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⁽¹⁾ Text with EEA relevance.

EN

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⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

Information concerning the extension of the Grains Trade Convention (1995)

At its 45th session (London, 5 June 2017), the International Grains Council decided to extend the Grains Trade Convention (1995) ⁽¹⁾ for a period of 2 years until 30 June 2019.

⁽¹⁾ OJ L 21, 27.1.1996, p. 49.

Information concerning the extension of the International Sugar Agreement (1992)

At its 52nd session (London, 1 December 2017), the International Sugar Council decided to extend the International Sugar Agreement (1992) ⁽¹⁾ for a period of two years until 31 December 2019.

⁽¹⁾ OJ L 379, 23.12.1992, p. 16.

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2018/63

of 26 September 2017

amending Delegated Regulation (EU) 2017/571 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/65/EU of 15 May 2014 of the European Parliament and of the Council on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU⁽¹⁾, and in particular Article 65(8)(c) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2017/571⁽²⁾ sets out the organisational requirements for data reporting services providers, including consolidated tape providers (CTPs) for equity instruments. Since the details specifying the publication arrangements for the consolidated tape for non-equity instruments, such as bonds, structured finance products, emission allowances and derivatives are closely linked to the provisions of Delegated Regulation (EU) 2017/571, it is appropriate to also specify the scope of the consolidated tape for non-equity instruments in the same Delegated Regulation and therefore to amend Delegated Regulation (EU) 2017/571.
- (2) In order to establish a framework that provides commercial incentives for operating a consolidated tape for non-equity instruments, CTPs should be allowed to operate a consolidated tape covering only one asset class or several asset classes.
- (3) CTPs should ensure that they publish the required information on transactions covering at least 80 per cent of the total volume and number of transactions published in the preceding six months for each relevant asset class by approved publication arrangements (APAs) and trading venues. This approach ensures that CTPs publish information that is of significance from a user perspective while avoiding high costs stemming from including all information published by all APAs and all trading venues.
- (4) CTPs should be allowed sufficient time to meet the coverage ratios set out in this Regulation in case they need to add new trading venues and APAs to their data stream.
- (5) For reasons of consistency and a smooth functioning of the financial markets, it is necessary that the provisions relating to non-equity CTPs and the national provisions transposing Directive 2014/65/EU apply from the same date. To ensure a smooth transition to the new regime, it is necessary that the first period for determining the coverage ratios to be reached by the CTP covers the period starting from 1 January 2019.
- (6) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.

⁽¹⁾ OJ L 173, 12.6.2014, p. 349.

⁽²⁾ Commission Delegated Regulation (EU) 2017/571 of 2 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers (OJ L 87, 31.3.2017, p. 126).

- (7) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based and requested the opinion of the Securities and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽¹⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2017/571 is amended as follows:

- (1) the following Article 15a is inserted:

'Article 15a

Scope of the consolidated tape for bonds, structured finance products, emission allowances and derivatives

1. A CTP shall include in its electronic data stream the data of one or more of the following asset classes:

- (a) bonds, excluding exchange traded commodities (ETCs) and exchange traded notes (ETNs);
- (b) ETC and ETNs bond types;
- (c) structured finance products;
- (d) securitised derivatives;
- (e) interest rate derivatives;
- (f) foreign exchange derivatives;
- (g) equity derivatives;
- (h) commodity derivatives;
- (i) credit derivatives;
- (j) contracts for differences;
- (k) C10 derivatives;
- (l) emission allowance derivatives;
- (m) emission allowances.

2. A CTP shall include in its electronic data stream the data made public pursuant to Articles 10 and 21 of Regulation (EU) No 600/2014 that meet both of the following coverage ratios:

- (a) the number of transactions published by a CTP in an asset class listed in paragraph 1 represents at least 80 % of the total number of transactions in the relevant asset class published in the Union by all APAs and all trading venues during the assessment period referred to in paragraph 3;
- (b) the volume of transactions published by a CTP in an asset class listed in paragraph 1 represents at least 80 % of the total volume of transactions in the relevant asset class published in the Union by all APAs and all trading venues during the assessment period referred to in paragraph 3.

For the purposes of point (b), the volume of transactions shall be determined in accordance with the measure of volume specified in Table 4 of Annex II to Commission Delegated Regulation (EU) 2017/583 (*).

⁽¹⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

3. A CTP shall assess the coverage ratios set out in paragraph 2 every six months, based on data covering the preceding 6 months. The assessment periods shall start on 1 January and 1 July each year. The first period shall cover the first six months of the year 2019.

4. A CTP shall ensure that it reaches the minimum coverage ratios set out in paragraph 2 as soon as possible, and in any case not later than:

(a) 31 January of the calendar year following the period covering 1 January to 30 June;

(b) 31 July of the calendar year following the period covering 1 July to 31 December.

(*) Commission Delegated Regulation (EU) 2017/583 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives (OJ L 87, 31.3.2017, p. 229).;

(2) Article 21 is replaced by the following:

'Article 21

Entry into force and application

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

It shall apply from 3 January 2018.

However, Article 15a(4) shall apply from 1 January 2019 and Articles 14(2), 15(1), (2) and (3), and 20(b) shall apply from 3 September 2019.'

Article 2

Entry into force and application

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, 26 September 2017.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION DELEGATED REGULATION (EU) 2018/64**of 29 September 2017****supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to specifying how the criteria of Article 20(1)(c)(iii) are to be applied for assessing whether certain events would result in significant and adverse impacts on market integrity, financial stability, consumers, the real economy or the financing of households and businesses in one or more Member States****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014⁽¹⁾, and in particular Article 20(6)(c) thereof,

Whereas:

- (1) In view of the general nature of the qualitative condition of Article 20(1)(c)(iii) of Regulation (EU) 2016/1011 and the need to ensure a consistent application by competent authorities of that condition, it is appropriate to set out how, in the context of critical benchmarks, (i) the cessation of the provision of a benchmark, or (ii) the provision of a benchmark on the basis of input data which are no longer fully representative of the underlying market or economic reality, or (iii) the provision of a benchmark on the basis of unreliable input data, could have a significant and adverse impact on market integrity, financial stability, consumers, the real economy, or the financing of households and businesses in one or more Member States.
- (2) Critical benchmarks are often used in Member States other than the Member State where they are provided and are used in different ways, depending on the Member State in which they are used. Therefore there is potential for significant impact in either one or more Member States or at Union level. Similarly, there is potential for significant adverse impact with regard to only one or more of the criteria referred to in Article 20(1)(c)(iii) It is therefore important to conduct the assessment both at national or market level as well as at Union level.
- (3) Regulation (EU) 2016/1011 lists five areas where significant adverse impacts might arise. While market integrity focuses on the market for a specific financial product, financial stability refers to the financial system of a Member State or the Union as a whole. Consumers are primarily impacted through the financial instruments and investment funds, including pension funds, they have invested in and the financial contracts they have signed which reference the critical benchmark in question. The potential impact on the real economy is directly related to the value of financial instruments, financial contracts and investment funds that reference that benchmark. The potential impact on the financing of households and businesses is likely to increase with the value of outstanding loans relative to the size of the economy. Consumers and the financing of households and businesses are more vulnerable to adverse impacts where the overall level of indebtedness of households and businesses is high,

HAS ADOPTED THIS REGULATION:

*Article 1***Assessment by competent authorities**

1. Competent authorities shall assess whether there is a significant and adverse impact on market integrity, financial stability, consumers, the real economy or the financing of households and businesses in one or more Member States, as referred to in Article 20(1)(c)(iii) of Regulation (EU) 2016/1011, in accordance with the criteria referred to in Articles 2, 3, 4, 5 and 6.
2. Where competent authorities expect that such a significant and adverse impact shall occur in more than one Member State, they shall perform a separate assessment for each Member State concerned, as well as a general assessment for all Member States.

⁽¹⁾ OJ L 171, 29.6.2016, p. 1.

*Article 2***Significant and adverse impact on market integrity**

Competent authorities shall assess whether there is a significant and adverse impact on market integrity in accordance with the following criteria:

- (a) the value of financial instruments that reference the benchmark, either directly or indirectly within a combination of benchmarks, and that are traded on trading venues in the Member States in question, both in absolute terms and relative to the total value of financial instruments that are traded on trading venues in those Member States;
- (b) the value of financial contracts that reference the benchmark, either directly or indirectly within a combination of benchmarks, in the Member States in question, both in absolute terms and relative to the total value of financial contracts outstanding in the Member States considered;
- (c) the value of investment funds referencing the benchmark for measuring their performance, either directly or indirectly within a combination of benchmarks, in the Member States considered, both in absolute terms and relative to the total value of investment funds authorised or notified for marketing in those Member States;
- (d) whether the benchmark has been nominated, in accordance with Article 28(2) of Regulation (EU) 2016/1011, as a potential substitute for, or has already been used as a successor to, other benchmarks that are included in the list of critical benchmarks referred to in Article 20(1) of Regulation (EU) 2016/1011;
- (e) with reference to standards for accounting purposes or other regulatory purposes:
 - (i) whether the benchmark is used as a reference for prudential regulation such as capital, liquidity or leverage requirements;
 - (ii) whether the benchmark is used in international accounting standards.

*Article 3***Significant and adverse impact on financial stability**

Competent authorities shall assess whether there is a significant and adverse impact on financial stability in accordance with the following criteria:

- (a) the value of financial instruments, financial contracts and investment funds that reference the benchmark, either directly or indirectly within a combination of benchmarks, in the Member States in question, both in absolute terms and relative to:
 - (i) the total assets of the financial sector in those Member States;
 - (ii) the total assets of the banking sector in those Member States;
- (b) the vulnerability of financial institutions having signed or invested in financial instruments, financial contracts and investment funds that reference the benchmark.

*Article 4***Significant and adverse impact on consumers**

Competent authorities shall assess whether there is a significant and adverse impact on consumers in accordance with the following criteria:

- (a) with reference to financial instruments and investment funds offered to consumers:
 - (i) the value of the financial instruments and investment funds referencing the benchmark, either directly or indirectly within a combination of benchmarks, sold to retail consumers in the Member States in question, both in absolute terms and relative to the total value of financial instruments and investment funds sold to retail investors in those Member States;
 - (ii) an estimate of the number of consumers who have bought financial instruments and investment funds referencing the benchmark, either directly or indirectly within a combination of benchmarks, in the Member States in question, both in absolute terms and relative to the total population in those Member States;

- (b) with reference to institutions for occupational retirement provision:
 - (i) the value of the pension schemes referencing the benchmark which are operated by institutions for occupational retirement provision in the Member States in question, both in absolute terms and relative to the total value of the pension schemes operated by institutions for occupational retirement provision in those Member States;
 - (ii) an estimate of the number of consumers participating in institutions for occupational retirement provision operating pension schemes referencing the benchmark in the Member States in question, both in absolute terms and relative to the total population in those Member States;
 - (iii) an assessment of the importance of the institutions for occupational retirement provision operating pension schemes referencing the benchmark for the retirement income of citizens of the Member States;
- (c) with reference to credit agreements for consumers:
 - (i) the value of credit agreements for consumers referencing the benchmark in the Member States in question, both in absolute terms and relative to the total value of the credit agreements for consumers in those Member States;
 - (ii) an estimate of the number of consumers that have subscribed credit agreements for consumers referencing the benchmark in the Member States in question, both in absolute terms and relative to the total population in those Member States;
 - (iii) the degree of indebtedness of consumers in the Member States in question.

Article 5

Significant and adverse impact on the real economy

Competent authorities shall assess whether there is a significant and adverse impact on the real economy by taking into account the value of financial instruments, financial contracts and investment funds that reference the benchmark, either directly or indirectly within a combination of benchmarks, in the Member States in question, both in absolute terms and relative to the gross national product of those Member States.

Article 6

Significant and adverse impact on the financing of households and businesses

Competent authorities shall assess whether there is a significant and adverse impact on the financing of households and businesses in one or more Member States in accordance with the following criteria:

- (a) the value of loans to households and non-financial corporates referencing the benchmark in the Member States in question, both in absolute terms and relative to the total value of loans to households or non-financial corporates in those Member States;
- (b) an estimate of the number of households that have subscribed loans referencing the benchmark in the Member States in question, both in absolute terms and relative to the total number of households in those Member States;
- (c) an estimate of the number of non-financial corporates that have subscribed loans referencing the benchmark in the Member States in question, both in absolute terms and relative to the total number of non-financial corporates in those Member States;
- (d) the degree of indebtedness of households and companies in the Member States in question.

Article 7

Entry into force

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

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

Done at Brussels, 29 September 2017.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION DELEGATED REGULATION (EU) 2018/65**of 29 September 2017****supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council specifying technical elements of the definitions laid down in paragraph 1 of Article 3 of the Regulation****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 ⁽¹⁾, and in particular Article 3(2) thereof,

Whereas:

- (1) According to the Regulation (EU) 2016/1011 a figure, in order to be considered as an 'index', must be published or made available to the public. The definition of an index is, in turn, the basis for the definition of a benchmark, as referred to in Regulation (EU) 2016/1011.
- (2) It is therefore necessary to specify in which situations a figure is considered to be made available to the public in order to avoid regulatory arbitrage across the jurisdictions in the Union.
- (3) The entity of the provider of the figure should not be considered to form the public for the purpose of Regulation (EU) 2016/1011 as otherwise there would not be any difference between 'making available' and 'making available to the public'. For the same reasons, a narrowly defined number of recipients should not qualify as the public either.
- (4) A figure should be considered to be made available to the public where it can be accessed by a wider group of persons directly or indirectly. The use of a benchmark providing the user access to the referenced figure should constitute indirect access.
- (5) The making available of a figure can take place in various forms at the same time or subsequently, through the provider of the figure or through the passing on of the figure by any of the primary recipients.
- (6) In order to ensure that the definition of 'provision of a benchmark' is applied in a uniform manner it is appropriate to specify that administering the arrangements for determining a benchmark, as referred to in Article 3(1)(5)(a), involves the ongoing management of the benchmark provision and the setting, adaptation and ongoing maintenance of the methodology,

HAS ADOPTED THIS REGULATION:

*Article 1***Making available to the public**

1. A figure shall be considered to be made available to the public for the purposes of Regulation (EU) 2016/1011 where the figure is made accessible to a potentially indeterminate number of legal and natural persons other than the index provider or other than a determined number of recipients connected or related to the index provider
2. A figure is made available to the public where it may be accessed by such persons either directly or indirectly as a result, inter alia, of its use by one or more supervised entities as a reference for a financial instrument it issues or to determine the amount payable under a financial instrument or a financial contract, or to measure the performance of an investment fund, or to provide a borrowing rate calculated as a spread or mark-up over such figure.

⁽¹⁾ OJ L 171, 29.6.2016, p. 1.

3. Access may take place through a variety of media and modalities, set out by the provider or agreed between the provider and the recipients, free of charge or upon payment of a fee, including, but not limited to, telephone, file transfer protocol, internet, open access, news, media, through financial instruments, financial contracts or investment funds referencing the figure or by way of request to the users.

