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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2019/643**of 15 April 2019****concerning the classification of certain goods in the Combined Nomenclature**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ⁽²⁾, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of 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*.

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

Done at Brussels, 15 April 2019.

*For the Commission,
On behalf of the President,
Stephen QUEST*

*Director-General
Directorate-General for Taxation and Customs Union*

ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
<p>An article consisting of a rectangular plate made of steel with a length of 48,26 cm (19 inches) and rectangular shaped brackets of plastics.</p> <p>The brackets are attached perpendicularly to the plate, and have an opening in their short sides opposite to the plate.</p> <p>The article has perforations at both ends of the plate to enable it to be fixed by screwing to steel cabinets of a length matching that of the article (19 inch cabinets), which can be used in telecommunication, data processing systems, etc.</p> <p>The article is designed to be used to organise cables in the cabinets.</p> <p>See image (*)</p>	8302 42 00	<p>Classification is determined by general rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature, notes 2(c) and 3 to Section XV, note 1(d) to Chapter 94 and by the wording of CN codes 8302 and 8302 42 00.</p> <p>The steel plate gives the article its essential character because it is the plate which is fixed to the cabinets and supports and holds the brackets in place.</p> <p>Heading 8302 covers general purpose classes of base metal accessory fittings and mountings, such as are used largely on furniture, doors, windows, coachwork etc. even if they are designed for particular uses (see also the Harmonized System Explanatory Notes to heading 8302, first paragraph).</p> <p>Steel cabinets are classified as furniture within the meaning of note 2 to Chapter 94 (see also the HS classification opinions 940320/3 and 940320/4).</p> <p>The article has the objective characteristics of a fitting of base metal suitable for furniture classified under heading 8302.</p> <p>In accordance with note 2(c) to Section XV, articles of heading 8302 are parts of general use.</p> <p>Classification as parts of furniture under heading 9403 is therefore excluded by virtue of note 1(d) to Chapter 94.</p> <p>Consequently, the article is to be classified under CN code 8302 42 00 as other base-metal mountings, fittings and similar articles suitable for furniture.</p>

(*) The image is purely for information.



COMMISSION IMPLEMENTING REGULATION (EU) 2019/644
of 15 April 2019
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ⁽²⁾, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of 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 269, 10.10.2013, p. 1.

⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

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

Done at Brussels, 15 April 2019.

*For the Commission,
On behalf of the President,
Stephen QUEST
Director-General
Directorate-General for Taxation and Customs Union*

ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
<p>An apparatus for the precise transfer of liquid droplets (so-called 'liquid handler') measuring approximately 540 × 680 × 930 mm and weighing approximately 128 kg.</p> <p>The apparatus consists of two devices for receiving microplates (source plate and destination plate), two deionisation rods and an ultrasound head incorporated in a compact housing with a control LED, a small display and an emergency button.</p> <p>The apparatus utilises the Acoustic Droplet Ejection (ADE) method which uses sound energy (targeted ultrasonic pulses) to move ultralow volume of droplets of liquid from a source plate to an inverted destination plate with extremely high precision and accuracy.</p> <p>The system transfers droplets of 2,5 nano-litres per ejection enabling the transfer of larger volumes of liquid. Multiple droplets are ejected from the source at up to 500 times per second.</p> <p>The apparatus is used in the preparation of samples in laboratory sites to transfer specific volumes of reagents from one microplate to another.</p>	8479 89 97	<p>Classification is determined by general rules (GIR) 1, 3(b) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8479, 8479 89 and 8479 89 97.</p> <p>The apparatus is a composite product within the meaning of GIR 3(b) and it is to be classified according to the component that gives the product its essential character. Despite the fact that measuring and analysing are necessary in order to ensure a precise dosing of the volume of liquid, it is the exact dosing, using ultrasound, of the ejected droplets that is considered to be the function that gives the apparatus its essential character.</p> <p>Classification under heading 9026 as instruments or apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases is excluded as measuring and analysing are ancillary functions of the apparatus.</p> <p>The apparatus is therefore to be classified under CN code 8479 89 97 as other machines and mechanical appliances having individual functions, not specified or included elsewhere.</p>

COMMISSION IMPLEMENTING REGULATION (EU) 2019/645
of 15 April 2019
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ⁽²⁾, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of 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 269, 10.10.2013, p. 1.

⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

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

Done at Brussels, 15 April 2019.

*For the Commission,
On behalf of the President,
Stephen QUEST
Director-General
Directorate-General for Taxation and Customs Union*

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>An article made of woven textile fabric (cotton) composed of three textile pockets stitched together and designed to be hung on a high bed rail.</p> <p>The article is intended for storing small items. The pockets may be decorated to match the theme of a child's room.</p> <p>See image (*)</p>	6307 90 98	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 7(f) to Section XI and by the wording of CN codes 6307, 6307 90 and 6307 90 98.</p> <p>The pockets are not considered furnishing articles (see also the Harmonised System Explanatory Notes (HSEN) to heading 6304) but serve as storage units.</p> <p>Consequently, classification of the article under heading 6304 as other furnishing articles is excluded. It is a made-up textile article, not included more specifically in other headings of Section XI or elsewhere within the meaning of heading 6307 (see also the HSEN to heading 6307).</p> <p>It is therefore to be classified under CN code 6307 90 98 as other made-up articles.</p>

(*) The image is purely for information.



COMMISSION IMPLEMENTING REGULATION (EU) 2019/646
of 15 April 2019
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ⁽²⁾, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of 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 269, 10.10.2013, p. 1.

⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

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

Done at Brussels, 15 April 2019.

*For the Commission,
On behalf of the President,
Stephen QUEST
Director-General
Directorate-General for Taxation and Customs Union*

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>Track link assembly (so-called 'track-chain') made of cast steel, consisting of track links which are connected by pins/joints. The links have drilled holes for attaching plates of rectangular shape (so-called 'shoes/pads'), not included upon presentation.</p> <p>The design of the article, mainly the presence of the drilled holes to which the 'shoes/pads' are to be attached makes the article identifiable as a caterpillar belt (which both delivers the propulsion and supports the machinery to move on it) suitable for use solely or principally with earth-moving machinery of heading 8429.</p> <p>(See image) (*)</p>	8431 49 20	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 1(f) to Section XV, note 2(b) to Section XVI and by the wording of CN codes 8431, 8431 49 and 8431 49 20.</p> <p>Based on its objective characteristics, the article is identifiable as a part being solely or principally suitable for use with machinery of heading 8429 (see also the Harmonised System classification opinion 8431.49/1). The objective characteristics of the article (size and shape) are those of a caterpillar belt designed for use with machinery of heading 8429. Classification under heading 7315 as chains of iron or steel is consequently excluded.</p> <p>The article is therefore to be classified under CN code 8431 49 20 as other parts suitable for use solely or principally with the machinery of headings 8425 to 8430; of cast iron or cast steel.</p>

(*) The image is purely for information.



COMMISSION IMPLEMENTING REGULATION (EU) 2019/647
of 15 April 2019
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ⁽²⁾, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of 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 269, 10.10.2013, p. 1.

⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

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

Done at Brussels, 15 April 2019.

*For the Commission,
On behalf of the President,
Stephen QUEST
Director-General
Directorate-General for Taxation and Customs Union*

ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
<p>An audio apparatus (so-called 'soundbar') for sound reproduction of audio files of various formats from various interfaces. Its overall dimensions are approximately 110 × 14 × 7 cm.</p> <p>The apparatus is equipped with:</p> <ul style="list-style-type: none"> — Ethernet interface, — Bluetooth and WiFi network connectivity, — digital optical input and RCA line inputs and outputs, — two USB ports, of which one is mini and for product servicing. <p>The apparatus can be used with another sound reproducing apparatus or with a television apparatus. It can also reproduce audio files stored on the USB flash memory or an internet radio. It is designed to create surround sound and stereo effects.</p>	8519 81 45	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of the CN codes 8519, 8519 81 and 8519 81 45.</p> <p>The apparatus combines the function of a loudspeaker of heading 8518 (when used in connection with another sound reproducing apparatus or with a television apparatus) and a function of a sound reproducing apparatus of heading 8519 (when reproducing audio files from a USB flash memory or from an internet radio).</p> <p>As the apparatus also performs a sound reproducing function, classification under heading 8518 is excluded.</p> <p>Since the apparatus is supplied with a USB connection, it means that it is using semiconductor media. Therefore, the product is to be classified under CN code 8519 81 45 as 'other sound reproducing apparatus using semiconductor media'.</p>

COMMISSION IMPLEMENTING REGULATION (EU) 2019/648**of 15 April 2019****repealing Implementing Regulation (EU) No 113/2014 concerning the classification of certain goods in the Combined Nomenclature**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

- (1) By Implementing Regulation (EU) No 113/2014 ⁽²⁾, the Commission classified an apparatus designed to capture a sequence of images and incorporating a volatile internal memory able to temporarily store those images (so-called 'high speed camera'), under CN code 8525 80 19 as other television cameras.
- (2) In its judgement in Case C-372/17 ⁽³⁾, the Court of Justice ruled that Implementing Regulation (EU) No 113/2014 is invalid.
- (3) For reasons of legal certainty, provisions which have been declared invalid by the Court of Justice should be formally removed from the legal order of the Union.
- (4) Implementing Regulation (EU) No 113/2014 should therefore be repealed.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 113/2014 is repealed.

Article 2

This Regulation shall enter into force on the 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, 15 April 2019.

*For the Commission,
On behalf of the President,
Stephen QUEST
Director-General*

Directorate-General for Taxation and Customs Union

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) No 113/2014 of 4 February 2014 concerning the classification of certain goods in the Combined Nomenclature (OJ L 38, 7.2.2014, p. 20).

⁽³⁾ Judgment of the Court of Justice of 13 September 2018, *Vision Research Europe*, C-372/17, EU:C:2018:708.

