SVEDMAN

*President*

Frank J. BÜCHEL

*College Member*

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