Article 2

Administering the arrangements for determining a benchmark

For the purposes of Regulation (EU) 2016/1011, administering the arrangements for the determination of a benchmark shall include both of the following:

- (a) the ongoing management of the provider's structures and of its personnel that are involved in the determination process of a benchmark;
- (b) the setting, adaptation and ongoing maintenance of a specific methodology for determining a benchmark.

Article 3

Entry into force

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

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

Done at Brussels, 29 September 2017.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION DELEGATED REGULATION (EU) 2018/66**of 29 September 2017****supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council specifying how the nominal amount of financial instruments other than derivatives, the notional amount of derivatives and the net asset value of investment funds are to be assessed****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 ⁽¹⁾, and in particular Article 20(6)(a) thereof,

Whereas:

- (1) The total value of financial instruments, financial contracts or investment funds referencing a benchmark is a key criterion for the categorisation of that benchmark, in accordance with Regulation (EU) 2016/1011, as critical, significant or non-significant. It is therefore necessary that the nominal amount of financial instruments other than derivatives, the notional amount of derivatives and the net asset value of investment funds are calculated in the same manner across the Union, so that a consistent categorisation of benchmarks in the Member States and a uniform application of Regulation (EU) 2016/1011 is ensured.
- (2) To ensure reliability of benchmarks, the nominal amount of financial instruments, the notional amount of derivatives and the net asset value of investment funds should therefore be calculated using regulatory data where available.
- (3) The total value of financial instruments, financial contracts or investment funds should be calculated by taking into account both direct references to those financial instruments, financial contracts or investment funds and indirect references to a benchmark within a combination of benchmarks. Where a financial instrument, a financial contract or an investment fund references a number of benchmarks, it is appropriate to take this multiple referencing into account in the calculation of the total value of the financial instruments, financial contracts and investment funds referencing a benchmark as these financial products are not solely depending on that benchmark. The calculation of the total value in the case of indirect references therefore needs to be specified in order to be directly applicable and measured consistently across the Union,

HAS ADOPTED THIS REGULATION:

*Article 1***Nominal amount of financial instruments other than derivatives and units in collective investment undertakings**

The nominal amount of financial instruments other than derivatives and units in collective investment undertakings shall be the total issued nominal amount in monetary value referred to in Table 3, Field 14, of the Annex to Commission Delegated Regulation (EU) 2017/585 ⁽²⁾.

⁽¹⁾ OJ L 171, 29.6.2016, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) 2017/585 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the data standards and formats for financial instrument reference data and technical measures in relation to arrangements to be made by the European Securities and Markets Authority and competent authorities (OJ L 87, 31.3.2017, p. 368).

*Article 2***Notional amount of derivatives**

The notional amount of derivatives, referred to in Article 20(6)(a) of Regulation (EU) 2016/1011, shall be the notional value referred to in Table 2, Field 20, of the Annex to Commission Delegated Regulation (EU) 2017/104 ⁽¹⁾. However, where that notional value is negative, the notional value shall be equal to the absolute value.

For credit derivative index transactions, an indexation factor derived from Table 2, Field 89 of the Annex to Delegated Regulation (EU) 2017/104 shall be applied to the notional value.

*Article 3***Net asset value of collective investment undertakings**

The net asset value of collective investment undertakings referred to in Article 20(6)(a) of Regulation (EU) 2016/1011, shall be either of the following:

- (a) for collective investment undertakings subject to Directive 2009/65/EU of the European Parliament and of the Council ⁽²⁾: the net asset value per unit reported in the most recent annual or half-yearly report referred to in Article 68(2) of that Directive, multiplied by the number of units;
- (b) for collective investment undertakings subject to Directive 2011/61/EU of the European Parliament and of the Council ⁽³⁾: the latest available net asset value referred to in Article 104(1)(c) of Commission Delegated Regulation (EU) No 231/2013 ⁽⁴⁾.

*Article 4***Use of alternative amounts and values**

Where the amounts or values for the calculation of the total value of financial instruments, financial contracts, or investment funds referencing the benchmark referred to in Articles 1, 2 and 3, are not available or are incomplete, the total value referred to in Article 20(1)(a) of Regulation (EU) 2016/1011 and the total average value referred to in Article 24(1)(a) of that Regulation shall be calculated by using alternative amounts or values, including proxies and amounts or values reported by private providers of information or open interest data calculated and published by market operators, provided that those proxies and amounts or values are of sufficient repute and are sufficiently reliable.

An administrator using alternative amounts or data shall calculate the total amount on a best effort basis and to the best of its ability, based on the available data.

An administrator using alternative amounts or data shall provide the competent authority with a written specification of the data sources used when notifying that competent authority in accordance with Article 24(3) of Regulation (EU) 2016/1011.

*Article 5***Currency**

The amounts and values referred to in Articles 1, 2 and 3 shall be expressed in euros. Where necessary, the amounts or values shall be converted using the daily euro foreign exchange reference rate published by the European Central Bank.

⁽¹⁾ Commission Delegated Regulation (EU) 2017/104 of 19 October 2016 amending Delegated Regulation (EU) No 148/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories (OJ L 17, 21.1.2017, p. 1).

⁽²⁾ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

⁽³⁾ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

⁽⁴⁾ Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision (OJ L 83, 22.3.2013, p. 1).

*Article 6***Indirect reference to a benchmark within a combination of benchmarks**

Where a benchmark is used indirectly within a combination of benchmarks, the amounts or values for the purpose of the thresholds referred to in Article 20(1) and Article 24(1)(a) of Regulation (EU) 2016/1011 shall be either of the following:

- (a) the benchmark's weight, in percentage terms, within the combination of benchmarks, multiplied by the total amount or value or average value, as applicable, of the financial instrument or investment fund in question, where that weight is clearly specified or can be approximated on the basis of other available information;
- (b) the total amount or value or average value, as applicable, of the financial instrument or investment fund in question divided by the number of benchmarks within the combination of benchmarks, where the actual weight of the benchmark is not specified or cannot be approximated.

*Article 7***Entry into force**

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

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

Done at Brussels, 29 September 2017.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION DELEGATED REGULATION (EU) 2018/67**of 3 October 2017****supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to the establishment of the conditions to assess the impact resulting from the cessation of or change to existing benchmarks****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 ⁽¹⁾, and in particular Article 51(6) thereof,

Whereas:

- (1) To ensure that competent authorities apply Article 51(4) of Regulation (EU) 2016/1011 in the same manner, it is appropriate to set out in detail under which conditions the competent authorities may conclude that the cessation or changing of an existing benchmark could result in a force majeure event, or could frustrate or otherwise breach the terms of a financial contract or financial instrument, or the rules of an investment fund, referencing an existing benchmark.
- (2) This is in particular the case in the event of a 'force majeure', a term which is interpreted in a different manner across the Member States.
- (3) A significantly different value in the index is a major cause of frustration or breach of the terms of any financial contract or financial instrument or the rules of any investment fund, referencing a benchmark. Those significantly different values can be caused by a sudden discontinuity in time series of the index or a different degree of volatility of the index, which in turn can be caused by changes to the methodology for the provision of the benchmark or to the input data on which the benchmark calculation is based. Competent authorities should assess the potential impacts of such changes on a case-by-case basis since the magnitude of the discontinuity or the extent of the change in the volatility of the index depends very much on the nature of the benchmark and of the referencing financial instruments, financial contracts or investment funds.
- (4) Changes to the type of input data used or the reliability of data sources can have an impact on the suitability of a benchmark for certain types of use. Competent authorities should therefore assess whether those changes could cause a force majeure event, or frustrate or otherwise breach contractual terms.
- (5) Force majeure events, the frustration or other breaches of contractual terms are less likely where there is an acceptable substitute benchmark or at least a procedure referenced in the relevant documents to select such a substitute benchmark.
- (6) Indices measuring very particular markets might rely significantly on the reputation, judgement or expertise of the index provider. Competent authorities should therefore assess whether, in those circumstances, a change of the provider of an index could result in a force majeure event, or frustrate or otherwise breach contractual terms,

⁽¹⁾ OJ L 171, 29.6.2016, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

Conditions for assessment

1. A competent authority shall, for the purpose of Article 51(4) of Regulation (EU) 2016/1011, take into account the following conditions when assessing whether the cessation of or the changing of a benchmark that does not meet the requirements of that Regulation would result in a force majeure event, or would frustrate or otherwise breach the terms of any financial contract or financial instrument or the rules of any investment fund which references that benchmark:
 - (a) changing the benchmark would require a material change to the nature of the input data, to the methodology to determine those data, to the data gathering process itself or to other elements of the benchmark provision, which would lead to a significantly different value of the benchmark;
 - (b) changing the nature of the input data or the methodology to determine those data in order to make the benchmark compliant with Regulation (EU) 2016/1011 would undermine the representativeness of the benchmark of the market or the economic reality the benchmark is intended to measure, ultimately causing a change in the nature of the benchmark;
 - (c) there is no substitute benchmark for the benchmark that does not meet the requirements of Regulation (EU) 2016/1011 which:
 - (i) meets the requirements of Regulation (EU) 2016/1011;
 - (ii) measures the same market or the same economic reality;
 - (iii) is either included in the public register referred to in Article 36 of Regulation (EU) 2016/1011 or is provided by an administrator included in that register;
 - (d) existing financial contracts, financial instruments and investment funds referencing the benchmark, and their accompanying documents, do not provide for a substitute benchmark or do not contain rules on how such a substitute benchmark shall be determined or any other appropriate contingency measures;
 - (e) the transitioning of the benchmark from one administrator to another administrator would lead to a substantial change in the benchmark.
2. The conditions of paragraph 1 shall be applied on a case-by-case basis.

Article 2

Entry into force

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

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

Done at Brussels, 3 October 2017.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2018/68**of 8 January 2018****entering a name in the register of protected designations of origin and protected geographical indications ('Carne de Salamanca' (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 ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Spain's application to register the name 'Carne de Salamanca' was published in the *Official Journal of the European Union* ⁽²⁾.
- (2) No statement of objection has been received by the Commission under Article 51 of Regulation (EU) No 1151/2012; however, the German authorities have informed the Commission that the meat types defined in the Single Document needed further clarifications concerning the classification of bovine animals. At the request of the Commission, the Spanish authorities have amended point 3.2 of the single document and have clarified the product description for the types of meat.
- (3) As this amendment is formal in nature, there is no need to republish the application for registration within the meaning of Article 50(2)(a) of Regulation (EU) No 1151/2012; nonetheless, the amended Single Document should be published for information purposes.
- (4) Accordingly, the name 'Carne de Salamanca' should be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name 'Carne de Salamanca' (PGI) is hereby entered in the register.

The name specified in the first paragraph denotes a product in Class 1.1. Fresh meat (and offal), as listed in Annex XI to Commission Implementing Regulation (EU) No 668/2014 ⁽³⁾.*Article 2*

The amended Single Document shall be published for information purposes in the Annex to this Regulation.

*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*.⁽¹⁾ OJ L 343, 14.12.2012, p. 1.⁽²⁾ OJ C 435, 24.12.2015, p. 12.⁽³⁾ 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, 8 January 2018.

*For the Commission,
On behalf of the President,
Phil HOGAN
Member of the Commission*

ANNEX

SINGLE DOCUMENT

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 (*)

'CARNE DE SALAMANCA'

EC No: ES-PGI-0005-01174 — 8.11.2013

PDO () PGI (X)

1. NAME

'Carne de Salamanca'

2. MEMBER STATE OR THIRD COUNTRY

Spain

3. DESCRIPTION OF THE AGRICULTURAL PRODUCT OR FOODSTUFF

3.1. Type of product

Class 1.1. Fresh meat and offal

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

The cattle used for producing the meat covered by this Protected Geographical Indication are pure-bred animals obtained from breeding females of the *Morucha* breed or from crossing breeding females of the *Morucha* breed with bulls from the Charolais and Limousin breeds, weaned at a minimum age of 5 months and raised using the extensive farming system on the basis of techniques and practices exploiting natural resources.

With regard to the animals' age before slaughter, a distinction is made between the following types of animals:

- Calf: an animal intended for slaughter aged at least 8 months but less than 12 months, category Z,
- Baby-beef ('añojo'): an animal intended for slaughter aged at least 12 months and up to 24 months, categories A and E,
- Young bull or heifer: an animal intended for slaughter aged more than 24 months and up to 48 months, categories B and E.

The minimum maturation period for the meat, counting from the day of slaughter, is 2 days for the calf meat, 4 days for the baby-beef ('añojo') meat and 6 days for the young bull or heifer meat.

The carcass conformation spans the classes U, R and O.

The minimum carcass weight, which varies depending on the category of animal, is:

- 140 kg for calves
- 200 kg for baby beef
- 280 kg for young bulls or heifers.

The degree of fat on the carcass exterior and on the inside of the thoracic cavity must be 2 ('slight') in all cases.

24 hours after slaughter, the meat's pH (as measured from the dorsal muscle along the carcass) must be 6 or under.

(*) OJ L 93, 31.3.2006, p. 12. Replaced by Regulation (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs.

After slaughter, cutting and maturing, the fresh meat covered by the PGI has the following characteristics:

- Calf: the meat is smooth, varying from pink to light red in colour, with white fat, firm to the touch,
- Baby beef ('añojo'): The meat is glossy and light red to cherry red in colour, with the fat varying from cream to yellowish in colour and firm to the touch,
- Young bull or heifer: the meat is smooth and deep cherry red to purple-red in colour, with creamy or yellowish fat, firm to the touch.

3.3. Raw materials (for processed products only)

—

3.4. Feed (for products of animal origin only)

As the mothers are not stabled, all year long their feed is based on grazing on the grasslands and stubble fields of the *dehesa* [pasturelands], supplemented by hay and straw from the owner's holding in times when natural resources are scarce.

In spring, the animals feed on the abundant grasslands where they are kept. In summer they move into the areas bordering the various rivers and streams that criss-cross the holdings and feed on the stubble fields that remain after the fodder or crops have been harvested.

When autumn arrives and the grass has regrown, the animals return to feed on the grasslands which, depending on how abundant they are, may be supplemented with the grass or hay harvested in spring.

At the end of the year when the grasslands are nearly exhausted, the acorns appear. These are an important though insufficient food source for the animals, whose diet must be supplemented with the grass harvested in springtime or the fodder and straw produced on the owner's holding.

The calves stay with their mothers in the field between five and six months in natural lactation, starting early to complement their milk diet with food they share with their mothers in the pasture. When they have been weaned, they undergo a process of fattening up on hay, fodder, etc. produced on the holding, plus natural feed based on cereals, until they are slaughtered.

In times of food scarcity due to adverse weather conditions and in the fattening phase, they may be given maintenance rations of fodder and hay sourced exclusively from the geographical area and also feed of plant origin, mainly consisting of cereals (at least 60 % of its quantitative composition) not exceeding 50 % of the annual dry matter. The use of products that could interfere with the animals' normal rate of growth and development is expressly forbidden.

3.5. Specific steps in production that must take place in the defined geographical area

The birth, the rearing and the fattening of the protected animals up to the time of slaughter take place in the defined geographical area.

3.6. Specific rules concerning slicing, grating, packaging, etc.

The product may be presented in portions, fillets, pieces or mince, provided that these operations are carried out by operators subject to control of the proper use of the protected designation.