COMMISSION REGULATION (EU) 2019/649**of 24 April 2019****amending Annex III to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards trans fat, other than trans fat naturally occurring in fat of animal origin****(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 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods ⁽¹⁾, and in particular Article 8(2) thereof,

Whereas:

- (1) In accordance with Regulation (EC) No 1925/2006, the Commission may, on its own initiative, take a decision to include a substance, other than a vitamin or mineral, or an ingredient containing such substance in Annex III to that Regulation, listing the substances whose use in foods is prohibited, restricted or under Union scrutiny, if that substance is associated with a potential risk to consumers as provided for in Article 8(1) of that Regulation.
- (2) On 4 December 2009, the European Food Safety Authority (hereinafter ‘the Authority’) adopted a scientific opinion ⁽²⁾ concluding that the intake of trans fatty acids should be as low as possible within the context of a nutritionally adequate diet.
- (3) On 3 December 2015, the Commission adopted a report on trans fats in foods and in the overall diet of the Union population ⁽³⁾. The report recalled that coronary heart disease is the leading cause of death in the Union and a high intake of trans fats seriously increases the risk of heart disease, more than any other nutrient on a per calorie basis.
- (4) The report concluded that establishing a legal limit for industrial trans fats in food appears to be the most effective measure in terms of public health, consumer protection and compatibility with the internal market.
- (5) On 30 April 2018, the Commission asked the Authority to compile the outcomes of scientific advice already provided by the Authority on the health effects of trans fats, in particular on nutrition and health claims, dietary reference values and food additives; and to inform the Commission on how such scientific advice relates to current goals and recommendations on the intake of trans fats to maintain health.
- (6) On 19 June 2018, the Authority provided its conclusion in the form of scientific and technical assistance. It concluded ⁽⁴⁾ based on review of available scientific evidence that according to the latest national and international recommendations, dietary intakes of trans fatty acids should be as low as possible.
- (7) On 15 May 2018, the World Health Organisation called for the elimination of industrially-produced trans fatty acids from global food supply ⁽⁵⁾.
- (8) Trans fat is a substance other than vitamins and minerals for which harmful effects on health have been identified. The substance should therefore be placed in Part B of Annex III to Regulation (EC) No 1925/2006 and its addition to foods or its use in the manufacture of foods should only be allowed under the conditions specified in that Annex, in view of the current state of scientific and technical knowledge.

⁽¹⁾ OJ L 404, 30.12.2006, p. 26.

⁽²⁾ EFSA Panel on Dietetic Products, Nutrition, and Allergies (NDA); Scientific Opinion on Dietary Reference Values for fats, including saturated fatty acids, polyunsaturated fatty acids, monounsaturated fatty acids, trans fatty acids, and cholesterol. EFSA Journal 2010; 8(3):1461.

⁽³⁾ COM(2015)619 final of 3.12.2015.

⁽⁴⁾ EFSA, 2018. Scientific and technical assistance on trans fatty acids. EFSA supporting publication 2018:EN-1433. 16 pp. doi:10.2903/sp.efsa.2018.EN-1433.

⁽⁵⁾ REPLACE – an Action package to eliminate industrially-produced trans fatty acids, reference WHO/NMH/NHD/18.4, May 2018.

- (9) The definitions of 'fat' and of 'trans fat' set out in Annex I of Regulation (EC) No 1169/2011 of the European Parliament and of the Council ⁽⁶⁾ and of 'retail' set out in Article 3(7) of Regulation (EC) No 178/2002 of the European Parliament and of the Council ⁽⁷⁾ should apply to the relevant terms in Part B of Annex III to Regulation (EC) No 1925/2006.
- (10) In order to facilitate the application of this Regulation, it is necessary to require from food business operators supplying food to other food business operators with the exception of retailers, to provide them with the information on the amount of trans fat, other than trans fat naturally occurring in fat of animal origin, where that amount exceeds 2 grams per 100 grams of fat.
- (11) In order to enable food business operators to adapt to the new requirements which will result from this Regulation, appropriate transitional measures should be adopted.
- (12) Regulation (EC) No 1925/2006 should therefore be amended accordingly.
- (13) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

The content of trans fat, other than trans fat naturally occurring in fat of animal origin, in food intended for the final consumer and food intended for supply to retail, shall not exceed 2 grams per 100 grams of fat.

Article 2

Food business operators supplying other food business operators with food not intended for the final consumer or not intended for supply to retail, shall ensure that supplied food business operators are provided with information on the amount of trans fat, other than trans fat naturally occurring in fat of animal origin, where that amount exceeds 2 grams per 100 grams of fat.

Article 3

Part B of Annex III to Regulation (EC) No 1925/2006 is amended in accordance with the Annex to this Regulation.

Article 4

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

Food which does not comply with this Regulation may continue to be placed on the market until 1 April 2021.

⁽⁶⁾ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).

⁽⁷⁾ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

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

Done at Brussels, 24 April 2019.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

In Part B of Annex III to Regulation (EC) No 1925/2006 the following table is inserted:

PART B

Restricted substances

Restricted substance	Conditions of use	Additional requirements
Trans fat other than trans fat naturally occurring in fat of animal origin	<i>Maximum 2 grams per 100 grams of fat</i> in food intended for the final consumer and food intended for supply to retail	Food business operators supplying other food business operators with food not intended for the final consumer or not intended for supply to retail, shall ensure that supplied food business operators are provided with information on the amount of trans fat, other than trans fat naturally occurring in fat of animal origin, where that amount exceeds 2 grams per 100 grams of fat.'

COMMISSION REGULATION (EU) 2019/650**of 24 April 2019****amending Annex III to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards Yohimbe (*Pausinystalia yohimbe* (K. Schum) Pierre ex Beille)****(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 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods ⁽¹⁾, and in particular Article 8(5) thereof,

Whereas:

- (1) In accordance with Article 8(2) of Regulation (EC) No 1925/2006, taking into account the possible harmful effects on health associated with the use of Yohimbe (*Pausinystalia yohimbe* (K. Schum) Pierre ex Beille) and its preparations in foods, and the persisting scientific uncertainty, this substance has been placed under Union scrutiny and was included in Part C of Annex III to Regulation (EC) No 1925/2006 by means of Commission Regulation (EU) 2015/403 ⁽²⁾.
- (2) Pursuant to Article 8(5) of Regulation (EC) No 1925/2006, within four years from the date a substance has been listed in Part C of Annex III, a decision shall be taken to generally allow the use of a substance listed in Part C of Annex III or to list it in Part A or B of Annex III, as appropriate, taking into account the opinion of the European Food Safety Authority ('the Authority') on any files submitted for evaluation by food business operators, or any other interested parties as mentioned in Article 8(4).
- (3) Pursuant to Article 5(2) of Commission Implementing Regulation (EU) No 307/2012 ⁽³⁾, only files submitted within 18 months from the entry into force of a decision that includes a substance to Part C of Annex III to Regulation (EC) No 1925/2006 shall be taken into account by the Authority as being a valid file for the purposes of a decision as laid down in Article 8(5) of Regulation (EC) No 1925/2006.
- (4) Considering that interested parties have not submitted any scientific data to the Authority to demonstrate the safety of Yohimbe (*Pausinystalia yohimbe* (K. Schum) Pierre ex Beille) within the time limit referred to in Article 5(2) of Implementing Regulation (EU) No 307/2012, Yohimbe (*Pausinystalia yohimbe* (K. Schum) Pierre ex Beille) and its preparations should be included in Part A of Annex III to Regulation (EC) No 1925/2006, which means that their use in food will be prohibited.
- (5) Regulation (EC) No 1925/2006 should therefore be amended accordingly.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Annex III to Regulation (EC) No 1925/2006 is amended as follows:

- (1) in Part A, the following entry is added:

‘Yohimbe bark and its preparations originating from Yohimbe (*Pausinystalia yohimbe* (K. Schum) Pierre ex Beille);

⁽¹⁾ OJ L 404, 30.12.2006, p. 26.

⁽²⁾ Commission Regulation (EU) 2015/403 of 11 March 2015 amending Annex III to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards Ephedra species and Yohimbe (*Pausinystalia yohimbe* (K. Schum) Pierre ex Beille) (OJ L 67, 12.3.2015, p. 4).

⁽³⁾ Commission Implementing Regulation (EU) No 307/2012 of 11 April 2012 establishing implementing rules for the application of Article 8 of Regulation (EC) No 1925/2006 of the European Parliament and of the Council on the addition of vitamins and minerals and of certain other substances to foods (OJ L 102, 12.4.2012, p. 2).

(2) in Part C, the following entry is deleted:

‘Yohimbe bark and its preparations originating from Yohimbe (*Pausinystalia yohimbe* (K. Schum) Pierre ex Beille)’.

Article 2

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

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

Done at Brussels, 24 April 2019.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION REGULATION (EU) 2019/651**of 24 April 2019****refusing to authorise a health claim made on foods and referring to children's development and health****(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 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods ⁽¹⁾, and in particular Article 17(3) thereof,

Whereas:

- (1) Pursuant to Regulation (EC) No 1924/2006 health claims made on foods are prohibited unless they are authorised by the Commission in accordance with that Regulation and are included in a list of permitted claims.
- (2) Regulation (EC) No 1924/2006 also provides that applications for authorisations of health claims may be submitted by food business operators to the national competent authority of a Member State. The national competent authority is to forward valid applications to the European Food Safety Authority (EFSA), hereinafter referred to as 'the Authority'.
- (3) Following receipt of an application the Authority is to inform without delay the other Member States and the Commission thereof, and to deliver an opinion on the health claim concerned.
- (4) The Commission is to decide on the authorisation of health claims taking into account the opinion delivered by the Authority.
- (5) Following an application from H.J. Heinz Supply Chain Europe B.V., submitted pursuant to Article 14(1)(b) of Regulation (EC) No 1924/2006, the Authority was required to deliver an opinion on a health claim related to 'Nutrimune®' and immune defence against pathogens in the gastrointestinal tract and upper respiratory tract (Question No EFSA-Q-2016-00008 ⁽²⁾). The claim proposed by the applicant was worded as follows: "Nutrimune®" supports the immune defence in the gastrointestinal and upper respiratory tract of young children'.
- (6) On 30 January 2017, the Commission and the Member States received the scientific opinion from the Authority, which concluded that on the basis of the data presented, the scientific evidence is insufficient to establish a cause and effect relationship between the consumption of 'Nutrimune®' (a pasteurised cow's skim milk fermented with *Lactobacillus paracasei* CBA L74) and the immune defence against pathogens in the gastrointestinal and upper respiratory tracts. Accordingly, as the claim does not comply with the requirements of Regulation (EC) No 1924/2006, it should not be authorised.
- (7) The comments from the applicant received by the Commission pursuant to Article 16(6) of Regulation (EC) No 1924/2006 have been considered when setting out the measures provided for in this Regulation.