3.7. Specific rules on labelling

In the slaughterhouse the carcasses are marked indelibly or using non-reusable means on the inner side of the two half-carcasses, in such a way that the four quarters of the carcass remain perfectly identifiable after separation.

The cuts of meat protected by the PGI and packages containing portions, fillets, pieces or mince, are despatched bearing a numbered label containing at least the terms 'Protected Geographical Indication' and 'Carne de Salamanca'.

When the meat has been obtained exclusively from cattle from the *Morucha* breed, the label may also bear the words 'Raza Morucha'.

4. CONCISE DEFINITION OF THE GEOGRAPHICAL AREA

The province of Salamanca.

5. LINK WITH THE GEOGRAPHICAL AREA

5.1. Specificity of the geographical area

The production and rearing of the cattle used for producing the 'Carne de Salamanca' is closely linked to a specific geographical environment known as the '*dehesa*', which is of significant environmental value and characterised by the presence of holm oaks.

A continental climate, with long, cold winters and an extended period of frost, hot and dry summers, with strong fluctuations in temperature and rainfall seasonally during the autumn and winter, make the *dehesa* a species-rich community, characterised by the holm oaks with their leathery, evergreen leaves and bushy undergrowth. Mediterranean-type scrub associated with holm oak, such as cork-oak, oak, gall oaks, and other shrub species, mainly jara, broom, rockrose and gorse, also grow on the grasslands of the *dehesa*. There are also annual species of grasses and legumes. All this vegetation on the *dehesa* is the main supply of natural resources for feeding the cattle.

The production system in this environment is characterised by the way livestock farmers continue traditional practices based on how cattle are suited to the resources on the *dehesa* and not stabling the cattle at any time of the year. The animals do not need any specific type of accommodation as they live permanently in the open without any shelter other than holm oak. The rearing system respects the natural cycles; the calves are born in the field without any kind of assistance and remain with their mothers for between 5 to 7 months, feeding on their mothers' milk and grazing on pasture.

The cattle have shared space with horses, fighting bulls and Iberian pigs, with 'charro cowboys' — frequently mounted on horseback — responsible for managing all these animals in a way which leads to better use and care of the *dehesa*. The importance and uniqueness of these horsemen has been recognised and honoured in the city of Salamanca in the form of a statue of Venancio Blanco erected in one of its main squares.

Over the centuries, a form of natural selection has taken place on the *dehesa*, producing cattle adapted to the difficult natural conditions and feeding on its pastures, giving these animals a strong maternal instinct to protect their young from attacks from wolves and foxes, and a rustic character suited to this system of farming. The *Morucha* breed and its cross-breeds have these positive traits. The *Morucha* breed from which 'Carne de Salamanca' is produced evolved on the Salamanca *dehesa*, where in the past these livestock were used as draught animals in farming and in minor bullfighting shows (fighting bulls), without disregarding its production of meat. However, over time the breed became eminently suitable for meat production, due in particular to its breeding and maternal qualities. In the middle of the last century, new breeds such as 'Charolais' and 'Limousin' were introduced and farmed under the same conditions, and over the years the '*Morucha*' breed animals and their crosses with the 'Charolais' and 'Limousin' breeds have become perfectly adapted to the ecosystem on the *dehesa*, as they are able to exploit the natural resources, producing much-valued meat.

5.2. Specificity of the product

The carcasses of the 'Carne de Salamanca' are characterised by a low degree of fat cover on the outside of the carcass and in the thoracic cavity.

The 'Carne de Salamanca' has a slightly fibrous texture due to its finer muscle fibres. The meat is smooth and intensely pink to purple-red in colour. The marbling fat appears evenly distributed without forming deposits, with a colour ranging from white to yellow or cream, and giving the meat its characteristic flavours and aromas.

5.3. Causal link between the geographical area and the quality or characteristics of the product (for PDO) or a specific quality, the reputation or other characteristic of the product (for PGI)

The most important factors are undoubtedly the traditional methods of feeding, from the mother's milk to the natural pastures, the keeping of the livestock in the natural environment of the Salamanca *dehesa* and the livestock's '*Morucha*' heritage, all of which make it possible to obtain a product with specific qualities that distinguish it from other beef, particularly its finer muscle fibres, lustre and colour, which varies from pink to purplish-red, and evenly-distributed fat without deposits.

Over decades the traditional extensive farming system has led to the production of a type of animal perfectly adapted to the *dehesa*, characterised by:

- Small to medium-sized animals, light in weight, with a high digestive capacity to allow them to obtain their dietary requirements from pastures that are poor and not very abundant.
- Animals with good muscle development suitable for physical exercise, highly agile, with ease of movement for grazing in large areas, which requires moving several kilometres every day to feed and find water.
- Very hardy animals, resistant to the extreme climate of the geographical area, in both summer and winter.

The genetic make-up of this type of animal coupled with its daily intense muscular exercise gives them finer muscle fibres than usual in cattle, resulting in meat with a slightly fibrous texture.

The fat cover of the carcass is linked to the system of farming, the hardiness and early development of these animals. Their continuous movement prevents them from accumulating excess fat in specific areas, allowing them to move more efficiently over long distances to find food. In times when food is abundant, they may accumulate reserves of intramuscular fat, though these do not hamper their ability to move around. All this gives rise to meat with evenly-distributed fat without deposits, with a colour varying from white to yellow or cream, depending on the age of slaughter.

Respecting the natural cycle of lactation, as the calves are weaned later than usual and stay with their mothers on the *dehesa*, means that the calves start to supplement their diet of mother's milk with the resources from the *dehesa*. These mainly consist of grasslands in the spring, which have a high volume of pigments (chlorophyll and carotenoids), giving the meat its characteristic colour and lustre. This, coupled with the breed's genetic make-up that gives it a redder meat, gives the meat an intense colour and lustre ranging from pink to purplish-red.

The rearing of cattle and the consumption of its meat is closely linked to the region. As far back as the fifteenth century, 'Carne de Salamanca' was paid as rent on estates by virtue of its renown and reputation.

Since the middle of the 20th century, it has been very common for butchers and restaurants of the area to proudly showcase the availability of 'Carne de Salamanca' in their respective windows and menus, to their customers who count on the best cuts, which are highly appreciated and demanded by consumers.

Numerous documents attest to this renown and consumers' preferences for 'Carne de Salamanca', such as for example; Luis Carandell in the introduction to his book 'Vivir en Madrid' (1967) writes 'I was born in Barcelona in 1929 and I was born again in Madrid in 1947 ... a city which got its vegetables from Valencia, fish from Bilbao, meat from Salamanca, wine from La Mancha and textiles from Catalonia'.

Reference to publication of the specification

[Article 5(7) of Regulation (EC) No 510/2006]

http://www.itacyl.es/opencms_wf/opencms/informacion_al_ciudadano/calidad_alimentaria/4_condiciones_DOP/index.html

COMMISSION IMPLEMENTING REGULATION (EU) 2018/69**of 16 January 2018****on cancelling the registration of protected geographical indication ‘Carne de Morucha de Salamanca’ (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 ⁽¹⁾, and in particular Article 54(1) thereof,

Whereas:

- (1) Article 7(1) of Commission Delegated Regulation (EU) No 664/2014 ⁽²⁾ provides that the procedure laid down in Articles 49 to 52 of Regulation (EU) No 1151/2012 apply *mutatis mutandis* to the cancellation of a registration as referred to in Article 54(1) of that Regulation.
- (2) Pursuant to Article 50(2) of Regulation (EU) No 1151/2012 in connection with Article 7(1) of Commission Delegated Regulation (EU) No 664/2014, Spain’s application to cancel the registration of the protected geographical indication (PGI) ‘Carne de Morucha de Salamanca’ was published in the *Official Journal of the European Union* ⁽³⁾.
- (3) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name ‘Carne de Morucha de Salamanca’ (PGI) should therefore be cancelled from the register of protected designations of origin and protected geographical indications.
- (4) Pursuant to the last subparagraph of Article 54(1) of Regulation (EU) No 1151/2012 such cancellations are adopted in accordance with the examination procedure referred to in Article 57(2) of that Regulation.
- (5) The measure provided for in this Regulation is in accordance with the opinion of the Agricultural Product Quality Policy Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The registration of the name ‘Carne de Morucha de Salamanca’ (PGI) is hereby cancelled.

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*.

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) No 664/2014 of 18 December 2013 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules (OJ L 179, 19.6.2014, p. 17).

⁽³⁾ OJ C 201, 24.6.2017, p. 5.

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

Done at Brussels, 16 January 2018.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION REGULATION (EU) 2018/70**of 16 January 2018****amending Annexes II, III and IV to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for ametoctradin, chlorpyrifos-methyl, cyproconazole, difenoconazole, fluazinam, flutriafol, prohexadione and sodium chloride in or on certain products****(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 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC ⁽¹⁾, and in particular Article 5(1) and Article 14(1)(a) thereof,

Whereas:

- (1) For fluazinam, flutriafol and prohexadione, maximum residue levels (MRLs) were set in Annex II to Regulation (EC) No 396/2005. For chlorpyrifos-methyl, MRLs were set in Annex II and Part B of Annex III to that Regulation. For ametoctradin, cyproconazole and difenoconazole, MRLs were set in Part A of Annex III to that Regulation. For sodium chloride, no specific MRLs were set nor was that substance included in Annex IV to that Regulation, so the default value of 0,01 mg/kg laid down in Article 18(1)(b) thereof applies.
- (2) In the context of a procedure for the authorisation of the use of a plant protection product containing the active substance ametoctradin on 'herbs and edible flowers', an application was submitted in accordance with Article 6(1) of Regulation (EC) No 396/2005 for modification of the existing MRLs.
- (3) As regards chlorpyrifos-methyl, such an application was submitted for Japanese persimmons and pomegranates. As regards cyproconazole, such an application was submitted for borage seeds. As regards difenoconazole, such an application was submitted for apricots, strawberries, head brassica, 'lettuces and salad plants', chards, 'herbs and edible flowers', cardoons, celeries, leeks, rhubarbs, pulses, barley and 'root and rhizome spices'. As regards fluazinam, such an application was submitted for onions, shallots and garlic. As regards prohexadione, such an application was submitted for plums.
- (4) In accordance with Article 6(2) and (4) of Regulation (EC) No 396/2005 an application was submitted for flutriafol used on hops. The applicant claims that the authorised uses of that substance on such crop in the United States led to residues exceeding the MRL contained in Regulation (EC) No 396/2005 and that a higher MRL is necessary to avoid trade barriers for the importation of that crop.
- (5) In accordance with Article 8 of Regulation (EC) No 396/2005, those applications were evaluated by the Member States concerned and the evaluation reports were forwarded to the Commission.

⁽¹⁾ OJ L 70, 16.3.2005, p. 1.

- (6) The European Food Safety Authority, hereinafter 'the Authority', assessed the applications and the evaluation reports, examining in particular the risks to the consumer and, where relevant, to animals and gave reasoned opinions on the proposed MRLs ⁽¹⁾. It forwarded those opinions to the applicants, the Commission and the Member States and made them available to the public.
- (7) As regards cyproconazole, the Authority assessed an application with a view of setting an MRL for rapeseed and gave a reasoned opinion on the proposed MRL ⁽²⁾. In accordance with the existing Union guidelines on extrapolation of MRLs, it is appropriate to set the MRL for rapeseed also for borage seeds.
- (8) As regards all other applications, the Authority concluded that all requirements with respect to data were met and that the modifications to the MRLs requested by the applicants were acceptable with regard to consumer safety on the basis of a consumer exposure assessment for 27 specific European consumer groups. It took into account the most recent information on the toxicological properties of the substances. Neither the lifetime exposure to these substances via consumption of all food products that may contain them, nor the short-term exposure due to high consumption of the relevant products showed that there is a risk that the acceptable daily intake or the acute reference dose is exceeded.
- (9) Sodium chloride is approved as basic substance by Commission Implementing Regulation (EU) 2017/1529 ⁽³⁾. The conditions of use of that substance are not expected to lead to the presence of residues in food or feed commodities that may pose a risk to the consumer. It is therefore appropriate to include that substance in Annex IV to Regulation (EC) No 396/2005.
- (10) Based on the reasoned opinions of the Authority and taking into account the factors relevant to the matter under consideration, the appropriate modifications to the MRLs fulfil the requirements of Article 14(2) of Regulation (EC) No 396/2005.
- (11) Regulation (EC) No 396/2005 should therefore be amended accordingly.
- (12) 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

Annexes II, III and IV to Regulation (EC) No 396/2005 are amended in accordance with the Annex to this Regulation.

Article 2

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

⁽¹⁾ EFSA scientific reports available online: <http://www.efsa.europa.eu>:

Reasoned opinion on the modification of the existing maximum residue levels for ametoctradin in herbs and edible flowers. *EFSA Journal* 2017;15(6):4869 [21 pp.].

Reasoned opinion on the modification of the existing maximum residue levels for chlorpyrifos-methyl in kaki/Japanese persimmon and granate apple/pomegranate. *EFSA Journal* 2017;15(5):4838 [24 pp.].

Reasoned opinion on the modification of the existing maximum residue levels for difenoconazole in various crops. *EFSA Journal* 2017;15(7):4893 [33 pp.].

Reasoned opinion on the modification of the existing maximum residue levels for fluazinam in onions, shallots and garlic. *EFSA Journal* 2017;15(7):4904 [22 pp.].

Reasoned opinion on the setting of import tolerance for flutriafol in hops. *EFSA Journal* 2017;15(7):4875 [22 pp.].

Reasoned opinion on the modification of the existing maximum residue level for prohexadione (considered variant prohexadione-calcium) in plums. *EFSA Journal* 2017;15(6):4837 [20 pp.].

⁽²⁾ Reasoned opinion on the modification of the existing MRLs for cyproconazole in rapeseed. *EFSA Journal* 2011;9(5):2187 [30 pp.].

⁽³⁾ Commission Implementing Regulation (EU) 2017/1529 of 7 September 2017 approving the basic substance sodium chloride in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 (OJ L 232, 8.9.2017, p. 1).