⁽¹⁾ OJ L 404, 30.12.2006, p. 9.

⁽²⁾ EFSA Journal 2017;15(1):4679.

- (8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

The health claim listed in the Annex to this Regulation shall not be included in the Union list of permitted claims as provided for in Article 14(1) of Regulation (EC) No 1924/2006.

Article 2

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

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

Done at Brussels, 24 April 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Rejected health claim

Application — Relevant provisions of Regulation (EC) No 1924/2006	Nutrient, substance, food or food category	Claim	EFSA opinion reference
Article 14(1)(b) health claim referring to children's development and health	'Nutrimune®' (a pasteurised cow's skim milk fermented with <i>Lactobacillus paracasei</i> CBA L74)	'Nutrimune®' supports the immune defence in the gastrointestinal and upper respiratory tract of young children	Q-2016-00008

COMMISSION IMPLEMENTING REGULATION (EU) 2019/652**of 24 April 2019****laying down standard Rules of Functioning for the Advisory Commission or Alternative Dispute Resolution Commission and a standard form for the communication of information concerning publicity of the final decision in accordance with Council Directive (EU) 2017/1852**

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union ⁽¹⁾, and in particular Articles 11(3) and 18(4) thereof,

Whereas:

- (1) Directive (EU) 2017/1852 introduces a mechanism for the effective resolution of tax disputes between Member States concerning the interpretation and application of agreements and conventions that provide for the elimination of double taxation of income and, where applicable, capital.
- (2) Directive (EU) 2017/1852 provides that if the mutual agreement procedure which is foreseen as a first step for the resolution of disputes does not lead to an agreement between the competent authorities of the Member States concerned within a certain timeframe, the dispute may be submitted for resolution by an Advisory Commission or an Alternative Dispute Resolution Commission.
- (3) Directive (EU) 2017/1852 provides that the competent authorities of each Member State involved in the dispute shall sign the Rules of Functioning for the Advisory Commission or Alternative Dispute Resolution Commission ('Rules of Functioning') and notify them to the affected persons.
- (4) Directive (EU) 2017/1852 provides that the Commission shall establish standard Rules of Functioning to apply where the Rules of Functioning have not been notified to the affected person(s) within the prescribed timeframe or they are incomplete. Standard Rules of Functioning should therefore be established, in order to achieve the continuity and effectiveness of the dispute resolution procedure. For this reason, the standard Rules of Functioning should create a comprehensive procedural framework for the dispute resolution procedure to run without obstacles and to guarantee the rights of the affected person(s) under Directive (EU) 2017/1852. It would be particularly important to delineate the legal base of the dispute, the terms of reference, as well as deal with the details of the organisation and functioning of the Advisory Commission or Alternative Dispute Resolution Commission and also provide for the sharing of costs. In order to ensure the independence of the Advisory Commission or Alternative Dispute Resolution Commission, it would also be necessary to include a comprehensive disclosure of any conflicts of interest.
- (5) Directive (EU) 2017/1852 provides that the competent authorities may agree to publish their final decision in its entirety, subject to consent of the affected person(s) concerned. Directive (EU) 2017/1852 also provides that where the competent authorities or affected person(s) concerned do not consent to publishing the final decision in its entirety, the competent authorities shall publish an abstract of such final decision.
- (6) In order to guarantee the coherent communication of the information concerning the publicity of the final decision, a standard form should be established. In order to ensure transparency regarding the final decision whilst also protect business secrecy of the affected person(s), the standard form should condition the publication of the final decision on an agreement of the competent authorities and the consent of the affected person(s). In the case that one of these parties disagrees with the publication, the rules should provide for releasing an abstract of the final decision and setting out the elements that should feature thereon. It should also be accepted that the affected person be entitled to request the competent authorities not to publish information that pertains to business secrecy.
- (7) In order to ensure legal certainty and a proper functioning of the system, this Regulation should start to apply after the time limit for transposition laid down in the first subparagraph of Article 22(1) of Directive (EU) 2017/1852.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Dispute Resolution,

⁽¹⁾ OJ L 265, 14.10.2017, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

Standard Rules of Functioning

Where the competent authorities of the Member States involved in a dispute resolution procedure under Directive (EU) 2017/1852 have not notified the Rules of Functioning for the Advisory Commission or Alternative Dispute Resolution Commission ('Rules of Functioning') or have notified incomplete Rules of Functioning to the affected person(s), the independent persons of standing and the chair shall complete the Rules of Functioning on the basis of the standard form laid down in Annex I to this Regulation.

Article 2

Standard form for the communication of information concerning publicity of the final decision

Where the competent authorities of the Member States involved in a dispute resolution procedure under Directive (EU) 2017/1852 communicate information referred to in paragraphs 2 and 3 of Article 18 of that Directive, they shall use the standard form laid down in Annex II to this Regulation.

Article 3

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 1 July 2019.

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

Done at Brussels, 24 April 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

PART 1

STANDARD RULES OF FUNCTIONING OF THE ADVISORY COMMISSION OR ALTERNATIVE DISPUTE RESOLUTION COMMISSION**(ARTICLE 11(3) OF DIRECTIVE (EU) 2017/1852)***[To be filled in by the independent persons of standing and the chair and signed by the competent authorities of the Member States concerned]**[Where the advisory commission is set up for the purposes of Article 6(1)(a) of Directive (EU) 2017/1852, fill in items marked with a * only]***1. GENERAL INFORMATION *****Name(s) of the affected person(s), address(es), tax identification number(s) (TIN)(s):** _____**Member State of residence for tax purposes of the affected person(s):** _____**Member States concerned:** _____**Full address and details of a contact person for the affected person(s), including phone number and email address:** _____**Names and details of the affected person's counsel (if applicable):** _____**2. COMPOSITION OF THE ADVISORY COMMISSION OR ALTERNATIVE DISPUTE RESOLUTION COMMISSION****2.1. Form:**☐ **Advisory Commission**☐ **Alternative Dispute Resolution Commission****2.2. Type of resolution process:**☐ **'Independent opinion'** process☐ **'Final offer'** process☐ **Other**, please specify: _____**2.3. Number of Members and general information *:**— ☐ Chair— ☐ _____ Independent persons of standing and _____ Substitutes— ☐ _____ Competent authorities' representatives

Chair:

Citizenship: _____ Address and contact details (incl. email address and phone number - optional): _____

Independent person of standing (appointed by _____):

Citizenship: _____ Address and contact details (incl. email address and phone number - optional): _____

Substitute (appointed by _____):

Citizenship: _____ Address and contact details (incl. email address and phone number - optional): _____

Independent person of standing (appointed by _____):

Citizenship: _____ Address and contact details (incl. email address and phone number - optional): _____

Substitute (appointed by _____):

Citizenship: _____ Address and contact details (incl. email address and phone number - optional): _____

Competent authorities (Representative appointed for _____)

Address and contact details (incl. email address and phone number):

Competent authorities (Representative appointed for _____)

Address and contact details (incl. email address and phone number):

Where applicable, add lines for additional members involved

In addition, as regards the independent persons of standing, their CVs and references with details of their competence and qualifications shall optionally be attached to these Standard Rules of Functioning. The Disclosure of any Conflicts of Interest set out in Part 2 shall be lawfully signed and included.

3. DESCRIPTION AND CHARACTERISTICS OF THE QUESTION IN DISPUTE *

Subject matter description:

Tax period(s):

Industry sector:

References to applicable laws and treaties:

☐ **National law provisions** (Detailed reference of the corresponding articles shall be provided – the full provisions can be attached)

- ☐ **Double Taxation Convention** (Bilateral or multilateral - detailed reference of the corresponding articles shall be provided – the full provisions can be attached)

- ☐ **Convention on the elimination of double taxation in connection with the adjustments of profits of associated enterprises (90/436/EEC) ⁽¹⁾** (Detailed reference of the corresponding articles shall be provided – the full provisions can be attached)

- ☐ Any other reference agreed by the competent authorities:

Amounts per tax year and other details about the disputed application or interpretation of the agreement or convention as specified in the complaint submitted by the affected person and as verified by the competent authorities:

4. TERMS OF REFERENCE AGREED BY THE COMPETENT AUTHORITIES

Description of the legal issues subject to interpretation in the disputed case:

Description of the factual circumstances to be considered and factual issues on which competent authorities need clarification and/or interpretation by the Advisory Commission or Alternative Dispute Resolution Commission:

5. TIME FRAME FOR THE DISPUTE RESOLUTION PROCEDURE *

Latest date for delivering the opinion:

Time-limits for submissions by the competent authorities and affected person(s), including documentary or other evidence and/or expert opinions; consequences of late submission (if any):

Scheduled dates and place of hearings (if any):

⁽¹⁾ OJ L 225, 20.8.1990, p. 10.