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

Done at Brussels, 16 January 2018.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

Annexes II, III and IV to Regulation (EC) No 396/2005 are amended as follows:

- (1) In Annex II, the columns for chlorpyrifos-methyl, fluazinam, flutriafol and prohexadione are replaced by the following:

'Pesticide residues and maximum residue levels (mg/kg)

Code number	Groups and examples of individual products to which the MRLs apply (*)	Chlorpyrifos-methyl (F)	Fluazinam (F)	Flutriafol	Prohexadione (prohexadione (acid) and its salts expressed as prohexadione-calcium)
(1)	(2)	(3)	(4)	(5)	(6)
0100000	FRUITS, FRESH or FROZEN; TREE NUTS				
0110000	Citrus fruits		0,01 (*)	0,01 (*)	0,01 (*)
0110010	Grapefruits	0,05 (*)			
0110020	Oranges	0,5			
0110030	Lemons	0,3			
0110040	Limes	0,05 (*)			
0110050	Mandarins	1			
0110990	Others	0,05 (*)			
0120000	Tree nuts	0,05 (*)	0,01 (*)	0,02 (*)	0,01 (*)
0120010	Almonds				
0120020	Brazil nuts				
0120030	Cashew nuts				
0120040	Chestnuts				
0120050	Coconuts				
0120060	Hazelnuts/cobnuts				
0120070	Macadamias				
0120080	Pecans				
0120090	Pine nut kernels				
0120100	Pistachios				
0120110	Walnuts				
0120990	Others				
0130000	Pome fruits	0,5		0,4 (+)	0,1
0130010	Apples		0,3 (+)		
0130020	Pears		0,3 (+)		
0130030	Quinces		0,01 (*)		
0130040	Medlars	(**)	0,01 (*)		
0130050	Loquats/Japanese medlars	(**)	0,01 (*)		
0130990	Others		0,01 (*)		

(1)	(2)	(3)	(4)	(5)	(6)
0140000	Stone fruits		0,01 (*)		
0140010	Apricots	0,05 (*)		0,01 (*)	0,01 (*)
0140020	Cherries (sweet)	0,05 (*)		1	0,4
0140030	Peaches	0,5		0,6	0,01 (*)
0140040	Plums	0,05 (*)		0,4	0,05
0140990	Others	0,05 (*)		0,01 (*)	0,01 (*)
0150000	Berries and small fruits				
0151000	(a) <i>grapes</i>	0,2			0,01 (*)
0151010	Table grapes		0,01 (*) (+)	0,8	
0151020	Wine grapes		3 (+)	1,5 (+)	
0152000	(b) <i>strawberries</i>	0,5	0,01 (*)	1,5	0,15
0153000	(c) <i>cane fruits</i>	0,05 (*)	0,01 (*) (+)	0,01 (*)	0,01 (*)
0153010	Blackberries				
0153020	Dewberries				
0153030	Raspberries (red and yellow)				
0153990	Others				
0154000	(d) <i>other small fruits and berries</i>	0,05 (*)		0,01 (*)	0,01 (*)
0154010	Blueberries		3		
0154020	Cranberries		0,01 (*)		
0154030	Currants (black, red and white)		0,01 (*)		
0154040	Gooseberries (green, red and yellow)		0,01 (*)		
0154050	Rose hips	(**)	0,01 (*)		
0154060	Mulberries (black and white)	(**)	0,01 (*)		
0154070	Azaroles/Mediterranean medlars	(**)	0,01 (*)		
0154080	Elderberries	(**)	0,01 (*)		
0154990	Others		0,01 (*)		
0160000	Miscellaneous fruits with		0,01 (*)		0,01 (*)
0161000	(a) <i>edible peel</i>			0,01 (*)	
0161010	Dates	0,05 (*)			
0161020	Figs	0,05 (*)			
0161030	Table olives	0,05 (*)			
0161040	Kumquats	0,05 (*)			
0161050	Carambolas	(**)			
0161060	Kaki/Japanese persimmons	(**)			
0161070	Jambuls/jambolans	(**)			
0161990	Others	0,05 (*)			
0162000	(b) <i>inedible peel, small</i>	0,05 (*)		0,01 (*)	
0162010	Kiwi fruits (green, red, yellow)				
0162020	Litchis/lychees				

(1)	(2)	(3)	(4)	(5)	(6)
0162030	Passionfruits/maracujas				
0162040	Prickly pears/cactus fruits	(**)			
0162050	Star apples/cainitos	(**)			
0162060	American persimmons/Virginia kaki	(**)			
0162990	Others				
0163000	(c) <i>inedible peel, large</i>				
0163010	Avocados	0,05 (*)		0,01 (*)	
0163020	Bananas	0,05 (*)		0,3	
0163030	Mangoes	0,05 (*)		0,01 (*)	
0163040	Papayas	0,05 (*)		0,01 (*)	
0163050	Granate apples/pomegranates	0,3		0,01 (*)	
0163060	Cherimoyas	(**)		0,01 (*)	
0163070	Guavas	(**)		0,01 (*)	
0163080	Pineapples	0,05 (*)		0,01 (*)	
0163090	Breadfruits	(**)		0,01 (*)	
0163100	Durians	(**)		0,01 (*)	
0163110	Soursops/guanabanas	(**)		0,01 (*)	
0163990	Others	0,05 (*)		0,01 (*)	
0200000	VEGETABLES, FRESH or FROZEN				
0210000	Root and tuber vegetables	0,05 (*)			0,01 (*)
0211000	(a) <i>potatoes</i>		0,02	0,01 (*)	
0212000	(b) <i>tropical root and tuber vegetables</i>		0,01 (*)	0,01 (*)	
0212010	Cassava roots/manioc				
0212020	Sweet potatoes				
0212030	Yams				
0212040	Arrowroots	(**)			
0212990	Others				
0213000	(c) <i>other root and tuber vegetables except sugar beets</i>		0,01 (*)		
0213010	Beetroots			0,06 (+)	
0213020	Carrots			0,01 (*)	
0213030	Celeriacs/turnip rooted celeries			0,01 (*)	
0213040	Horseradishes			0,01 (*)	
0213050	Jerusalem artichokes			0,01 (*)	
0213060	Parsnips			0,01 (*)	
0213070	Parsley roots/Hamburg roots parsley			0,01 (*)	
0213080	Radishes			0,01 (*)	
0213090	Salsifies			0,01 (*)	
0213100	Swedes/rutabagas			0,01 (*)	
0213110	Turnips			0,01 (*)	
0213990	Others			0,01 (*)	

(1)	(2)	(3)	(4)	(5)	(6)
0220000	Bulb vegetables	0,05 (*)		0,01 (*)	0,01 (*)
0220010	Garlic		0,06		
0220020	Onions		0,06		
0220030	Shallots		0,06		
0220040	Spring onions/green onions and Welsh onions		0,01 (*)		
0220990	Others		0,01 (*)		
0230000	Fruiting vegetables				0,01 (*)
0231000	(a) <i>solanacea</i>	0,5			
0231010	Tomatoes		0,3	0,8	
0231020	Sweet peppers/bell peppers		0,01 (*)	1	
0231030	Aubergines/eggplants		0,01 (*)	0,01 (*)	
0231040	Okra/lady's fingers		0,01 (*)	0,01 (*)	
0231990	Others		0,01 (*)	0,01 (*)	
0232000	(b) <i>cucurbits with edible peel</i>	0,05 (*)	0,01 (*)	0,15	
0232010	Cucumbers				
0232020	Gherkins				
0232030	Courgettes				
0232990	Others				
0233000	(c) <i>cucurbits with inedible peel</i>	0,05 (*)	0,01 (*)		
0233010	Melons			0,2 (+)	
0233020	Pumpkins			0,01 (*)	
0233030	Watermelons			0,2 (+)	
0233990	Others			0,01 (*)	
0234000	(d) <i>sweet corn</i>	0,05 (*)	0,01 (*)	0,01 (*)	
0239000	(e) <i>other fruiting vegetables</i>	0,05 (*)	0,01 (*)	0,01 (*)	
0240000	Brassica vegetables (excluding brassica roots and brassica baby leaf crops)	0,05 (*)	0,01 (*)	0,01 (*)	0,01 (*)
0241000	(a) <i>flowering brassica</i>				
0241010	Broccoli				
0241020	Cauliflowers				
0241990	Others				
0242000	(b) <i>head brassica</i>				
0242010	Brussels sprouts				
0242020	Head cabbages				
0242990	Others				
0243000	(c) <i>leafy brassica</i>				
0243010	Chinese cabbages/pe-tsai				
0243020	Kales				
0243990	Others				

(1)	(2)	(3)	(4)	(5)	(6)
0244000	(d) <i>kohlrabies</i>				
0250000	Leaf vegetables, herbs and edible flowers	0,05 (*)			
0251000	(a) <i>lettuces and salad plants</i>		0,01 (*)		0,01 (*)
0251010	Lamb's lettuces/corn salads			0,01 (*)	
0251020	Lettuces			1,5	
0251030	Escaroles/broad-leaved endives			0,01 (*)	
0251040	Cresses and other sprouts and shoots			0,01 (*)	
0251050	Land cresses	(**)		0,01 (*)	
0251060	Roman rocket/rucola			0,01 (*)	
0251070	Red mustards	(**)		0,01 (*)	
0251080	Baby leaf crops (including brassica species)			0,01 (*)	
0251990	Others			0,01 (*)	
0252000	(b) <i>spinaches and similar leaves</i>		0,01 (*)	0,01 (*)	0,01 (*)
0252010	Spinaches				
0252020	Purslanes	(**)			
0252030	Chards/beet leaves				
0252990	Others				
0253000	(c) <i>grape leaves and similar species</i>	(**)	0,01 (*)	0,01 (*)	0,01 (*)
0254000	(d) <i>watercresses</i>		0,01 (*)	0,01 (*)	0,01 (*)
0255000	(e) <i>witloofs/Belgian endives</i>		0,01 (*)	0,01 (*)	0,01 (*)
0256000	(f) <i>herbs and edible flowers</i>		0,05 (*)	0,02 (*)	0,02 (*)
0256010	Chervil				
0256020	Chives				
0256030	Celery leaves				
0256040	Parsley				
0256050	Sage	(**)			
0256060	Rosemary	(**)			
0256070	Thyme	(**)			
0256080	Basil and edible flowers	(**)			
0256090	Laurel/bay leave	(**)			
0256100	Tarragon	(**)			
0256990	Others				
0260000	Legume vegetables	0,05 (*)	0,01 (*)	0,01 (*)	0,01 (*)
0260010	Beans (with pods)				
0260020	Beans (without pods)				
0260030	Peas (with pods)				
0260040	Peas (without pods)				
0260050	Lentils				
0260990	Others				

(1)	(2)	(3)	(4)	(5)	(6)
0270000	Stem vegetables	0,05 (*)	0,01 (*)	0,01 (*)	0,01 (*)
0270010	Asparagus				
0270020	Cardoons				
0270030	Celeries				
0270040	Florence fennels				
0270050	Globe artichokes				
0270060	Leeks				
0270070	Rhubarbs				
0270080	Bamboo shoots	(**)			
0270090	Palm hearts	(**)			
0270990	Others				
0280000	Fungi, mosses and lichens	0,05 (*)	0,01 (*)	0,01 (*)	0,01 (*)
0280010	Cultivated fungi				
0280020	Wild fungi				
0280990	Mosses and lichens				
0290000	Algae and prokaryotes organisms	(**)	0,01 (*)	0,01 (*)	0,01 (*)
0300000	PULSES	0,05 (*)	0,02 (*)	0,01 (*)	0,02 (*)
0300010	Beans		(+)		
0300020	Lentils				
0300030	Peas				
0300040	Lupins/lupini beans				
0300990	Others				
0400000	OILSEEDS AND OIL FRUITS	0,05 (*)	0,01 (*)		
0401000	Oilseeds				
0401010	Linseeds			0,02 (*)	0,01 (*)
0401020	Peanuts/groundnuts			0,15	0,9
0401030	Poppy seeds			0,02 (*)	0,01 (*)
0401040	Sesame seeds			0,02 (*)	0,01 (*)
0401050	Sunflower seeds			0,02 (*)	0,01 (*)
0401060	Rapeseeds/canola seeds			0,5	0,01 (*)
0401070	Soyabeans			0,4	0,01 (*)
0401080	Mustard seeds			0,5	0,01 (*)
0401090	Cotton seeds			0,5	0,01 (*)
0401100	Pumpkin seeds			0,02 (*)	0,01 (*)
0401110	Safflower seeds	(**)		0,02 (*)	0,01 (*)
0401120	Borage seeds	(**)		0,02 (*)	0,01 (*)
0401130	Gold of pleasure seeds	(**)		0,5	0,01 (*)
0401140	Hemp seeds			0,02 (*)	0,01 (*)
0401150	Castor beans	(**)		0,02 (*)	0,01 (*)
0401990	Others			0,02 (*)	0,01 (*)
0402000	Oil fruits			0,02 (*)	0,01 (*)
0402010	Olives for oil production				
0402020	Oil palms kernels	(**)			

(1)	(2)	(3)	(4)	(5)	(6)
0402030	Oil palms fruits	(**)			
0402040	Kapok	(**)			
0402990	Others				
0500000	CEREALS	3	0,02 (*)		
0500010	Barley			0,15	0,1
0500020	Buckwheat and other pseudo-cereals			0,01 (*)	0,02 (*)
0500030	Maize/corn			0,01 (*)	0,02 (*)
0500040	Common millet/proso millet			0,01 (*)	0,02 (*)
0500050	Oat			0,01 (*)	0,1
0500060	Rice			1,5 (+)	0,02 (*)
0500070	Rye			0,15	0,1
0500080	Sorghum			1,5	0,02 (*)
0500090	Wheat			0,15	0,1
0500990	Others			0,01 (*)	0,02 (*)
0600000	TEAS, COFFEE, HERBAL INFUSIONS, COCOA AND CAROBS				0,05 (*)
0610000	Teas	0,1 (*)	0,1 (*)	0,05 (*)	
0620000	Coffee beans	(**)	0,1 (*)	0,15	
0630000	Herbal infusions from	(**)		0,05 (*)	
0631000	(a) <i>flowers</i>	(**)	0,1 (*)		
0631010	Chamomile	(**)			
0631020	Hibiscus/roselle	(**)			
0631030	Rose	(**)			
0631040	Jasmine	(**)			
0631050	Lime/linden	(**)			
0631990	Others	(**)			
0632000	(b) <i>leaves and herbs</i>	(**)	0,1 (*)		
0632010	Strawberry	(**)			
0632020	Rooibos	(**)			
0632030	Mate/maté	(**)			
0632990	Others	(**)			
0633000	(c) <i>roots</i>	(**)	3 (+)		
0633010	Valerian	(**)			
0633020	Ginseng	(**)			
0633990	Others	(**)			
0639000	(d) <i>any other parts of the plant</i>	(**)	0,1 (*)		
0640000	Cocoa beans	(**)	0,1 (*)	0,05 (*)	
0650000	Carobs/Saint John's breads	(**)	0,1 (*)	0,05 (*)	
0700000	HOPS	0,1 (*)	0,1 (*)	20	0,01 (*)

(1)	(2)	(3)	(4)	(5)	(6)
0800000	SPICES	(**)			
0810000	Seed spices	(**)	0,1 (*)	0,05 (*)	0,05 (*)
0810010	Anise/aniseed	(**)			
0810020	Black caraway/black cumin	(**)			
0810030	Celery	(**)			
0810040	Coriander	(**)			
0810050	Cumin	(**)			
0810060	Dill	(**)			
0810070	Fennel	(**)			
0810080	Fenugreek	(**)			
0810090	Nutmeg	(**)			
0810990	Others	(**)			
0820000	Fruit spices	(**)	0,1 (*)	0,05 (*)	0,05 (*)
0820010	Allspice/pimento	(**)			
0820020	Sichuan pepper	(**)			
0820030	Caraway	(**)			
0820040	Cardamom	(**)			
0820050	Juniper berry	(**)			
0820060	Peppercorn (black, green and white)	(**)			
0820070	Vanilla	(**)			
0820080	Tamarind	(**)			
0820990	Others	(**)			
0830000	Bark spices	(**)	0,1 (*)	0,05 (*)	0,05 (*)
0830010	Cinnamon	(**)			
0830990	Others	(**)			
0840000	Root and rhizome spices	(**)			
0840010	Liquorice	(**)	0,1 (*)	0,05 (*)	0,05 (*)
0840020	Ginger	(**)	0,1 (*)	0,05 (*)	0,05 (*)
0840030	Turmeric/curcuma	(**)	0,1 (*)	0,05 (*)	0,05 (*)
0840040	Horseradish	(**)	(+)	(+)	(+)
0840990	Others	(**)	0,1 (*)	0,05 (*)	0,05 (*)
0850000	Bud spices	(**)	0,1 (*)	0,05 (*)	0,05 (*)
0850010	Cloves	(**)			
0850020	Capers	(**)			
0850990	Others	(**)			
0860000	Flower pistil spices	(**)	0,1 (*)	0,05 (*)	0,05 (*)
0860010	Saffron	(**)			
0860990	Others	(**)			
0870000	Aril spices	(**)	0,1 (*)	0,05 (*)	0,05 (*)
0870010	Mace	(**)			
0870990	Others	(**)			