Scheduled dates for the appearance or representation of the affected person(s) and/or third parties at the hearings (if any):

6. ORGANISATION AND FUNCTIONING *

Place(s) of meeting of the Advisory Commission or Alternative Dispute Resolution Commission: _____

Administrative services that may be required for the Advisory Commission or Alternative Dispute Resolution Commission to carry out their functions:

Working language(s) for the dispute resolution procedure: _____

Possible need for translation of documents (in full or in part): _____

Possible need for interpretation of oral presentations: _____

Practical details concerning written submissions and evidence (e.g. method of submission, copies, numbering, references):

Routing of written communications among the competent authorities and affected person(s) (including means of sending documents):

Arrangements for requests for information by the Advisory Commission or Alternative Dispute Resolution Commission and subsequent replies by the affected person(s) and the competent authorities: _____

Experts and other possible third parties (terms and conditions for the submission of oral and written opinions):

Conditions for the admissibility of documents (e.g. original or certified copies, etc.):

Arrangements for presenting voluminous and complicated documentary evidence (e.g., through summaries, tabulations, charts, extracts or samples):

Arrangements for a record of the hearings: _____

Other (to be specified, including other procedural, evidentiary and logistical arrangements that may be applicable):

7. OPINION

Possible requirements concerning filing or delivering the opinion:

8. COSTS *

The costs shall be shared between the Member States:

☐ **In proportion of:** _____

☐ **Equally**

The costs shall include, if any:

☐ The expenses incurred by the independent persons of standing: _____

☐ The fees of the independent persons of standing (limited to EUR 1 000 per person per meeting day): _____

- ☐ Translation costs _____
- ☐ Interpretation costs _____
- ☐ Other administrative costs (including Secretariat costs) _____

Other information and arrangements regarding costs (*to be specified*):

9. OTHER

Date:

Signature by the representatives of the competent authorities of the Member States:

PART 2

DISCLOSURE OF ANY CONFLICTS OF INTEREST

[To be filled in by each appointed independent person of standing and his or her substitute]

Family name: _____

First name: _____

Appointed by: _____

- ☐ I consider myself independent and impartial. To the best of my knowledge, and having made due enquiry, there is no interest, relationship or any other matter, past or present, that I should disclose because it might affect my independence or impartiality or that might reasonably create an appearance of bias in the proceedings.
- ☐ Confirmation with disclosure: I am objective and intend to remain so. Accordingly, I am also mindful of my obligation to disclose any facts or circumstances, which might be of such nature as to call into question my independence before the competent authorities. In this context, I draw your attention to the matters below:
- _____
- _____

This disclosure does not discharge my ongoing duty to disclose any facts and circumstances that might affect my independence.

Date:

Signature of the appointed independent person or his or her substitute:

ANNEX II

STANDARD FORM FOR THE COMMUNICATION OF INFORMATION CONCERNING PUBLICITY OF THE
FINAL DECISION

(ARTICLE 18(4) OF DIRECTIVE (EU) 2017/1852)

*[To be filled in by the competent authorities of each Member State concerned]***Publication of the final decision**

1. Agreement of the competent authorities to publish the final decision in its entirety	Yes <input type="checkbox"/> No <input type="checkbox"/>
2. Consent of the affected person(s) to publish the final decision in its entirety	Yes <input type="checkbox"/> No <input type="checkbox"/>

If 'Yes' under both 1. and 2.:**a) Publication of the final decision in its entirety***Text of final decision in its entirety:***If 'No' under any of 1. or 2.:****b) Publication of the abstract of the final decision**

(i) a description of the issue and the subject matter	...
(ii) date	...
(iii) tax periods involved	...
(iv) legal base	...
(v) industry sector	...
(vi) a short description of the final outcome	...
(vii) a description of the method of arbitration used	...

The final decision has been redacted for reasons concerning a trade, business, industrial or professional secret or trade process, or for being contrary to public policy

COMMISSION IMPLEMENTING REGULATION (EU) 2019/653**of 24 April 2019****amending Regulation (EC) No 847/2006 as regards the Union tariff quotas for certain prepared or preserved fish**

THE EUROPEAN COMMISSION,

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

Having regard to Council Decision 2006/324/EC of 27 February 2006 on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Kingdom of Thailand pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the course of their accession to the European Union ⁽¹⁾, and in particular Article 2 thereof,

Whereas:

- (1) Commission Regulation (EC) No 847/2006 ⁽²⁾ introduced from 2 June 2006 two annual tariff quotas for duty-free imports of certain prepared or preserved fish.
- (2) Regulation (EU) 2019/216 of the European Parliament and of the Council ⁽³⁾ provides that, following the withdrawal of the United Kingdom from the Union, the tariff rate quotas included in the Union's schedule of concessions and commitments annexed to the General Agreement on Tariffs and Trade 1994 are to be apportioned between the Union and the United Kingdom based on the EU-27 share in the quota usage set out in the Annex to that Regulation.
- (3) As a result, measures need to be adopted in order to implement the apportionment of the tariff rate quotas set out in Part C of the Annex to Regulation (EU) 2019/216. In particular, the tariff rate quota quantities set out in Regulation (EC) No 847/2006 should be replaced by those quantities resulting from the apportionment.
- (4) The date on which Article 1(2) of Regulation (EU) 2019/216 starts to apply is likely to be a day that falls in a quota period that has started running. It is therefore necessary to lay down specific rules for implementation of the apportionment of the quantities not allocated on that day for the tariff rate quotas for which the quota period begins before that date and ends after that date.
- (5) To ensure legal certainty and transparency for economic operators, the Commission should publish the quantities that are available following the apportionment of those tariff rate quotas within 2 working days of the date of application of Article 1(2) of Regulation (EU) 2019/216.
- (6) Article 1(2) of Regulation (EU) 2019/216 shall apply from the day following that on which Council Regulation (EC) No 32/2000 ⁽⁴⁾ ceases to apply to and in the United Kingdom. It is therefore appropriate that this Regulation enters into force as a matter of urgency and applies from the date from which Article 1(2) of Regulation (EU) 2019/216 applies.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

⁽¹⁾ OJ L 120, 5.5.2006, p. 17.

⁽²⁾ Commission Regulation (EC) No 847/2006 of 8 June 2006 opening and providing for the administration of Community tariff quotas for certain prepared or preserved fish (OJ L 156, 9.6.2006, p. 8).

⁽³⁾ Regulation (EU) 2019/216 of the European Parliament and of the Council of 30 January 2019 on the apportionment of tariff rate quotas included in the WTO schedule of the Union following the withdrawal of the United Kingdom from the Union, and amending Council Regulation (EC) No 32/2000 (OJ L 38, 8.2.2019, p. 1).

⁽⁴⁾ Council Regulation (EC) No 32/2000 of 17 December 1999 opening and providing for the administration of Community tariff quotas bound in GATT and certain other Community tariff quotas and establishing detailed rules for adjusting the quotas, and repealing Council Regulation (EC) No 1808/95 (OJ L 5, 8.1.2000, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 847/2006 is amended as follows:

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

‘2. An annual tariff quota of 754 tonnes with exemption of customs duties shall be opened for Union imports of prepared or preserved fish of sardines, bonito, mackerel of the species *Scomber scombrus* and *Scomber japonicus*, fish of the species *Orcynopsis unicolor*, other than whole or in pieces, falling within CN code 1604 20 50.’;

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

‘2. of the tariff quota of 754 tonnes in Article 1(2), 123 tonnes shall apply within order number 09.0706 to imports originating in Thailand, and the remaining part, notably 631 tonnes, shall apply within order number 09.0707 to imports originating in all countries.’.

Article 2

1. By way of derogation from Article 1, where for a tariff rate quota the quota period begins before the date from which Article 1(2) of Regulation (EU) 2019/216 applies and ends after that date, the apportionment of the tariff rate quota concerned shall be made by applying the EU-27 percentage to a basis consisting of the quantities of that tariff rate quota available after the last allocation.

2. Within 2 working days of the date of application of Article 1(2) of Regulation (EU) 2019/216, the Commission shall publish, by means of an appropriate web publication, the quantities available on that date.

Article 3

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

It shall apply from the date from which Article 1(2) of Regulation (EU) 2019/216 applies.

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

Done at Brussels, 24 April 2019.

For the Commission
The President
Jean-Claude JUNCKER

DECISIONS

COUNCIL DECISION (EU) 2019/654

of 15 April 2019

amending Protocol No 5 on the Statute of the European Investment Bank

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 308 thereof,

Having regard to the request of the European Investment Bank,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Commission ⁽²⁾,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) On 29 March 2017, the United Kingdom notified the European Council of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. The Treaties will cease to apply to the United Kingdom from the date of entry into force of the Withdrawal Agreement, or failing that, two years after that notification, i.e. on 30 March 2019, unless the European Council, in agreement with the United Kingdom unanimously decides to extend that period.
- (2) In accordance with Article 308 of the Treaty on the Functioning of the European Union, the members of the European Investment Bank (the 'Bank') are the Member States.
- (3) The withdrawal of the United Kingdom from the Union will bring an end to the United Kingdom's membership of the Bank, to its subscribed capital in the Bank, to its right to nominate members and alternate members of the Board of Directors, and to the term of office of the members and alternate members of the Board of Directors nominated by the United Kingdom.
- (4) The maintenance of the capital of the Bank requires an increase in the capital subscribed by the remaining Member States.
- (5) The increase in the capital subscribed by the remaining Member States should occur in parallel with a further strengthening of the governance of the Bank.
- (6) The functions of the Board of Directors should be strengthened by allowing for the nomination of additional alternates, and better use should be made of alternate Board members and non-voting experts to enhance their role in supporting the decision-making process of the Board of Directors, in particular with regard to the analysis of financing proposals.
- (7) The use of qualified majority voting by the Board of Directors and the Board of Governors should be extended to crucial areas, namely the decision on the Bank's operational plan, the appointment of members of the Management Committee and the approval of the Rules of Procedure.
- (8) In order to enhance the effectiveness of the reforms set out in this Decision, the Bank should take further initiatives to reflect, in line with best banking practice, the principles of the 'three lines of defence' at all relevant levels of the Bank, including in the Management Committee.