(1)	(2)	(3)	(4)	(5)	(6)
0900000	SUGAR PLANTS	(**)	0,01 (*)		0,01 (*)
0900010	Sugar beet roots	(**)		0,06	
0900020	Sugar canes	(**)		0,01 (*)	
0900030	Chicory roots	(**)		0,01 (*)	
0900990	Others	(**)		0,01 (*)	
1000000	PRODUCTS OF ANIMAL ORIGIN -TERRESTRIAL ANIMALS				
1010000	Tissues from	0,05 (*)	0,01 (*)		0,01 (*)
1011000	(a) <i>swine</i>				
1011010	Muscle			0,01 (*)	
1011020	Fat tissue			0,01 (*)	
1011030	Liver			0,1 (+)	
1011040	Kidney			0,01 (*)	
1011050	Edible offals (other than liver and kidney)			0,01 (*)	
1011990	Others			0,01 (*)	
1012000	(b) <i>bovine</i>				
1012010	Muscle			0,01 (*)	
1012020	Fat tissue			0,01 (*)	
1012030	Liver			0,3 (+)	
1012040	Kidney			0,01 (*)	
1012050	Edible offals (other than liver and kidney)			0,01 (*)	
1012990	Others			0,01 (*)	
1013000	(c) <i>sheep</i>				
1013010	Muscle			0,01 (*)	
1013020	Fat tissue			0,01 (*)	
1013030	Liver			0,3 (+)	
1013040	Kidney			0,01 (*)	
1013050	Edible offals (other than liver and kidney)			0,01 (*)	
1013990	Others			0,01 (*)	
1014000	(d) <i>goat</i>				
1014010	Muscle			0,01 (*)	
1014020	Fat tissue			0,01 (*)	
1014030	Liver			0,3 (+)	
1014040	Kidney			0,01 (*)	
1014050	Edible offals (other than liver and kidney)			0,01 (*)	
1014990	Others			0,01 (*)	
1015000	(e) <i>equine</i>	(**)			
1015010	Muscle	(**)		0,01 (*)	
1015020	Fat tissue	(**)		0,01 (*)	

(1)	(2)	(3)	(4)	(5)	(6)
1015030	Liver	(**)		0,3 (+)	
1015040	Kidney	(**)		0,01 (*)	
1015050	Edible offals (other than liver and kidney)	(**)		0,01 (*)	
1015990	Others	(**)		0,01 (*)	
1016000	(f) <i>poultry</i>				
1016010	Muscle			0,01 (*)	
1016020	Fat tissue			0,01 (*)	
1016030	Liver			0,03	
1016040	Kidney			0,03	
1016050	Edible offals (other than liver and kidney)			0,03	
1016990	Others			0,01 (*)	
1017000	(g) <i>other farmed terrestrial animals</i>	(**)			
1017010	Muscle	(**)		0,01 (*)	
1017020	Fat tissue	(**)		0,01 (*)	
1017030	Liver	(**)		0,3 (+)	
1017040	Kidney	(**)		0,01 (*)	
1017050	Edible offals (other than liver and kidney)	(**)		0,01 (*)	
1017990	Others	(**)		0,01 (*)	
1020000	Milk	0,01 (*)	0,01 (*)	0,01 (*)	0,01 (*)
1020010	Cattle				
1020020	Sheep				
1020030	Goat				
1020040	Horse				
1020990	Others				
1030000	Birds eggs	0,01 (*)	0,01 (*)	0,01 (*)	0,01 (*)
1030010	Chicken				
1030020	Duck	(**)			
1030030	Geese	(**)			
1030040	Quail	(**)			
1030990	Others	(**)			
1040000	Honey and other apiculture products	(**)	0,05 (*)	0,05 (*)	0,05 (*)
1050000	Amphibians and Reptiles	(**)	0,01 (*)	0,01 (*)	0,01 (*)
1060000	Terrestrial invertebrate animals	(**)	0,01 (*)	0,01 (*)	0,01 (*)
1070000	Wild terrestrial vertebrate animals	(**)	0,01 (*)	0,01 (*)	0,01 (*)

(*) Limit of analytical determination

(**) Pesticide-code combination for which the MRL as set in Annex III Part B applies.

(^e) For the complete list of products of plant and animal origin to which MRLs apply, reference should be made to Annex I.

(F) = Fat soluble

Fluazinam (F)

- (+) The European Food Safety Authority identified some information on the nature of residues in processed commodities as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 18 October 2018, or, if that information is not submitted by that date, the lack of it.

0130010 Apples

0130020 Pears

- (+) The European Food Safety Authority identified some information on residue trials as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 18 October 2018, or, if that information is not submitted by that date, the lack of it.

0151010 Table grapes

- (+) The European Food Safety Authority identified some information on the nature of residues in processed commodities as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 18 October 2018, or, if that information is not submitted by that date, the lack of it.

0151020 Wine grapes

- (+) The European Food Safety Authority identified some information on residue trials as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 18 October 2018, or, if that information is not submitted by that date, the lack of it.

0153000 (c) cane fruits

0153010 Blackberries

0153020 Dewberries

0153030 Raspberries (red and yellow)

0300010 Beans

- (+) The European Food Safety Authority identified some information on analytical methods as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 18 October 2018, or, if that information is not submitted by that date, the lack of it.

0633000 (c) roots

0633010 Valerian

0633020 Ginseng

- (+) The applicable maximum residue level for horseradish (*Armoracia rusticana*) in the spice group (code 0840040) is the one set for horseradish (*Armoracia rusticana*) in the Vegetables category, root and tuber vegetables group (code 0213040) taking into account changes in the levels by processing (drying) according to Art. 20 (1) of Regulation (EC) No 396/2005.

0840040 Horseradish

Flutriafol

- (+) The European Food Safety Authority identified some information on the nature of residues in processed commodities as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 27 January 2018, or, if that information is not submitted by that date, the lack of it.

0130000 Pome fruits

0130010 Apples

0130020 Pears

0130030 Quinces

0130040 Medlars

0130050 Loquats/Japanese medlars

0130990 Others

0151020 Wine grapes

- (+) The European Food Safety Authority identified some information on residue trials as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 27 January 2018, or, if that information is not submitted by that date, the lack of it.

0213010 Beetroots

0233010 Melons

0233030 Watermelons**0500060 Rice**

- (+) The applicable maximum residue level for horseradish (*Armoracia rusticana*) in the spice group (code 0840040) is the one set for horseradish (*Armoracia rusticana*) in the Vegetables category, root and tuber vegetables group (code 0213040) taking into account changes in the levels by processing (drying) according to Art. 20 (1) of Regulation (EC) No 396/2005.

0840040 Horseradish

- (+) The European Food Safety Authority identified some information on the storage conditions of the samples from the feeding studies as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 27 January 2018, or, if that information is not submitted by that date, the lack of it.

1011030 Liver

- (+) The European Food Safety Authority identified some information on ruminant metabolism and storage conditions of the samples from the feeding studies as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 27 January 2018, or, if that information is not submitted by that date, the lack of it.

1012030 Liver**1013030 Liver****1014030 Liver**

- (+) The European Food Safety Authority identified some information on the storage conditions of the samples from the feeding studies as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 27 January 2018, or, if that information is not submitted by that date, the lack of it.

1015030 Liver

- (+) The European Food Safety Authority identified some information on ruminant metabolism and storage conditions of the samples from the feeding studies as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 27 January 2018, or, if that information is not submitted by that date, the lack of it.

1017030 Liver**Prohexadione (prohexadione (acid) and its salts expressed as prohexadione-calcium)**

- (+) The applicable maximum residue level for horseradish (*Armoracia rusticana*) in the spice group (code 0840040) is the one set for horseradish (*Armoracia rusticana*) in the Vegetables category, root and tuber vegetables group (code 0213040) taking into account changes in the levels by processing (drying) according to Art. 20 (1) of Regulation (EC) No 396/2005.

0840040 Horseradish'

(2) Annex III is amended as follows:

- (a) In Part A, the columns for ametoctradin, cyproconazole and difenoconazole are replaced by the following:

'Pesticide residues and maximum residue levels (mg/kg)

Code number	Groups and examples of individual products to which the MRLs apply ^(a)	Ametoctradin (R)	Cyproconazole (F)	Difenoconazole
(1)	(2)	(3)	(4)	(5)
0100000	FRUITS, FRESH or FROZEN; TREE NUTS			
0110000	Citrus fruits	0,01 (*)	0,05 (*)	0,6
0110010	Grapefruits			
0110020	Oranges			
0110030	Lemons			

(1)	(2)	(3)	(4)	(5)
0110040	Limes			
0110050	Mandarins			
0110990	Others			
0120000	Tree nuts	0,01 (*)	0,05 (*)	0,05 (*)
0120010	Almonds			
0120020	Brazil nuts			
0120030	Cashew nuts			
0120040	Chestnuts			
0120050	Coconuts			
0120060	Hazelnuts/cobnuts			
0120070	Macadamias			
0120080	Pecans			
0120090	Pine nut kernels			
0120100	Pistachios			
0120110	Walnuts			
0120990	Others			
0130000	Pome fruits	0,01 (*)	0,1	0,8
0130010	Apples			
0130020	Pears			
0130030	Quinces			
0130040	Medlars			
0130050	Loquats/Japanese medlars			
0130990	Others			
0140000	Stone fruits	0,01 (*)		
0140010	Apricots		0,1	0,7
0140020	Cherries (sweet)		0,1	0,3
0140030	Peaches		0,1	0,5
0140040	Plums		0,05 (*)	0,5
0140990	Others		0,05 (*)	0,1
0150000	Berries and small fruits			
0151000	(a) <i>grapes</i>	6	0,2	3
0151010	Table grapes			
0151020	Wine grapes			
0152000	(b) <i>strawberries</i>	0,01 (*)	0,05 (*)	0,5
0153000	(c) <i>cane fruits</i>	0,01 (*)	0,05 (*)	
0153010	Blackberries			1,5
0153020	Dewberries			0,1
0153030	Raspberries (red and yellow)			1,5
0153990	Others			0,1
0154000	(d) <i>other small fruits and berries</i>	0,01 (*)	0,05 (*)	
0154010	Blueberries			0,1
0154020	Cranberries			0,1

(1)	(2)	(3)	(4)	(5)
0154030	Currants (black, red and white)			0,2
0154040	Gooseberries (green, red and yellow)			0,1
0154050	Rose hips			0,1
0154060	Mulberries (black and white)			0,1
0154070	Azaroles/Mediterranean medlars			0,8
0154080	Elderberries			0,1
0154990	Others			0,1
0160000	Miscellaneous fruits with	0,01 (*)	0,05 (*)	
0161000	(a) <i>edible peel</i>			
0161010	Dates			0,1
0161020	Figs			0,1
0161030	Table olives			2
0161040	Kumquats			0,6
0161050	Carambolas			0,1
0161060	Kaki/Japanese persimmons			0,8
0161070	Jambuls/jambolans			0,1
0161990	Others			0,1
0162000	(b) <i>inedible peel, small</i>			0,1
0162010	Kiwi fruits (green, red, yellow)			
0162020	Litchis/lychees			
0162030	Passionfruits/maracujas			
0162040	Prickly pears/cactus fruits			
0162050	Star apples/cainitos			
0162060	American persimmons/Virginia kaki			
0162990	Others			
0163000	(c) <i>inedible peel, large</i>			
0163010	Avocados			0,6
0163020	Bananas			0,1
0163030	Mangoes			0,1
0163040	Papayas			0,2
0163050	Granate apples/pomegranates			0,1
0163060	Cherimoyas			0,1
0163070	Guavas			0,1
0163080	Pineapples			0,1
0163090	Breadfruits			0,1
0163100	Durians			0,1
0163110	Soursops/guanabanas			0,1
0163990	Others			0,1
0200000	VEGETABLES, FRESH or FROZEN			
0210000	Root and tuber vegetables		0,05 (*)	
0211000	(a) <i>potatoes</i>	0,05		0,1

(1)	(2)	(3)	(4)	(5)
0212000	(b) <i>tropical root and tuber vegetables</i>	0,05		0,1
0212010	Cassava roots/manioc			
0212020	Sweet potatoes			
0212030	Yams			
0212040	Arrowroots			
0212990	Others			
0213000	(c) <i>other root and tuber vegetables except sugar beets</i>	0,01 (*)		
0213010	Beetroots			0,4
0213020	Carrots			0,4
0213030	Celeriacs/turnip rooted celeries			2
0213040	Horseradishes			0,4
0213050	Jerusalem artichokes			0,4
0213060	Parsnips			0,4
0213070	Parsley roots/Hamburg roots parsley			0,4
0213080	Radishes			0,4
0213090	Salsifies			0,4
0213100	Swedes/rutabagas			0,4
0213110	Turnips			0,4
0213990	Others			0,4
0220000	Bulb vegetables		0,05 (*)	
0220010	Garlic	1,5		0,5
0220020	Onions	1,5		0,5
0220030	Shallots	1,5		0,5
0220040	Spring onions/green onions and Welsh onions	5		9
0220990	Others	0,01 (*)		0,5
0230000	Fruiting vegetables		0,05 (*)	
0231000	(a) <i>solanacea</i>			
0231010	Tomatoes	2		2
0231020	Sweet peppers/bell peppers	2		0,8
0231030	Aubergines/eggplants	1,5		0,6
0231040	Okra/lady's fingers	1,5		0,05 (*)
0231990	Others	1,5		0,05 (*)
0232000	(b) <i>cucurbits with edible peel</i>			0,3
0232010	Cucumbers	2		
0232020	Gherkins	3		
0232030	Courgettes	3		
0232990	Others	3		
0233000	(c) <i>cucurbits with inedible peel</i>	3		0,2
0233010	Melons			
0233020	Pumpkins			