⁽¹⁾ Opinion of 15 January 2019 (not yet published in the Official Journal).

⁽²⁾ Opinion of 31 January 2019 (not yet published in the Official Journal).

- (9) Furthermore, and in line with Member States' expectations, lending volumes should be kept sustainable and a framework for determining sustainable lending levels should be further developed, while the functions of the Audit Committee should be strengthened by making sure that the Committee includes members with knowledge of supervisory issues. In particular, it should be ensured that the Audit Committee always includes members drawn from a banking supervisory authority from both inside and outside the euro area.
- (10) The Statute of the European Investment Bank should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Protocol No 5 on the Statute of the European Investment Bank, annexed to the Treaty on the Functioning of the European Union, is amended as follows:

- (1) the first subparagraph of Article 4(1) is amended as follows:

- (a) the introductory part is replaced by the following:

'1. The capital of the Bank shall be EUR 204 089 132 500, subscribed by the Member States as follows:';

- (b) the following line in the list is deleted:

'United Kingdom 39 195 022 000';

- (2) in Article 7(3), point (h) is replaced by the following:

'(h) approve, acting by a qualified majority, the Rules of Procedure of the Bank.';

- (3) in the first subparagraph of Article 9(1), the following sentence is added:

'It shall, acting by a qualified majority, decide on the Bank's operational plan.';

- (4) Article 9(2) is amended as follows:

- (a) the first subparagraph is replaced by the following:

'2. The Board of Directors shall consist of 28 directors and of 31 alternate directors, nominated in accordance with this paragraph.';

- (b) the third subparagraph is replaced by the following:

'The alternate directors shall be appointed by the Board of Governors for five years as shown below:

- two alternates nominated by the Federal Republic of Germany,
- two alternates nominated by the French Republic,
- two alternates nominated by the Italian Republic,
- two alternates nominated by common accord of the Kingdom of Spain and the Portuguese Republic,
- three alternates nominated by common accord of the Kingdom of Belgium, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,
- four alternates nominated by common accord of the Kingdom of Denmark, the Hellenic Republic, Ireland and Romania,
- six alternates nominated by common accord of the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden,
- nine alternates nominated by common accord of the Republic of Bulgaria, the Czech Republic, the Republic of Croatia, the Republic of Cyprus, Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic,
- one alternate nominated by the Commission.';

(5) the first subparagraph of Article 11(1) is replaced by the following:

‘1. The Management Committee shall consist of a President and eight Vice-Presidents appointed for a period of six years by the Board of Governors, acting by a qualified majority, on a proposal from the Board of Directors, acting by a qualified majority.’.

Article 2

1. This Decision shall apply from the day following that on which the Treaties cease to apply to the United Kingdom.
2. Point (1)(a) of Article 1 shall apply from the date referred to in paragraph 1 of this Article unless a decision to increase the capital of the Bank has been adopted with effect from that date or before that date.

Done at Luxembourg, 15 April 2019.

For the Council

The President

P. DAEA

DECISION OF THE BOARD OF GOVERNORS OF THE EUROPEAN INVESTMENT BANK**of 16 April 2019****on the replacement of the capital of the United Kingdom in the European Investment Bank by capital subscribed by the remaining Member States [2019/655]**

THE BOARD OF GOVERNORS OF THE EUROPEAN INVESTMENT BANK,

HAVING REGARD to Articles 4(3) and 5(2) of the Statute,

WHEREAS the United Kingdom is expected to withdraw from the European Union as of 30 March 2019 in accordance with the provisions of Article 50 of the Treaty on European Union,

WHEREAS in accordance with Article 308 of the Treaty on the Functioning of the European Union, the members of the European Investment Bank are the Member States,

WHEREAS the withdrawal of the United Kingdom from the European Union will bring an end to the membership of the United Kingdom in the European Investment Bank and to its subscribed capital in the Bank,

WHEREAS the withdrawal of the United Kingdom from the European Union should not affect the financing activity and the business model of the European Investment Bank,

WHEREAS the maintenance of the capital of the Bank requires an increase of the capital subscribed by the remaining Member States,

WHEREAS the paid-in portion of this increase of the capital subscribed by the remaining Member States should amount to EUR 3 495 903 950, to be funded entirely from the Additional Reserves of the Bank, in order to preserve the paid-in portion of the total subscribed capital at its current level,

WHEREAS the maintenance of the capital of the Bank should go in parallel with a further strengthening of the governance of the Bank,

WHEREAS the function of the Board of Directors should be strengthened, allowing the nomination of additional alternates, and better use should be made of alternate Board members and non-voting experts to enhance their support to the decision-making process of the Board of Directors, in particular regarding the analysis of financing proposals,

WHEREAS the use of qualified majority voting in the Board of Directors and the Board of Governors should be extended to crucial areas, namely the decision on the Bank's Operational Plan, the appointment of members of the Management Committee and the approval of the Rules of Procedure,

WHEREAS the Bank should take further initiatives to reflect, in line with best banking practice, the principles of 'three lines of defence', at all relevant levels of the institution, including in the Management Committee,

WHEREAS in line with Member States' expectations, lending volumes should be kept sustainable and a framework for determining sustainable lending levels should be further developed,

WHEREAS the function of the Audit Committee shall be strengthened by making sure that the Committee has amongst its members knowledge on supervisory issues, the selection process for members of the Audit Committee should also be explored to ensure, inter alia, that the Audit Committee always includes members drawn from a banking supervisory authority from both inside and outside the euro area,

WHEREAS the Council is requested to adopt, in parallel, the necessary amendments to the Statute of the Bank in accordance with Article 308 of the Treaty on the Functioning of the European Union,

WHEREAS certain Member States expressed interest to subscribe additional capital in the Bank, and the Board of Governors calls upon the Board of Directors to put forward a proposal in this matter at the latest for the Annual Meeting in 2019,

THE BOARD OF GOVERNORS OF THE EUROPEAN INVESTMENT BANK HAS THEREFORE DECIDED UNANIMOUSLY AS FOLLOWS:

1. With effect from the withdrawal of the United Kingdom from the European Union, the capital subscribed by the remaining Member States shall be increased by EUR 39 195 022 000, in proportion to each Member State's share in the total subscribed capital of EUR 204 089 132 500. The subscribed capital of the Bank shall therefore be restored to EUR 243 284 154 500, subscribed by the Member States as follows:

Germany	46 722 369 149
France	46 722 369 149
Italy	46 722 369 149
Spain	28 033 421 847
Belgium	12 951 115 777
Netherlands	12 951 115 777
Sweden	8 591 781 713
Denmark	6 557 521 657
Austria	6 428 994 386
Poland	5 980 679 827
Finland	3 693 702 498
Greece	3 512 961 713
Portugal	2 263 904 037
Czechia	2 206 922 328
Hungary	2 087 849 195
Ireland	1 639 379 073
Romania	1 513 926 692
Croatia	1 062 312 542
Slovakia	751 236 149
Slovenia	697 455 090
Bulgaria	510 041 217
Lithuania	437 633 208
Luxembourg	327 878 318
Cyprus	321 508 011
Latvia	267 076 094
Estonia	206 248 240
Malta	122 381 664

2. With effect from the withdrawal of the United Kingdom from the European Union, Additional Reserves of the Bank to the amount of EUR 3 495 903 950 shall be drawn from free reserves, and be transformed into paid-in capital by way of transfer from the Bank's Additional Reserves to its capital. The amount shall be allocated to the paid-in capital of the Member States in proportion to each Member State's share in the total amount of EUR 243 284 154 500.

3. Consequently, from the withdrawal of the United Kingdom from the European Union, the first subparagraph of Article 4(1) of the Statute of the Bank shall be amended, and read as follows:

‘The capital of the Bank shall be EUR 243 284 154 500, subscribed by the Member States as follows:

Germany	46 722 369 149
France	46 722 369 149
Italy	46 722 369 149
Spain	28 033 421 847
Belgium	12 951 115 777
Netherlands	12 951 115 777
Sweden	8 591 781 713
Denmark	6 557 521 657
Austria	6 428 994 386
Poland	5 980 679 827
Finland	3 693 702 498
Greece	3 512 961 713
Portugal	2 263 904 037
Czechia	2 206 922 328
Hungary	2 087 849 195
Ireland	1 639 379 073
Romania	1 513 926 692
Croatia	1 062 312 542
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Slovenia	697 455 090
Bulgaria	510 041 217
Lithuania	437 633 208
Luxembourg	327 878 318
Cyprus	321 508 011
Latvia	267 076 094
Estonia	206 248 240
Malta	122 381 664’

4. This decision shall take effect as of the withdrawal of the United Kingdom from the European Union. It shall be published in the *Official Journal of the European Union*.

For the Board of Governors

The Chairman
E.O. TEODOROVICI

The Secretary
M. SANTONI

RULES OF PROCEDURE

RULES OF PROCEDURE OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

March 2019

PART ONE

FOUNDATION TEXTS

Preliminary remarks

1. The Economic and Social Committee was set up by the Treaties establishing the European Economic Community and the European Atomic Energy Community, which were signed in Rome on 25 March 1957 and entered into force on 1 January 1958.

Since then, these two treaties have been amended several times.

2. When the codified version of these Rules of Procedure came into force on 15 March 2019, the foundation texts which concern the European Economic and Social Committee were contained in the Treaty on European Union (Article 13) and the Treaty on the Functioning of the European Union (Articles 300 to 304) as respectively amended and established by the Treaty of Lisbon, which was signed on 13 December 2007 and came into force on 1 December 2009.

N.B.: Any questions or comments regarding the text of these Rules of Procedure or their Implementing Provisions and their application should be sent to the EESC registry (UniteGreffCESE@eesc.europa.eu)

THE TREATY ON EUROPEAN UNION

Article 13

1. The Union shall have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions.

The Union's institutions shall be:

- the European Parliament,
- the European Council,
- the Council,
- the European Commission (hereinafter referred to as 'the Commission'),
- the Court of Justice of the European Union,
- the European Central Bank,
- the Court of Auditors.