(1)	(2)	(3)	(4)	(5)
0233030	Watermelons			
0233990	Others			
0234000	(d) <i>sweet corn</i>	0,01 (*)		0,05 (*)
0239000	(e) <i>other fruiting vegetables</i>	0,01 (*)		0,05 (*)
0240000	Brassica vegetables (excluding brassica roots and brassica baby leaf crops)		0,05 (*)	
0241000	(a) <i>flowering brassica</i>			
0241010	Broccoli	6		1
0241020	Cauliflowers	0,01 (*)		0,2
0241990	Others	0,01 (*)		0,05 (*)
0242000	(b) <i>head brassica</i>			0,3
0242010	Brussels sprouts	0,01 (*)		
0242020	Head cabbages	15		
0242990	Others	0,01 (*)		
0243000	(c) <i>leafy brassica</i>			2
0243010	Chinese cabbages/pe-tsai	60		
0243020	Kales	0,01 (*)		
0243990	Others	0,01 (*)		
0244000	(d) <i>kohlrabies</i>	0,01 (*)		0,05 (*)
0250000	Leaf vegetables, herbs and edible flowers			
0251000	(a) <i>lettuces and salad plants</i>			
0251010	Lamb's lettuces/corn salads	50	5	7
0251020	Lettuces	40	0,05 (*)	4
0251030	Escaroles/broad-leaved endives	40	0,05 (*)	0,8
0251040	Cresses and other sprouts and shoots	40	0,05 (*)	4
0251050	Land cresses	40	0,05 (*)	4
0251060	Roman rocket/rucola	40	0,05 (*)	2
0251070	Red mustards	40	0,05 (*)	4
0251080	Baby leaf crops (including brassica species)	40	0,05 (*)	4
0251990	Others	0,01 (*)	0,05 (*)	4
0252000	(b) <i>spinaches and similar leaves</i>	60	0,05 (*)	
0252010	Spinaches			2
0252020	Purslanes			2
0252030	Chards/beet leaves			4
0252990	Others			0,05 (*)
0253000	(c) <i>grape leaves and similar species</i>	0,01 (*)	0,05 (*)	0,05 (*)
0254000	(d) <i>watercresses</i>	0,01 (*)	0,05 (*)	0,5
0255000	(e) <i>witloofs/Belgian endives</i>	0,01 (*)	0,05 (*)	0,08

(1)	(2)	(3)	(4)	(5)
0256000	(f) <i>herbs and edible flowers</i>	20	0,05 (*)	
0256010	Chervil			10
0256020	Chives			4
0256030	Celery leaves			10
0256040	Parsley			10
0256050	Sage			4
0256060	Rosemary			4
0256070	Thyme			4
0256080	Basil and edible flowers			10
0256090	Laurel/bay leave			4
0256100	Tarragon			4
0256990	Others			4
0260000	Legume vegetables	0,01 (*)	0,05 (*)	
0260010	Beans (with pods)			1
0260020	Beans (without pods)			1
0260030	Peas (with pods)			1
0260040	Peas (without pods)			1
0260050	Lentils			0,05 (*)
0260990	Others			0,05 (*)
0270000	Stem vegetables			
0270010	Asparagus	0,01 (*)	0,1	0,05 (*)
0270020	Cardoons	0,01 (*)	0,05 (*)	7
0270030	Celeries	20	0,2	7
0270040	Florence fennels	20	0,05 (*)	5
0270050	Globe artichokes	0,01 (*)	0,1	1
0270060	Leeks	5	0,05 (*)	0,6
0270070	Rhubarbs	0,01 (*)	0,05 (*)	0,5
0270080	Bamboo shoots	0,01 (*)	0,05 (*)	0,05 (*)
0270090	Palm hearts	0,01 (*)	0,05 (*)	0,05 (*)
0270990	Others	0,01 (*)	0,05 (*)	0,05 (*)
0280000	Fungi, mosses and lichens	0,01 (*)	0,05 (*)	0,05 (*)
0280010	Cultivated fungi			
0280020	Wild fungi			
0280990	Mosses and lichens			
0290000	Algae and prokaryotes organisms	0,01 (*)	0,05 (*)	0,05 (*)
0300000	PULSES	0,01 (*)	0,08	
0300010	Beans			0,06
0300020	Lentils			0,06
0300030	Peas			0,1
0300040	Lupins/lupini beans			0,06
0300990	Others			0,06

(1)	(2)	(3)	(4)	(5)
0400000	OILSEEDS AND OIL FRUITS	0,01 (*)		
0401000	Oilseeds			
0401010	Linseeds		0,05 (*)	0,2
0401020	Peanuts/groundnuts		0,05 (*)	0,05 (*)
0401030	Poppy seeds		0,4	0,05 (*)
0401040	Sesame seeds		0,05 (*)	0,05 (*)
0401050	Sunflower seeds		0,05 (*)	0,05 (*)
0401060	Rapeseeds/canola seeds		0,4	0,5
0401070	Soyabeans		0,07	0,1
0401080	Mustard seeds		0,4	0,2
0401090	Cotton seeds		0,05 (*)	0,05 (*)
0401100	Pumpkin seeds		0,05 (*)	0,05 (*)
0401110	Safflower seeds		0,05 (*)	0,05 (*)
0401120	Borage seeds		0,4	0,05 (*)
0401130	Gold of pleasure seeds		0,4	0,05 (*)
0401140	Hemp seeds		0,05 (*)	0,05 (*)
0401150	Castor beans		0,05 (*)	0,05 (*)
0401990	Others		0,05 (*)	0,05 (*)
0402000	Oil fruits		0,05 (*)	
0402010	Olives for oil production			2
0402020	Oil palms kernels			0,05 (*)
0402030	Oil palms fruits			0,05 (*)
0402040	Kapok			0,05 (*)
0402990	Others			0,05 (*)
0500000	CEREALS	0,01 (*)		
0500010	Barley		0,2	0,3
0500020	Buckwheat and other pseudo-cereals		0,1	0,05 (*)
0500030	Maize/corn		0,1	0,05 (*)
0500040	Common millet/proso millet		0,1	0,05 (*)
0500050	Oat		0,2	0,05 (*)
0500060	Rice		0,1	3
0500070	Rye		0,1	0,1
0500080	Sorghum		0,1	0,05 (*)
0500090	Wheat		0,1	0,1
0500990	Others		0,1	0,05 (*)
0600000	TEAS, COFFEE, HERBAL INFUSIONS, COCOA AND CAR- OBS	0,01 (*)		
0610000	Teas		0,05 (*)	0,05 (*)
0620000	Coffee beans		0,1	0,05 (*)
0630000	Herbal infusions from		0,05 (*)	20
0631000	(a) <i>flowers</i>			
0631010	Chamomile			
0631020	Hibiscus/roselle			

(1)	(2)	(3)	(4)	(5)
0631030	Rose			
0631040	Jasmine			
0631050	Lime/linden			
0631990	Others			
0632000	(b) <i>leaves and herbs</i>			
0632010	Strawberry			
0632020	Rooibos			
0632030	Mate/maté			
0632990	Others			
0633000	(c) <i>roots</i>			
0633010	Valerian			
0633020	Ginseng			
0633990	Others			
0639000	(d) <i>any other parts of the plant</i>			
0640000	Cocoa beans		0,05 (*)	0,05 (*)
0650000	Carobs/Saint John's breads		0,05 (*)	0,05 (*)
0700000	HOPS	100	0,05 (*)	0,05 (*)
0800000	SPICES			
0810000	Seed spices	0,01 (*)	0,05 (*)	0,3
0810010	Anise/aniseed			
0810020	Black caraway/black cumin			
0810030	Celery			
0810040	Coriander			
0810050	Cumin			
0810060	Dill			
0810070	Fennel			
0810080	Fenugreek			
0810090	Nutmeg			
0810990	Others			
0820000	Fruit spices	0,01 (*)	0,05 (*)	0,3
0820010	Allspice/pimento			
0820020	Sichuan pepper			
0820030	Caraway			
0820040	Cardamom			
0820050	Juniper berry			
0820060	Peppercorn (black, green and white)			
0820070	Vanilla			
0820080	Tamarind			
0820990	Others			
0830000	Bark spices	0,01 (*)	0,05 (*)	0,3
0830010	Cinnamon			
0830990	Others			

(1)	(2)	(3)	(4)	(5)
0840000	Root and rhizome spices			
0840010	Liquorice	0,01 (*)	0,05 (*)	3
0840020	Ginger	0,01 (*)	0,05 (*)	3
0840030	Turmeric/curcuma	0,01 (*)	0,05 (*)	3
0840040	Horseradish	(+)	(+)	(+)
0840990	Others	0,01 (*)	0,05 (*)	3
0850000	Bud spices	0,01 (*)	0,05 (*)	0,3
0850010	Cloves			
0850020	Capers			
0850990	Others			
0860000	Flower pistil spices	0,01 (*)	0,05 (*)	0,3
0860010	Saffron			
0860990	Others			
0870000	Aril spices	0,01 (*)	0,05 (*)	0,3
0870010	Mace			
0870990	Others			
0900000	SUGAR PLANTS	0,01 (*)		
0900010	Sugar beet roots		0,1	0,2
0900020	Sugar canes		0,05 (*)	0,05 (*)
0900030	Chicory roots		0,05 (*)	0,6
0900990	Others		0,05 (*)	0,05 (*)
1000000	PRODUCTS OF ANIMAL ORIGIN -TERRESTRIAL ANIMALS			
1010000	Tissues from	0,03 (*)		
1011000	(a) <i>swine</i>			
1011010	Muscle		0,05 (*)	0,05
1011020	Fat tissue		0,05 (*)	0,05
1011030	Liver		0,5	0,2
1011040	Kidney		0,5	0,2
1011050	Edible offals (other than liver and kidney)		0,5	0,2
1011990	Others		0,05 (*)	0,1
1012000	(b) <i>bovine</i>			
1012010	Muscle		0,05 (*)	0,05
1012020	Fat tissue		0,05 (*)	0,05
1012030	Liver		0,5	0,2
1012040	Kidney		0,5	0,2
1012050	Edible offals (other than liver and kidney)		0,5	0,2
1012990	Others		0,05 (*)	0,1
1013000	(c) <i>sheep</i>			
1013010	Muscle		0,05 (*)	0,05
1013020	Fat tissue		0,05 (*)	0,05

(1)	(2)	(3)	(4)	(5)
1013030	Liver		0,5	0,2
1013040	Kidney		0,5	0,2
1013050	Edible offals (other than liver and kidney)		0,5	0,2
1013990	Others		0,05 (*)	0,1
1014000	(d) <i>goat</i>			
1014010	Muscle		0,05 (*)	0,05
1014020	Fat tissue		0,05 (*)	0,05
1014030	Liver		0,5	0,2
1014040	Kidney		0,5	0,2
1014050	Edible offals (other than liver and kidney)		0,5	0,2
1014990	Others		0,05 (*)	0,1
1015000	(e) <i>equine</i>			
1015010	Muscle		0,05 (*)	0,05
1015020	Fat tissue		0,05 (*)	0,05
1015030	Liver		0,5	0,2
1015040	Kidney		0,5	0,2
1015050	Edible offals (other than liver and kidney)		0,5	0,2
1015990	Others		0,05 (*)	0,1
1016000	(f) <i>poultry</i>		0,05 (*)	0,1
1016010	Muscle			
1016020	Fat tissue			
1016030	Liver			
1016040	Kidney			
1016050	Edible offals (other than liver and kidney)			
1016990	Others			
1017000	(g) <i>other farmed terrestrial animals</i>			
1017010	Muscle		0,05 (*)	0,1
1017020	Fat tissue		0,05 (*)	0,1
1017030	Liver		0,5	0,2
1017040	Kidney		0,5	0,2
1017050	Edible offals (other than liver and kidney)		0,5	0,2
1017990	Others		0,05 (*)	0,1
1020000	Milk	0,03 (*)	0,05 (*)	0,005 (*)
1020010	Cattle			
1020020	Sheep			
1020030	Goat			
1020040	Horse			
1020990	Others			
1030000	Birds eggs	0,03 (*)	0,05 (*)	0,05 (*)
1030010	Chicken			
1030020	Duck			

(1)	(2)	(3)	(4)	(5)
1030030	Geese			
1030040	Quail			
1030990	Others			
1040000	Honey and other apiculture products	0,05 (*)	0,05 (*)	0,05 (*)
1050000	Amphibians and Reptiles	0,03 (*)	0,05 (*)	0,05 (*)
1060000	Terrestrial invertebrate animals	0,03 (*)	0,05 (*)	0,05 (*)
1070000	Wild terrestrial vertebrate animals	0,03 (*)	0,05 (*)	0,05 (*)

(*) Limit of analytical determination

(^e) For the complete list of products of plant and animal origin to which MRLs apply, reference should be made to Annex I.

(F) = Fat soluble

Ametoctradin (R)

(R) = The residue definition differs for the following combinations pesticide-code number:

Ametoctradin - code 1000000 except 1040000: Ametoctradin, metabolite 4-(7-amino-5-ethyl [1,2,4]triazolo [1,5-a]pyrimidin-6-yl) butanoic acid (M650F01) and metabolite 6-(7-amino-5-ethyl [1,2,4]triazolo [1,5-a]pyrimidin-6-yl) hexanoic acid (M650F06), expressed as ametoctradin

(+) The applicable maximum residue level for horseradish (*Armoracia rusticana*) in the spice group (code 0840040) is the one set for horseradish (*Armoracia rusticana*) in the Vegetables category, root and tuber vegetables group (code 0213040) taking into account changes in the levels by processing (drying) according to Art. 20 (1) of Regulation (EC) No 396/2005.

0840040 Horseradish

Cyproconazole (F)

(+) The applicable maximum residue level for horseradish (*Armoracia rusticana*) in the spice group (code 0840040) is the one set for horseradish (*Armoracia rusticana*) in the Vegetables category, root and tuber vegetables group (code 0213040) taking into account changes in the levels by processing (drying) according to Art. 20 (1) of Regulation (EC) No 396/2005.

0840040 Horseradish

Difenoconazole

(+) The applicable maximum residue level for horseradish (*Armoracia rusticana*) in the spice group (code 0840040) is the one set for horseradish (*Armoracia rusticana*) in the Vegetables category, root and tuber vegetables group (code 0213040) taking into account changes in the levels by processing (drying) according to Art. 20 (1) of Regulation (EC) No 396/2005.

0840040 Horseradish'

(b) In Part B, the column for chlorpyrifos-methyl is replaced by the following:

'Pesticide residues and maximum residue levels (mg/kg)

Code number	Groups and examples of individual products to which the MRLs apply (^e)	Chlorpyrifos-methyl (F)
(1)	(2)	(3)
0130040	Medlars	0,5
0130050	Loquats/Japanese medlars	0,5
0154050	Rose hips	0,05 (*)
0154060	Mulberries (black and white)	0,05 (*)

(1)	(2)	(3)
0154070	Azaroles/Mediterranean medlars	0,05 (*)
0154080	Elderberries	0,05 (*)
0161050	Carambolas	0,05 (*)
0161060	Kaki/Japanese persimmons	0,5
0161070	Jambuls/jambolans	0,05 (*)
0162040	Prickly pears/cactus fruits	0,05 (*)
0162050	Star apples/cainitos	0,05 (*)
0162060	American persimmons/Virginia kaki	0,05 (*)
0163060	Cherimoyas	0,05 (*)
0163070	Guavas	0,05 (*)
0163090	Breadfruits	0,05 (*)
0163100	Durians	0,05 (*)
0163110	Soursops/guanabanas	0,05 (*)
0212040	Arrowroots	0,05 (*)
0251050	Land cresses	0,05 (*)
0251070	Red mustards	0,05 (*)
0252020	Purslanes	0,05 (*)
0253000	(c) <i>grape leaves and similar species</i>	0,05 (*)
0256050	Sage	0,05 (*)
0256060	Rosemary	0,05 (*)
0256070	Thyme	0,05 (*)
0256080	Basil and edible flowers	0,05 (*)
0256090	Laurel/bay leave	0,05 (*)
0256100	Tarragon	0,05 (*)
0270080	Bamboo shoots	0,05 (*)
0270090	Palm hearts	0,05 (*)
0290000	Algae and prokaryotes organisms	
0401110	Safflower seeds	0,05 (*)
0401120	Borage seeds	0,05 (*)
0401130	Gold of pleasure seeds	0,05 (*)
0401150	Castor beans	0,05 (*)
0402020	Oil palms kernels	0,05 (*)
0402030	Oil palms fruits	0,05 (*)
0402040	Kapok	0,05 (*)
0620000	Coffee beans	0,1 (*)
0630000	Herbal infusions from	
0631000	(a) <i>flowers</i>	
0631010	Chamomile	0,2
0631020	Hibiscus/roselle	0,1 (*)
0631030	Rose	0,1 (*)
0631040	Jasmine	0,1 (*)
0631050	Lime/linden	0,1 (*)
0631990	Others	0,1 (*)

(1)	(2)	(3)
0632000	(b) <i>leaves and herbs</i>	0,1 (*)
0632010	Strawberry	0,1 (*)
0632020	Rooibos	0,1 (*)
0632030	Mate/maté	0,1 (*)
0632990	Others	0,1 (*)
0633000	(c) <i>roots</i>	0,1 (*)
0633010	Valerian	0,1 (*)
0633020	Ginseng	0,1 (*)
0633990	Others	0,1 (*)
0639000	(d) <i>any other parts of the plant</i>	0,1 (*)
0640000	Cocoa beans	0,1 (*)
0650000	Carobs/Saint John's breads	0,1 (*)
0800000	SPICES	
0810000	Seed spices	1
0810010	Anise/aniseed	1
0810020	Black caraway/black cumin	1
0810030	Celery	1
0810040	Coriander	1
0810050	Cumin	1
0810060	Dill	1
0810070	Fennel	1
0810080	Fenugreek	1
0810090	Nutmeg	1
0810990	Others	1
0820000	Fruit spices	0,3
0820010	Allspice/pimento	0,3
0820020	Sichuan pepper	0,3
0820030	Caraway	0,3
0820040	Cardamom	0,3
0820050	Juniper berry	0,3
0820060	Peppercorn (black, green and white)	0,3
0820070	Vanilla	0,3
0820080	Tamarind	0,3
0820990	Others	0,3
0830000	Bark spices	0,1 (*)
0830010	Cinnamon	0,1 (*)
0830990	Others	0,1 (*)
0840000	Root and rhizome spices	
0840010	Liquorice	5
0840020	Ginger	5

(1)	(2)	(3)
0840030	Turmeric/curcuma	5
0840040	Horseradish	(+)
0840990	Others	5
0850000	Bud spices	0,1 (*)
0850010	Cloves	0,1 (*)
0850020	Capers	0,1 (*)
0850990	Others	0,1 (*)
0860000	Flower pistil spices	0,1 (*)
0860010	Saffron	0,1 (*)
0860990	Others	0,1 (*)
0870000	Aril spices	0,1 (*)
0870010	Mace	0,1 (*)
0870990	Others	0,1 (*)
0900000	SUGAR PLANTS	0,05 (*)
0900010	Sugar beet roots	0,05 (*)
0900020	Sugar canes	0,05 (*)
0900030	Chicory roots	0,05 (*)
0900990	Others	0,05 (*)
1015000	(e) <i>equine</i>	0,05 (*)
1015010	Muscle	0,05 (*)
1015020	Fat tissue	0,05 (*)
1015030	Liver	0,05 (*)
1015040	Kidney	0,05 (*)
1015050	Edible offals (other than liver and kidney)	0,05 (*)
1015990	Others	0,05 (*)
1017000	(g) <i>other farmed terrestrial animals</i>	0,05 (*)
1017010	Muscle	0,05 (*)
1017020	Fat tissue	0,05 (*)
1017030	Liver	0,05 (*)
1017040	Kidney	0,05 (*)
1017050	Edible offals (other than liver and kidney)	0,05 (*)
1017990	Others	0,05 (*)
1030020	Duck	0,01 (*)
1030030	Geese	0,01 (*)
1030040	Quail	0,01 (*)
1030990	Others	0,01 (*)
1040000	Honey and other apiculture products	
1050000	Amphibians and Reptiles	

(1)	(2)	(3)
1060000	Terrestrial invertebrate animals	
1070000	Wild terrestrial vertebrate animals	

(*) Limit of analytical determination

(^a) For the complete list of products of plant and animal origin to which MRLs apply, reference should be made to Annex I.

(F) = Fat soluble

Chlorpyrifos-methyl (F)

(+) The applicable maximum residue level for horseradish (*Armoracia rusticana*) in the spice group (code 0840040) is the one set for horseradish (*Armoracia rusticana*) in the Vegetables category, root and tuber vegetables group (code 0213040) taking into account changes in the levels by processing (drying) according to Art. 20 (1) of Regulation (EC) No 396/2005.

0840040 Horseradish'

(3) In Annex IV, the following entry is inserted in alphabetical order: 'sodium chloride'.

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2018/71

of 12 December 2017

exempting the production and wholesale of electricity in the Netherlands from the application of Directive 2014/25/EU of the European Parliament and of the Council on procurement by entities operating in the water, energy, transport and postal services sector and repealing Directive 2004/17/EC

(notified under document C(2017) 8339)

(Only the Dutch text is authentic)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC ⁽¹⁾, and in particular Article 35(3) thereof,

Having regard to the request submitted by DONG Energy A/S (DONG) ⁽²⁾, Eneco B.V. (Eneco) and N.V. Nuon Energy (Nuon) (hereinafter referred to as the Applicants) by email of 30 January 2017,

After consulting the Advisory Committee for Public Contracts,

Whereas:

1. FACTS

- (1) On 30 January 2017, DONG, Eneco and Nuon transmitted to the Commission, by email, a request pursuant to Article 35 of Directive 2014/25/EU (hereinafter to be referred to as 'the Request').
- (2) The Request submitted by DONG, Eneco and Nuon, which are considered as contracting entities in the meaning of Article 4 of Directive 2014/25/EU, concerns, as described in the request, 'the production and wholesale market for electricity'.
- (3) The Applicants are 'public undertakings' within the meaning of the Directive, as they are ultimately controlled by State, regional or local authorities:
 - (a) DONG is part of the DONG Energy group. Of the shares in the ultimate holding company of DONG Energy, 50,4 % are currently held by the Kingdom of Denmark which holds sole control. Until recently, the Kingdom of Denmark held joint control together with Goldman Sachs ⁽³⁾, but in an IPO that took place on 9 June 2016, the Kingdom of Denmark brought down its shareholding from 58,8 %, but acquired sole control over DONG. According to a political agreement by a majority in the Danish parliament, the Kingdom of Denmark is to retain its majority shareholding at least until 2020.
 - (b) Eneco is controlled by Eneco Holding B.V. The shares in Eneco Holding B.V. are held by 53 municipalities, which are mainly located in the Dutch Provinces of South Holland, North Holland, Utrecht and Friesland.
 - (c) The shares in Nuon are held by Vattenfall AB. Vattenfall AB is a non-listed company, 100 per cent owned by the Swedish state.

⁽¹⁾ OJ L 94, 28.3.2014, p. 243.

⁽²⁾ This includes the activities of:

1. (The subsidiaries of) DONG Energy Wind Power A/S, which is an indirect 100 % subsidiary of DONG. This entity is also the one formally submitting the exemption request on behalf of DONG.
2. DONG Energy Netherlands B.V., which indirectly holds a 50 % stake in the Encogen power plant

⁽³⁾ See Case No COMP/M.7068.

- (4) As the Request has not been accompanied by a position adopted by an independent national authority within the meaning of Article 35(2) of Directive 2014/25/EU, the Commission informed the Dutch authorities about the Request and also requested additional information by email of 24 March 2017. The reply to this request for information was transmitted by the Dutch authorities by email, on 19 June 2017. The response was deemed to be incomplete and led the Commission to ask further clarifications on 27 July 2017, which the Dutch authorities provided on 25 September 2017.
- (5) Given the fact that the replies to the request for information had not been received within the deadline fixed by the Commission, the time-limit for taking a decision was suspended during the period between the expiry of the deadline set in the request for information (17 April 2017), and the receipt of complete information (25 September 2017), therefore the new deadline for adoption a Commission Decision became 12 December 2017.

2. LEGAL FRAMEWORK

- (6) Directive 2014/25/EU applies to the award of contracts for the pursuit of activities related to the production and wholesale of electricity, unless this activity is exempted pursuant to Article 34 of that Directive.
- (7) Article 34 of Directive 2014/25/EU provides that contracts intended to enable the performance of one of the activities to which the Directive applies shall not be subject to the Directive if, in the Member State in which it is carried out, the activity is directly exposed to competition on markets to which access is not restricted. Direct exposure to competition is assessed on the basis of objective criteria, taking account of the specific characteristics of the sector concerned.

3. ASSESSMENT

3.1. Free access to the market

- (8) Access is deemed to be unrestricted if the Member State has implemented and applied the relevant Union legislation opening a given sector or a part of it. This legislation is listed in Annex III to Directive 2014/25/EU. For the electricity sector, it refers to Directive 2009/72/EC of the European Parliament and of the Council ⁽¹⁾.
- (9) The Netherlands has transposed Directive 2009/72/EC in the national Law through the Dutch Electricity act 1998 ⁽²⁾ (*Elektriciteitswet*). Consequently, and in accordance with Article 34(1), access to the market should be deemed not to be restricted on the entire territory of the Netherlands.

3.2. Direct exposure to competition

- (10) Direct exposure to competition should be evaluated on the basis of various indicators, none of which are, *per se*, decisive. In respect of the markets concerned by this decision, the market share of the main players on a given market constitutes one criterion which should be taken into account. Given the characteristics of the markets concerned, further criteria should also be taken into account.
- (11) This Decision is without prejudice to the application of the rules on competition and other fields of Union law. In particular, the criteria and the methodology used to assess direct exposure to competition under Article 34 of Directive 2014/25/EU are not necessarily identical to those used to perform an assessment under Article 101 or 102 of the Treaty or Council Regulation (EC) No 139/2004 ⁽³⁾. This point was also upheld by the General Court in a recent judgment ⁽⁴⁾.

⁽¹⁾ Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.8.2009, p. 55).

⁽²⁾ Wet van 12-7-2012, Stb. 2012, 334 en Inwerkingtreedingsbesluit van 12-7-2012, Stb. 2012, 336.

⁽³⁾ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

⁽⁴⁾ Judgment of 27 April 2016, *Österreichische Post AG v. Commission*, T-463/14, EU:T:2016:243, paragraph 28.

- (12) It should be kept in mind that the aim of this Decision is to establish whether the services concerned by the Request are exposed to such a level of competition (in markets to which access is not restricted within the meaning of Article 34 of Directive 2014/25/EU) which will ensure that, also in the absence of the discipline brought about by the detailed procurement rules set out in Directive 2014/25/EU, procurement for the pursuit of the activities concerned will be carried out in a transparent, non-discriminatory manner based on criteria allowing purchasers to identify the solution which overall is the economically most advantageous one. In this context, it is important to keep in mind that, in the market concerned, not all market players are subject to the public procurement rules ⁽¹⁾. Therefore, the companies which are not subject to those rules, when acting on those markets, have the possibility to bring competitive pressure on the market players which are subject to public procurement rules.

3.2.1. Product market definition

- (13) According to Commission precedent Case COMP M.4110 E.ON – ENDESA, of 25 April 2006 ⁽²⁾, the following relevant product markets could be distinguished in the electricity sector: (i) generation and wholesale supply; (ii) transmission; (iii) distribution and (iv) retail supply. While some of these markets may be further subdivided, to date, previous Commission practice ⁽³⁾ rejected a distinction between an electricity generation market and a wholesale supply market since generation as such is only a first step in the value chain, but electricity volumes generated are marketed via the wholesale market.
- (14) The Request by DONG, Eneco and Nuon pertains to electricity generation and wholesale.
- (15) The Dutch Authority for Consumers and Markets (*Autoriteit Consument & Markt* ACM) considered that the production and wholesale electricity market included generation from both conventional and renewable sources ⁽⁴⁾. In that case, ACM observed that wind energy is part of the market for the wholesale and production of electricity ⁽⁵⁾. It added that electricity generated from wind is traded on the same markets as electricity produced by other sources ⁽⁶⁾. ACM thus decided not to make a separate assessment of the wholesale of wind power.
- (16) The Applicants consider that the situation of the renewable electricity in the Netherlands is different from the situation in Germany and in Italy respectively. According to the Applicants, renewable electricity in the Netherlands is subject to market forces and is therefore interchangeable with conventional electricity. In this respect, the Applicants note that all the energy companies active in the Netherlands have a trading company. The trading activities within the trading companies are used to source electricity by own production and on the market in order to fulfil the obligations towards their customers on the retail markets. Within this trading portfolio, renewable electricity is fully interchangeable with conventional power. If the trading companies source electricity on the market, they purchase electricity on the power exchanges, but also via bilateral agreements such as Power Purchase Agreements (PPA). Trading companies enter into PPAs with producers of conventional power as well as producers of renewable power. The trading companies of the energy companies compete for the sale of PPAs with renewable electricity producers who sell their power to market parties. The Transmission System Operator (TSO) does not procure any of the renewable production. Therefore, according to the Applicants, the production of renewable electricity is indeed subject to market forces, which means that it is not necessary to follow the European public procurement rules.
- (17) The Applicants add that the legal framework for producers of conventional and renewable electricity is similar. The only significant difference in their view is the subsidy received by renewable electricity generators, designed to cover the difference between the cost of renewable electricity and the market price. The subsidy scheme in place in the Netherlands is known as *Stimulerend Duurzame Energieproductie* (SDE+).

⁽¹⁾ According to the Request only Delta, DONG, EDF, Eneco and Nuon are contracting entities in the sense of Article 4 of Directive 2014/25/EU, hence subject to the public procurement rules.

⁽²⁾ Case COMP M.4110 E.ON – ENDESA, of 25 April 2006, paragraphs 10 and 11, p. 3.

⁽³⁾ Case COMP/M.3696 E.ON – MOL of 21 January 2005, paragraph 223, Case COMP/M.5467, RWE- ESSENT of 23 June 2009, paragraph 23.

⁽⁴⁾ ACM Decision Case 6015 Nuon/Essent of 21 May 2007, paragraph 53.

⁽⁵⁾ Nuon/Essent, para. 14, 174.

⁽⁶⁾ Furthermore, ACM noted that – for end customers – the precise source of electricity is no longer traceable. A certain degree of traceability may exist related to guarantees of origin – but the electricity itself that (end) customers buy is still not traceable to the source.