2. Each institution shall act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures, conditions and objectives set out in them. The institutions shall practice mutual sincere cooperation.

3. The provisions relating to the European Central Bank and the Court of Auditors and detailed provisions on the other institutions are set out in the Treaty on the Functioning of the European Union.
4. The European Parliament, the Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity.

THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

CHAPTER 3 – THE UNION'S ADVISORY BODIES

Article 300

1. The European Parliament, the Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity.
2. The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of other parties representative of civil society, notably in socio-economic, civic, professional and cultural areas.
3. The Committee of the Regions shall consist of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly.
4. The members of the Economic and Social Committee and of the Committee of the Regions shall not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the Union's general interest.
5. The rules referred to in paragraphs 2 and 3 governing the nature of the composition of the Committees shall be reviewed at regular intervals by the Council to take account of economic, social and demographic developments within the Union. The Council, on a proposal from the Commission, shall adopt decisions to that end.

SECTION 1

THE ECONOMIC AND SOCIAL COMMITTEE

Article 301

The number of members of the Economic and Social Committee shall not exceed 350.

The Council, acting unanimously on a proposal from the Commission, shall adopt a decision determining the Committee's composition.

The Council shall determine the allowances of members of the Committee.

Article 302

1. The members of the Committee shall be appointed for five years. The Council shall adopt the list of members drawn up in accordance with the proposals made by each Member State. The term of office of the members of the Committee shall be renewable.
2. The Council shall act after consulting the Commission. It may obtain the opinion of European bodies which are representative of the various economic and social sectors and of civil society to which the Union's activities are of concern.

Article 303

The Committee shall elect its chairman and officers from among its members for a term of two and a half years.

It shall adopt its Rules of Procedure.

The Committee shall be convened by its chairman at the request of the European Parliament, the Council or of the Commission. It may also meet on its own initiative.

Article 304

The Committee shall be consulted by the European Parliament, by the Council or by the Commission where the Treaties so provide. The Committee may be consulted by these institutions in all cases in which they consider it appropriate. It may issue an opinion on its own initiative in cases in which it considers such action appropriate.

The European Parliament, the Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time limit which may not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time limit, the absence of an opinion shall not prevent further action.

The opinion of the Committee, together with a record of the proceedings, shall be forwarded to the European Parliament, to the Council and to the Commission.

PROTOCOL NO 7 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION ON THE PRIVILEGES AND IMMUNITIES OF THE EUROPEAN UNION – CHAPTER IV (EXTRACT)

Article 10

Representatives of Member States taking part in the work of the institutions of the Union, their advisers and technical experts shall, in the performance of their duties and during their travel to and from the place of meeting, enjoy the customary privileges, immunities and facilities.

This Article shall also apply to members of the advisory bodies of the Union.

COUNCIL DECISION (EU) 2015/1157 OF 14 JULY 2015 DETERMINING THE COMPOSITION OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE (EXTRACT)

Article 1

The number of members of the European Economic and Social Committee shall be as follows:

Belgium	12
Bulgaria	12
Czech Republic	12
Denmark	9
Germany	24
Estonia	6
Ireland	9
Greece	12
Spain	21
France	24
Croatia	9
Italy	24
Cyprus	5
Latvia	7
Lithuania	9
Luxembourg	5
Hungary	12
Malta	5
Netherlands	12
Austria	12
Poland	21
Portugal	12
Romania	15
Slovenia	7
Slovakia	9
Finland	9
Sweden	12
United Kingdom	24

PART TWO

RULES OF PROCEDURE

CODIFIED VERSION OF THE RULES OF PROCEDURE OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE (CAME INTO FORCE ON 15 MARCH 2019)

REMARKS

A. This edition combines:

- The Rules of Procedure of the European Economic and Social Committee adopted at the plenary session of 17 and 18 July 2002 (OJ L 268 of 4 October 2002), which entered into force on 1 August 2002, in accordance with Rule 78 thereof;
- the changes resulting from the following:
 1. amendments of 27 February 2003 of the Rules of Procedure of the European Economic and Social Committee (OJ L 258 of 10 October 2003);
 2. amendments of 31 March 2004 to the Rules of Procedure of the European Economic and Social Committee (OJ L 310 of 7 October 2004);
 3. amendments of 5 July 2006 to the Rules of Procedure of the European Economic and Social Committee (OJ L 93 of 3 April 2007);
 4. amendments of 12 March 2008 to the Rules of Procedure of the European Economic and Social Committee (OJ L 159 of 20 June 2009);
 5. amendments of 14 July 2010 to the Rules of Procedure of the European Economic and Social Committee;
 6. amendments of 20 February 2019 to the Rules of Procedure of the European Economic and Social Committee;
- the Code of Conduct of the members of the European Economic and Social Committee, appended to the Rules of Procedure of the European Economic and Social Committee, in accordance with the decision of the Committee assembly of 20 February 2019.

- B. This edition has been produced by the general secretariat of the European Economic and Social Committee and incorporates the various amendments approved by the Committee assembly.
- C. The Implementing Provisions of the Rules of Procedure, which have been adopted by the Committee bureau in accordance with Article 86(3), are presented separately.

PREAMBLE

1. The European Economic and Social Committee represents the various economic and social components of organised civil society. It is an institutional consultative body established by the 1957 Treaty of Rome.
2. The Committee's consultative role enables its members, and hence the organisations they represent, to participate in the European Union decision-making process. With views occasionally being diametrically opposed, the Committee's discussions often require real negotiations involving not only the usual social partners, i.e. employers (group I) and wage-earners (group II) but also all the other socio-occupational interests represented (group III). This expertise, these discussions and negotiations and the search for convergence may improve the quality and credibility of the European Union decision-making process, inasmuch as they make it more comprehensible and acceptable for Europe's citizens and increase the transparency which is so vital for democracy.
3. Within the European institutional set-up, the EESC fulfils a specific role: it is the prime forum in which the organisations of civil society in the European Union can have their views represented and discussed, and it is especially well placed to act as an intermediary between organised civil society and the European Union institutions.
4. As a chamber for debating and for drawing up opinions, the EESC helps to strengthen the democratic credentials of the process of building the European Union, including the promotion of relations between the EU and socio-economic groupings in third countries. In so doing it helps to promote genuine identification with Europe.
5. To carry out its missions successfully, on 17 July 2002, the EESC adopted its Rules of Procedure, in accordance with the second paragraph of Article 260 of the Treaty establishing the European Community ⁽¹⁾.
6. On 20 February 2019, the EESC's plenary assembly adopted the latest version of these Rules of Procedure.

⁽¹⁾ These Rules were subsequently amended on 27 February 2003, 31 March 2004, 5 July 2006 and 14 July 2010.

TITLE I

ORGANISATION OF THE COMMITTEE

CHAPTER I

INSTALLATION OF THE COMMITTEE IN OFFICE*Rule 1*

1. The Committee shall hold office for terms of five years.
2. The first meeting of the Committee following each five-yearly renewal shall be convened by the oldest member, if possible not later than one month after the members of the Committee have been notified of their appointment by the Council.
3. The members of the Committee shall not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Union. In the performance of their duties and on journeys to and from the place of meetings, members shall enjoy the privileges and immunities established in the Protocol on the privileges and immunities of the European Union. Specifically, they shall enjoy freedom of movement, personal inviolability and immunity. Members shall respect the Committee's dignity and shall not damage its reputation.
4. In the performance of their duties, the members of the Committee shall respect dignity at the workplace. They shall refrain from any form of harassment and condemn this practice. The members of the Committee shall undertake to respect, and sign, the Code of Conduct which is appended to these Rules of Procedure.

The members of the Committee shall not be elected as office holders of one of the Committee's bodies, be appointed as rapporteur or participate in an official mission if they have not signed the declaration relating to the Code of Conduct.

5. The Committee shall ensure compliance with the principle of gender equality and non-discrimination, as defined by European Union law, in all its policies. The Committee shall ensure that the proportion of women in all bodies of the Committee is greater than that in the assembly. The bureau shall assess developments regarding the gender balance and, if necessary, adopt specific recommendations. At the end of each half term of office, a report shall be presented to the bureau to evaluate such developments.

Rule 2

1. The Committee shall consist of the following bodies: the assembly, the bureau, the president and the sections.
2. The Committee shall be divided into three groups, the composition and role of which are set out in Rule 30.
3. The members of the Committee shall not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Union. During the performance of their duties and on journeys to and from the place of meetings, members shall enjoy the privileges and immunities established in the Protocol on the privileges and immunities of the European Union. Specifically, they shall enjoy freedom of movement, personal inviolability and immunity.

Rule 3

1. The Committee recognises and adopts the following European Union symbols:
 - a) the flag representing a circle of twelve gold stars on a blue background;
 - b) the anthem taken from the 'Ode to Joy' from Beethoven's Ninth Symphony;
 - c) the motto 'United in diversity'.
2. The Committee shall celebrate Europe Day on 9 May.
3. The flag shall be displayed in the buildings of the Committee and to mark official occasions.
4. The anthem shall be played at the opening of every inaugural session at the beginning of a term of office and at other formal sessions, e.g. when welcoming heads of state or government, or new members following an enlargement.

CHAPTER II

BUREAU*Rule 4*

1. The election of the bureau members shall comply with the principle of observing an overall and geographical balance between the groups, with at least one, and a maximum of three, representatives from each Member State. The groups shall negotiate and draft a proposal for bureau membership which shall be submitted to the assembly.

The bureau of the Committee shall comprise:

- a) the president, the two vice-presidents;
 - b) the three group presidents, elected as provided for in Rule 30;
 - c) the section presidents;
 - d) a variable number of members, totalling no more than the number of Member States.
2. The president shall be elected in turn from among the members of the three groups.
 3. The president and vice-presidents may not be re-elected. For the two and a half years immediately following the expiry of his term of office the president may not be a member of the bureau as a vice-president or as the president of a group or section.
 4. The vice presidents shall be elected from among the members of the two groups to which the president does not belong.

Rule 5

1. At its first meeting, held in pursuance of Rule 1, the Committee, with the interim president in the chair, shall elect from among its members a president, two vice-presidents, the presidents of the sections and the other members of the bureau other than the group presidents for a term of two and a half years, commencing on the date of the installation of the Committee in office.
2. Only matters pertaining to these elections may be discussed under the chairmanship of the oldest member.

Rule 6

The meeting at which the bureau of the Committee is elected for the last two and a half years of a five-year period shall be convened by the outgoing Committee president. It shall be held at the beginning of the session of the month in which the term of office of the first bureau expires. The chair shall be taken by the outgoing president.

Rule 7

1. The Committee may set up an election panel, drawn from its members and consisting of one representative per Member State, to receive candidatures and to submit a list of candidates to the assembly, taking due account of the provisions of Rule 4.
2. The Committee, acting in accordance with the provisions of this Rule, shall decide on the list or lists of candidates for the presidency and the bureau.
3. The Committee shall elect the members of the bureau other than the presidents of the groups, holding more than one ballot if necessary, according to the procedure for voting by list.
4. Only complete lists of candidates conforming to the provisions of Rule 4 and accompanied by a declaration of acceptance from each candidate may be admitted to the vote.
5. Those candidates on the list which obtains the highest number and at least one-quarter of the valid votes cast shall be declared elected as members of the bureau.
6. The assembly shall then elect the president and the vice-presidents of the Committee by a simple majority.
7. The Committee shall then elect the presidents of the sections by a simple majority.
8. Lastly, the Committee shall vote on the bureau as a whole. At least two-thirds of the total number of valid votes must be cast in favour.

Rule 8

If a bureau member is unable to discharge the duties attaching to his post or in the cases provided for in Rule 75(2), such a member shall be replaced for the remainder of his term of office in accordance with Rule 7. Replacement shall be subject to a vote by the assembly on the basis of a proposal from the group concerned.

Rule 9

1. Meetings of the bureau shall be convened by the president, acting either *ex officio* or at the request of ten members.
2. Minutes of each bureau meeting shall be drawn up. These minutes shall be submitted to the bureau for approval.

3. The bureau shall lay down its own procedural rules.
4. It shall lay down the organisation and working procedures of the Committee. It shall adopt provisions for implementing the Rules of Procedure after consulting the groups.
5. The bureau and the president shall exercise the budgetary and financial powers provided for in the Financial Regulation applicable to the general budget of the Union and the Committee's Rules of Procedure.
6. The bureau shall determine the implementing arrangements regarding the travel and subsistence expenses of members, their alternates, appointed in accordance with Rule 21, delegates and their alternates appointed in accordance with Rule 27, and of the experts appointed in accordance with Rule 26, in compliance with the budget and financial procedures.
7. The bureau shall have political responsibility for the general management of the Committee. In particular, it shall ensure that the activities of the Committee, its bodies and its staff are in keeping with its institutional aims.
8. The bureau shall be responsible for ensuring that in carrying out the tasks entrusted to it by the Treaty, the Committee makes good use of the human, budgetary and technical resources available to it. The bureau shall, for instance, take part in the budgetary procedure and in the organisation of the secretariat.
9. The bureau may set up ad hoc groups, drawn from among its members, to examine any questions falling within its competence. Other members may also be involved in the work of these groups, except when issues concerning the appointment of permanent staff are discussed.
10. Every six months the bureau shall examine, on the basis of a report drawn up for this purpose, the action taken on opinions delivered by the Committee.
11. At the request of a member or of the secretary-general, the bureau shall clarify the interpretation of the Rules of Procedure and its Implementing Provisions. Its findings shall be binding subject to the right of appeal to the assembly to make a final decision.
12. At the time of the Committee's five-yearly renewal, the outgoing bureau shall discharge current business until the first meeting of the new Committee. In exceptional cases, it may make an outgoing member responsible for the implementation of specific tasks, or tasks subject to time limits, that require a particular level of expertise.

Rule 10

Within the framework of interinstitutional cooperation, the bureau may instruct the president to conclude cooperation agreements with the institutions and other bodies of the European Union.

Rule 11

1. A commission for financial and budgetary affairs (CAF) shall be set up to advise the president and bureau and to prepare all draft decisions of a financial and budgetary or organisational nature to be adopted by the bureau.
2. The commission for financial and budgetary affairs shall be chaired by one of the two Committee vice-presidents.

It shall have twelve members, appointed by the bureau on a proposal from the groups.

3. The commission for financial and budgetary affairs shall draw up a draft Committee budget, that it shall submit to the bureau for approval, and shall ensure that the budget is properly implemented and accounted for.

The commission for financial and budgetary affairs shall advise on:

- any matter of importance which may compromise the sound management of appropriations or prevent attainment of the objectives set, in particular regarding forecasts on the utilisation of appropriations;
 - the implementation of the current budget, transfer of appropriations, impacts relating to the establishment plan, administrative appropriations and operations concerning buildings-related projects; it shall in particular provide an assessment of the state of play and suggest future steps;
 - the supervision of the discharge process, working closely with the secretary-general and the European Parliament rapporteur.
4. The Committee's budget shall comply with the principles of unity, budget accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management and transparency.

5. For specified additional matters, the bureau may delegate other powers to the commission for financial and budgetary affairs.
6. The commission for financial and budgetary affairs shall adopt its decisions according to its own procedural rules which should include the following provisions:
 - a) proposals which it adopts unanimously shall be submitted to the bureau for approval without debate;
 - b) proposals which it adopts by simple majority or refusals of such proposals shall be justified in order that they may be examined subsequently by the bureau.
7. The commission for financial and budgetary affairs shall submit an annual report to the bureau.
8. The president of the commission for financial and budgetary affairs shall chair the delegation responsible for negotiations with the European Union budgetary authority and shall report thereon to the bureau.
9. The secretariat shall provide the commission for financial and budgetary affairs with all the information necessary for it to carry out its task of advising the bureau and the Committee president.

Rule 12

1. A communication commission (COCOM) shall be set up, responsible for guiding and monitoring the Committee's communication strategy. Its duties shall include advising the bureau and the Committee president.
2. The communication commission shall be chaired by one of the two Committee vice-presidents. It shall have twelve members, appointed by the bureau on a proposal from the groups.
3. The communication commission shall coordinate the activities of the structures responsible for communication, for relations with the press and media and for culture, and ensure that such activities are consistent with the approved strategy and programmes.
4. Each year the communication commission shall submit an annual activity report to the bureau including the implementation of its duties, together with a work programme for the year ahead.

CHAPTER III

PRESIDENCY AND THE PRESIDENT

Rule 13

1. The presidency shall comprise the president and the two vice-presidents.
2. The Committee presidency shall meet with the group presidents to prepare the work of the bureau and the assembly. The section presidents may be invited to take part in these meetings.
3. In order to define the Committee's programme of work and assess its progress, the Committee presidency shall meet at least twice a year with the presidents of the groups and sections.

Rule 14

1. The president shall direct all the work of the Committee and its internal bodies, in accordance with the Treaty and with these Rules of Procedure. He shall have all the powers necessary to direct the deliberations of the Committee and ensure that they proceed smoothly.
2. The president shall involve the vice-presidents in his activities on a permanent basis; he may delegate to them specific tasks or responsibilities falling within his remit.
3. The president may entrust specific tasks to the secretary-general for a limited period.
4. The president shall represent the Committee. He may delegate this authority of representation to a vice-president or, if appropriate, to a member.
5. The president shall report to the Committee on action and measures taken on its behalf between plenary sessions. These reports shall not be followed by a debate.
6. After his election, the president shall present his work programme for his term of office to the plenary session. He shall also present a review of achievements at the end of his term.

These two presentations may be debated by the assembly.

Rule 15

The two vice-presidents shall be respectively president of the commission for administrative and financial affairs and president of the communication commission and shall perform these tasks under the authority of the Committee president.

Rule 16

1. The enlarged presidency shall comprise the president and the two vice-presidents of the Committee and the group presidents.

2. The role of the enlarged presidency shall be to:

- a) prepare and facilitate the work of the bureau and the assembly;
- b) facilitate the necessary decisions in the event of pressing time constraints or extraordinary circumstances.

To this end the section and consultative commission presidents, as well as other persons, may be invited to take part in its meetings.

3. The enlarged presidency shall meet at least twice a year with the presidents of the sections and consultative commissions to prepare the Committee's programme of work and assess its implementation.

*CHAPTER IV***SECTIONS***Rule 17*

1. The Committee shall comprise six sections. Other sections may be set up by the plenary assembly on a proposal from the bureau, in the fields covered by the Treaties.

2. The Committee shall set up its sections at the inaugural session following each five-yearly renewal.

3. The list of sections and their terms of reference may be re-examined at the time of each five-yearly renewal.

Rule 18

1. The number of members of the sections shall be decided by the Committee on a proposal from its bureau.

2. Apart from the president, every member of the Committee must be a member of at least one section.

3. No member may belong to more than two sections, except if he comes from a Member State where the number of members is nine or less. However, no member may belong to more than three sections.

4. The members of the sections shall be appointed by the Committee. Appointments shall be for two and a half years and shall be renewable.

5. The procedure laid down for the appointment of section members shall also be followed for the replacement of such members.

Rule 19

1. The bureau of a section, elected for a term of two and a half years, shall comprise twelve members including a president and three vice-presidents, one from each group.

2. Elections of section presidents and of other members of section bureaux shall be conducted by the Committee.

3. Section presidents and other members of section bureaux may be re-elected.

4. The presidency of three sections shall be rotated between the groups every two and a half years. The same group may not hold the presidency of any section for a period exceeding five consecutive years.

Rule 20

1. It shall be the task of the sections to adopt opinions or information reports on questions referred to them in accordance with Rule 37 of these Rules of Procedure.