- (18) In 2012, the Commission issued exemption decisions in relation to the German and the Italian electricity markets ⁽¹⁾. For Germany, the Commission considered that the 'production and marketing of electricity regulated under EEG' is not part of the 'market for generation and first sale of electricity produced from conventional sources' because 'EEG is normally not directly sold on the wholesale market but first bought by the transmission grid operators for a statutory rate of remuneration'. Similarly, for Italy the Commission considered that the market for 'production and wholesale of electricity generated from renewable sources' is separate from the 'market for production and wholesale of electricity generated from conventional sources' because 'the sale of the electricity generated from renewable sources which are subject to the CIP6 and FIT mechanisms mostly takes place via the energy service operator'. Key reasons for the Commission to make such a distinction were, essentially, the sale by renewable electricity producers of their production to a non-market entity (Transmission system Operator — TSO in Germany and Gestore dei Servizi Energetici – GSE in Italy). Additional considerations put forward in these two precedents were: (i) priority feed-in for renewables; (ii) a statutory rate of remuneration. The Commission remarked that in Germany and Italy renewable generation was therefore not subject to market forces.
- (19) In the present case, renewable electricity producers sell their electricity directly on the wholesale market, in competition with conventional electricity producers.
- (20) Furthermore, the Dutch Electricity Act does not mandate priority feed-in for renewables. Priority access for renewables is foreseen in the rules of congestion management and applies only in case of congestion in the grid. However, it is noted that in the last years there have been no congestion management issues in the Netherlands.
- (21) The only common element with the German and Italian precedents concerns the statutory rate of remuneration. However, it should be noted that even this element presents significant differences with these two precedents. In this regard, the Commission notes that the allocation of the SDE+ subsidy is exposed to competition through a bidding process which disciplines the behaviour of renewable electricity producers with regard to their procurement policy ⁽²⁾. Indeed, under the SDE+ subsidy regime, projects with different renewable technologies must compete for a predetermined amount of available funds. That competition is technology neutral. The projects and/or technologies that submit a bid with the lowest price will receive a subsidy first, until no more subsidy funds are available. The Dutch SDE+ system thus encourages competitive bids, whereas the competitors would try to minimise their cost (hence the value of the subsidy).
- (22) Therefore, in view of the above considerations, renewable electricity producers in the Netherlands are subject to competitive constraints.
- (23) Taking into account the above specificities of the Dutch electricity market, for the purposes of evaluating the conditions laid down in Article 34(1) of Directive 2014/25/EU, and without prejudice to competition law, the relevant product market is hereby defined as the market for generation and wholesale of electricity produced from both conventional and renewable sources.

3.2.2. Geographic market definition

- (24) According to the application, the request pertains to activities on the territory of the Netherlands.
- (25) In its decision on *RWE/Essent* ⁽³⁾, the Commission took the view that the geographic scope of the market was either equal to Germany and the Netherlands (for off-peak hours) and national (for peak hours), or national (for all hours) – i.e. depending on whether a further distinction is made between peak and non-peak hours ⁽⁴⁾.

⁽¹⁾ Commission Implementing Decision 2012/218/EU of 24 April 2012 exempting the production and wholesale of electricity produced from conventional sources in Germany from the application of Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ L 114, 26.4.2012, p. 21) and Commission Implementing Decision 2012/539/EU of 26 September 2012 exempting the production and wholesale of electricity produced from conventional sources in macro zone north and macro-zone south in Italy from the application of Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sector and amending Commission Decision 2010/403/EU (OJ L 271, 5.10.2012, p. 4).

⁽²⁾ The SDE+ subsidy scheme was deemed to be compatible with EU state aid rules in 2015, as it limits to a minimum the distortion to competition — See SA.39399 (2015/N).

⁽³⁾ Case COMP/M.5467, C(2009) 5177.

⁽⁴⁾ *RWE/Essent*, paragraph 32.

- (26) ACM observed in the *Nuon-Reliant* case that the market for production and wholesale of electricity is at least national in scope ⁽¹⁾. ACM took into account the competitive pressure of imports. ACM observed that the geographical market for off-peak hours at least covers the Netherlands and Germany ⁽²⁾. However, ACM did note that during high demand the competitive pressure of imports was restricted because of limited interconnection capacity. ACM observed that there was a limited correlation between the prices in the Netherlands and those in Germany.
- (27) ACM did refer to indications that the geographical market could be wider than national during peak hours as well. ACM predicted that that would be the case if the effectively available import capacity would be expanded to at least 6 500 MW ⁽³⁾. Apart from the Netherlands, that market would also include Germany or Belgium. Additionally, in case there would be a market for 'super peak hours' (which ACM ultimately left open) ⁽⁴⁾, the geographical market would include at least the Netherlands and Germany if the effectively available import capacity would be expanded to at least 8 250 MW ⁽⁵⁾.
- (28) Since the *Nuon/Essent* decision, there have been various projects aimed at increasing interconnection capacity to and from the Netherlands. The NorNed cable between Norway and the Netherlands has been in service since 2008 with a capacity of 700 MW. The BritNed cable between Britain and the Netherlands has been in service since 2011 with a capacity of 1 000 MW. Several other projects are under way:

Border	Interconnector	Capacity (MW)	Built
Germany	Doetinchem-Wesel (new)	1 500	2016 (entry in service in 2018)
Germany	Meeden-Diele (expansion)	500	2018
Denmark	COBRA	700	2019
Belgium	Kreekrak-Zandvliet	700-900	2021

- (29) The significant increase in interconnection capacity between the Netherlands and neighbouring countries is likely to have had a favourable impact on competition in the Dutch electricity generation market.
- (30) The Commission takes note of the growing importance of imports on the Dutch electricity generation and wholesale market and takes the view that, for the purposes of evaluating the conditions laid down in Article 34(1) of Directive 2014/25/EU, and without prejudice to the competition law, the Dutch generation and wholesale electricity market is to be considered to be at least national in scope.

3.2.3. Market analysis

(a) Market shares

- (31) In previous decisions ⁽⁶⁾, the Commission considered that, concerning production and wholesale market, the cumulated market share of the largest three undertakings is relevant. However, given that not all market players are subject to the public procurement rules, the analysis focuses on the market position and competitive constraints on the individual market players subject to the public procurement rules. Other measures of concentration may also be considered relevant.

⁽¹⁾ ACM decision in Case 5098/E.ON–NRE; ACM decision in Case 3386/Nuon – Reliant Energy Group.

⁽²⁾ Vision document [on] concentrations [in the] energy markets', published in November 2006 by the Dutch Competition Authority (NMa), paragraph 139.

⁽³⁾ Idem, paragraph 139.

⁽⁴⁾ Idem, paragraphs 29, 72 and an earlier definition in *Nuon/Reliant* case in footnote 4: 'Super peak is the electricity needed on working days between 8:00 and 20:00'.

⁽⁵⁾ Idem, paragraph 139. *Nuon/Essent*, paragraph 91.

⁽⁶⁾ Implementing Decision 2012/218/EU and Implementing Decision 2012/539/EU.

- (32) The Dutch Central Statistical Office (*Centraal Bureau voor de Statistiek*, hereinafter CBS), issued a report in February 2015 on the electricity market in the Netherlands. ⁽¹⁾ According to the report, installed capacity in the Netherlands was about 31,5 GW, of which 20,1 GW was centralised installed capacity and 11,5 GW was decentralised installed capacity. Central production is defined as production of electricity by thermal or nuclear plants that supply directly to the high-voltage grid. All other electricity production is called decentralised production, by thermal installations, wind power, water power and solar power.

Table 1

Installed capacity (MW and number of installations) in 2012, 2013 and 2014

	2012 (MW)	2012 (number)	2013 (MW)	2013 (number)	2014 (MW)	2014 (number)
Centralised	19 025	48	20 132	50	21 515	49
Decentralised	10 905	6 405	11 408	6 451	11 799	6 445
Total	29 930	6 453	31 540	6 501	33 314	6 494

(Source: CBS)

- (33) The Applicants also provide their own production figures, including a split between conventional and renewable production. The table shows that overall production has slowly decreased, while the shares of DONG and Eneco in overall production have slowly increased. Overall production by Nuon has remained relatively stable. The Applicants hold a combined approximate share of less than 20 % of the overall generation. Their combined market share is not significantly different between conventional and renewable generation.

Table 2

Electricity generation, renewable and conventional (millions MWh), 2011-2015 (provisional) ⁽¹⁾, market shares between brackets

Generation	2011	2012	2013	2014	2015
<i>Generation</i>	113 000	102 500	100 900	103 400	109 600
Dong	500 (0,5 %)	600 (0,6 %)	500 (0,5 %)	1 300 (1,2 %)	1 300 (1,2 %)
Eneco	1 500 (1,3 %)	2 200 (2,2 %)	1 500 (1,5 %)	2 600 (2,5 %)	4 900 (4,4 %)
Nuon	13 400 (11,9 %)	13 100 (12,8 %)	17 100 (17 %)	13 900 (13,4 %)	13 700 (12,5 %)
Others	97 500 (86,3 %)	86 600 (84,5 %)	81 800 (81 %)	85 700 (82,8 %)	89 700 (81,8 %)
<i>Conventional</i>	101 000	90 000	88 900	91 600	96 400
Dong	[...] (*)	[...]	[...]	[...]	[...]
Eneco	[...]	[...]	[...]	[...]	[...]
Nuon	[...]	[...]	[...]	[...]	[...]
Others	86 900 (86,1 %)	75 500 (83,9 %)	71 400 (80,3 %)	75 900 (82,9 %)	79 400 (82,3 %)

⁽¹⁾ Centraal Bureau voor de Statistiek, 'Elektriciteit in Nederland', February 2015, see <https://www.cbs.nl/nl-nl/publicatie/2015/07/elektriciteit-in-nederland>

Generation	2011	2012	2013	2014	2015
<i>Renewable</i>	12 000	12 500	12 000	11 800	13 200
Dong	[...]	[...]	[...]	[...]	[...]
Eneco	[...]	[...]	[...]	[...]	[...]
Nuon	[...]	[...]	[...]	[...]	[...]
Others	10 600 (88,4 %)	11 100 (88,5 %)	10 400 (86,4 %)	9 800 (82,7 %)	10 300 (77,9 %)

(*) Confidential information.

(¹) <http://statline.cbs.nl/Statweb/publication/?DM=SLNL&PA=00377&D1=a&D2=701,712,714-715,718,729,731-732&HDR=G1&STB=T&VW=T> (source: CBS)

- (34) Additional data was provided by the Dutch authorities on 25 September 2017. It is summarised in the table below.

Operator	Market share	2013	2014	2015
Delta	Production: Capacity:	[...]	[...]	[...]
DONG	Production: Capacity:	[...]	[...]	[...]
EDF	Production: Capacity:	[...]	[...]	[...]
Eneco	Production: Capacity:	[...]	[...]	[...]
NUON	Production: Capacity:	[...]	[...]	[...]

- (35) The data provided both by the Applicants (¹) and the Dutch authorities show that other electricity producers which together have a cumulative market share comprised approximately between 70 and 80 %, are not subject to the provisions of the procurement law.
- (36) The aim of the present Decision is to establish whether the activities of generation and wholesale of electricity are exposed to such a level of competition (on markets to which access is free) that this will ensure that, also in the absence of the discipline brought about by the detailed procurement rules set out in Directive 2014/25/EU, the procurement for the pursuit of the activities concerned will be carried out in a transparent, non-discriminatory manner based on criteria allowing the contracting entity to identify the solution which overall is the economically most advantageous.
- (37) In respect of generation and wholesale supply of electricity, the facts above can be considered to be an indication of direct exposure to competition of the market players which are covered by the procurement law provisions.

(¹) According to the Request, section 5.2.3

(b) Other factors

- (38) The level of imports in the Netherlands stands at 28 % of total supply and consumption. This is for instance higher than Italy's electricity imports (13,4 %) when the Italian electricity generation market was assessed ⁽¹⁾. The Commission found that those imports had a pro-competitive effect, and would only improve further as additional interconnection capacity would become available. The magnitude of imports in the Dutch market reinforces the conclusion that contracting entities operating on the Dutch electricity generation market are exposed to competition.
- (39) The degree of liquidity on the wholesale market, as analysed by the national competition authority ACM ⁽²⁾, and the functioning of the Dutch balancing market do not oppose the conclusion that contracting entities operating on the Dutch production market are exposed to competition.

4. CONCLUSIONS

- (40) In view of the factors examined above, the condition of direct exposure to competition laid down in Article 34 of Directive 2014/25/EU should be considered to be met in view of contracting entities with respect of production and wholesale supply of electricity in the Netherlands.
- (41) Furthermore, since the condition of unrestricted access to the market is deemed to be met, Directive 2014/25/EU should not apply when contracting entities award contracts intended to enable production and wholesale supply of electricity to be carried out in the Netherlands nor when they organise design contests for the pursuit of such an activity in that geographical area.
- (42) This Decision is based on the legal and factual situation as of January 2017 to November 2017 as it appears from the information submitted by the Applicants and by the Dutch Authorities. It may be revised, should the conditions for the applicability of Article 34 of Directive 2014/25/EU be no longer met, following significant changes in the legal or factual situation.
- (43) It is recalled that Article 16 of Directive 2014/23/EU of the European Parliament and of the Council ⁽³⁾ provides for an exemption from the application of that Directive for concessions awarded by contracting entities where, for the Member State in which the concessions are to be performed, it has been established pursuant to Article 35 of Directive 2014/25/EU that the activity is directly exposed to competition in accordance with Article 34 of that Directive. Since it was concluded that the activity of production and wholesale of electricity is subject to competition, concession contracts intended to enable the performance of those activities in the Netherlands will be excluded from the field of application of Directive 2014/23/EU.
- (44) The measures provided for in this Decision are in accordance with the opinion of the Advisory Committee for Public Contracts,

HAS ADOPTED THIS DECISION:

Article 1

Directive 2014/25/EU shall not apply to contracts awarded by contracting entities and intended to enable production and wholesale of electricity to be carried out in the Netherlands.

⁽¹⁾ Commission Decision, 2010/403/EU of 14 July 2010 exempting the production and wholesale of electricity in Italy's Macro-zone North and the retail of electricity to end customers connected to the medium, high and very high voltage grid in Italy, from the application of Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ L 186, 20.7.2010, p. 44), recital 11.

⁽²⁾ In its most recent liquidity report, published in 2014, ACM concluded that the liquidity of the wholesale electricity market (e.g. higher traded volumes, lower price volatility and smaller bid-ask spread) appears to have increased over the period 2009-2013. ACM also noted that the number of transactions in intraday products in 2013 more than doubled compared to 2012.

⁽³⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 12 December 2017.

For the Commission
Elżbieta BIENKOWSKA
Member of the Commission

CORRIGENDA

Corrigendum to Commission Delegated Regulation (EU) 2017/2268 of 26 September 2017 amending Council Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items

(Official Journal of the European Union L 334 of 15 December 2017)

On page 49, first row:

for: '0B001 b. (continued),
read: '1C005 b. (continued);

on page 56, first row:

for: '0B001 a. 2. a. (continued),
read: '1C111 a. 2. a. (continued);

on page 57, first row:

for: '0B001 a. 4. (continued),
read: '1C111 a. 4. (continued);

on page 58, first row:

for: '0B001 c. (continued),
read: '1C111 c. (continued);

on page 79, first row:

for: '0B001 d. (continued),
read: '2B002 d. (continued).

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