2. The sections may set up from among their members a study group or drafting group or appoint a rapporteur working alone to deal with the questions referred to them.

3. The appointment of rapporteurs and, where appropriate, co-rapporteurs, and the composition of study and drafting groups shall be decided on the basis of proposals from the groups.
4. In order that study groups may be set up quickly and in the event of agreement between the three group presidents on the proposed appointment of rapporteurs and, where appropriate, co-rapporteurs, and on the composition of study or drafting groups, the section presidents shall take the steps required to ensure that work can begin.
5. The rapporteur, with the help of his expert, where appropriate, shall be responsible for monitoring action taken on an opinion after its adoption at the plenary session. He shall be assisted in this task by the secretariat of the section concerned. The section shall be informed of the findings of such monitoring.
6. Study groups may not become permanent bodies, save in exceptional cases for which the Committee bureau's prior authorisation is required for the same two-and-a-half-year period.

Rule 21

1. Any member of the Committee unable to attend a preparatory meeting may arrange to be represented by his alternate.
2. Alternates shall have no voting rights.
3. However, should a member be president of a section or study group, member of the section bureau or rapporteur, he may not be represented by his alternate in the performance of these duties.
4. The name and capacity of the alternate selected shall be communicated to the bureau of the Committee for its approval.
5. During the preparatory work the alternate shall carry out the same duties as the member whom he replaces and shall be subject to the same rules as regards travel and subsistence expenses.

CHAPTER V

SUBCOMMITTEES AND RAPPORTEUR-GENERAL

Rule 22

1. On the initiative of the bureau, the Committee may, in exceptional cases, set up subcommittees drawn from its members to produce, for submission initially to the bureau and then to the assembly, draft opinions or information reports on strictly horizontal general matters.
2. In the periods between plenary sessions the bureau may set up subcommittees, subject to subsequent confirmation by the Committee. In no case may a subcommittee be set up for more than one matter. A subcommittee shall be automatically dissolved as soon as the draft opinion or information report which it has prepared is voted on by the Committee.
3. Subcommittees set up for questions coming within the purview of two or more sections shall be made up of members of those sections.
4. The rules governing sections shall be applicable, *mutatis mutandis*, to subcommittees.

Rule 23

In the event of referrals covering topics of secondary interest or of an urgent nature, the Committee may appoint a rapporteur-general, who shall address the plenary assembly alone and without first addressing the section.

CHAPTER VI

OBSERVATORIES - HEARINGS - EXPERTS

Rule 24

1. The Committee may set up observatories when the nature, extent and complexity of the subject to be dealt with calls for particular flexibility in the working methods, procedures and instruments to be used.
2. An observatory shall be set up by a decision of the plenary assembly, ratifying a decision taken earlier by the bureau on a proposal from a group or from a section.

3. The decision to set up an observatory shall define the object, structure, composition and duration in each case.
4. The observatories may draw up an annual information document on the application of the horizontal clauses in the Treaty (the social clause, environmental clause and consumer protection clause) and their impact on the policies of the European Union. This report may be forwarded to the European Parliament, the Council and the Commission, if the assembly so decides.
5. Each observatory shall work under the oversight and supervision of a section.

Rule 25

If an issue under discussion is of sufficient importance, the various bodies and working units of the Committee may invite guest speakers from outside the Committee to a hearing. If the presence of guest speakers involves additional costs, the body or unit concerned must seek prior authorisation from the Committee bureau and submit a programme giving reasons why it considers that certain aspects call for outside assistance.

Rule 26

1. Where necessary for preparing certain tasks, the group presidents may appoint experts on a proposal from the rapporteurs and/or co-rapporteurs.
2. The group presidents may also appoint group experts.
3. Experts taking part in preparatory work shall be subject to the same conditions as those laid down for members as regards travel and subsistence expenses.
4. When their presence is useful, experts of rapporteurs and co-rapporteurs may, on a proposal from the rapporteur or co-rapporteur, attend section or consultative commission meetings during which the opinions or information reports for the preparation of which they were appointed will be examined.

The president of the section or consultative commission concerned must give his prior approval.

5. Experts do not represent the Committee and shall not be authorised to speak on its behalf.
6. Committee members may not be appointed experts.

Their alternates may be appointed, subject to temporary suspension of their tenure of office as alternate.

Consultative commission delegates may only serve as experts for the group which has appointed them or for a rapporteur belonging to that group.

CHAPTER VII

CONSULTATIVE COMMISSIONS

Rule 27

1. The Committee shall have the option of setting up consultative commissions. These shall be made up of members of the Committee and of delegates from areas of civil society that the Committee wishes to involve in its work.
2. Such commissions shall be set up by a decision of the plenary assembly which shall confirm a decision taken by the bureau. The decision setting up such commissions shall define their object, their structure, their composition, their duration and their rules.
3. In accordance with paragraphs 1 and 2 of this Rule, a consultative commission on industrial change (CCMI) may be set up, made up of members of the Committee and delegates from organisations representing the various economic and social sectors as well as civil society organisations concerned by industrial change. The president of the commission shall be a member of the Committee bureau, to which he shall report every two and a half years on the activity of the CCMI. He shall be chosen from among the members of the bureau referred to in Rule 4(1)(d) of these Rules of Procedure. Delegates and alternates participating in preparatory work shall be subject to the same rules as members as regards travel and subsistence expenses.

CHAPTER VIII

DIALOGUE WITH ECONOMIC AND SOCIAL ORGANISATIONS IN EU AND NON-EU STATES*Rule 28*

1. The Committee, on the initiative of the bureau, may maintain structured relations with economic and social councils and similar institutions and with civil society organisations of an economic and social nature in the European Union and non EU countries.
2. In the same way, it shall undertake actions designed to foster the establishment of economic and social councils or similar institutions in countries which do not yet have them.

Rule 29

1. The Committee, on a proposal from the bureau, may appoint delegations to maintain relations with the various economic and social components of organised civil society in states or associations of states outside the European Union.
2. Cooperation between the Committee and partners from organised civil society in the candidate countries shall take the form of joint consultative committees if these have been formed by the Association Councils. Otherwise it shall take place in contact groups.
3. The joint consultative committees and contact groups shall draw up joint information reports and declarations, which may be forwarded by the Committee to the relevant institutions and to the actors concerned.

CHAPTER IX

GROUPS*Rule 30*

1. The Committee shall be made up of three groups of members representing respectively employers, employees and the various other economic and social components of organised civil society.
2. The groups shall elect their presidents and vice-presidents. They shall participate in the preparation, organisation and coordination of the business of the Committee and its constituent bodies, and help supply them with information. Each group shall be provided with a secretariat.
3. The groups shall propose to the assembly candidates for election as president and vice-presidents, in accordance with Rule 7(6) and respecting the principle of equality between men and women as defined by the institutions of the European Union.
4. The group presidents shall be members of the Committee bureau in accordance with Rule 4(1)(b).
5. The group presidents shall assist the Committee presidency in the formulation of policy and, where appropriate, in the monitoring of expenditure.
6. The group presidents shall meet with the Committee presidency to assist in preparing the work of the bureau and the assembly.
7. The groups shall make proposals to the assembly for the election of section presidents under Rule 7(7) and of section bureaux under Rule 19.
8. The groups shall make proposals for membership of the commission for 11(1).
9. The groups shall make proposals for the membership of observatories and consultative commissions to be set up by the assembly under Rules 24 and 27 respectively.
10. The groups shall make proposals for the membership of delegations and joint consultative committees to be set up in accordance with Rule 29(1) and (2) respectively.
11. The groups shall make proposals for rapporteurs and for the composition of study and drafting groups to be appointed or set up by the sections under Rule 20(3).

12. In applying paragraphs (7) to (11) of this Rule, the groups shall take account of the representation within the Committee of the Member States, the various components of economic and social activity, terms of reference and the criteria of good management.

13. Members may, on a voluntary basis, join one of the groups subject to the approval of their eligibility by the members of that group. No member shall belong to more than one group at the same time.

14. The general secretariat shall provide members not belonging to a group with the material and technical support required for the performance of their duties. Their participation in study groups and other internal bodies shall be the subject of a decision by the president after consultation of the groups.

CHAPTER X

CATEGORIES

Rule 31

1. Members of the Committee may, on a voluntary basis, form categories representing the various economic and social interests of organised civil society in the European Union.

2. A category may be made up of members from the three groups within the Committee. No Committee member shall belong to more than one category at the same time.

3. The creation of a category shall be subject to approval being granted by the bureau, who shall inform the assembly.

4. The bureau's decision approving the creation of a category shall define its object, structure, composition, duration and procedural rules.

This decision may subsequently be amended or revoked by the bureau.

The minimum number of members required to form a category shall be ten.

TITLE II

PROCEDURE OF THE COMMITTEE

CHAPTER I

CONSULTATION OF THE COMMITTEE

Rule 32

1. The Committee shall be convened by its president to adopt opinions requested by the European Parliament, the Council or the Commission.

2. It shall be convened by its president, on a proposal from its bureau and with the agreement of the majority of its members, to deliver, on its own initiative, opinions on any question pertaining to the European Union, its policies and their possible developments.

Rule 33

1. Requests for opinions referred to in Rule 32(1) shall be addressed to the president. The president, in consultation with the bureau, shall organise the work of the Committee, taking account as far as possible of the time limits set in the request for an opinion.

2. The bureau shall determine the order of priority of opinions, allocating them among categories.

3. The sections shall draw up a proposal for allocating opinions among the three categories below. They shall give a provisional indication of the size of the study group. After discussions between the Committee presidency and the group presidents, the proposal shall be submitted to the bureau for a decision. In special cases, the presidents of the groups may propose that the size of the study group be modified. At its next meeting the bureau shall confirm this new proposal and lay down the final size of the study group.

The three categories shall be defined according to the following criteria:

Category A (referrals on topics identified as a priority). This category includes:

- all requests for exploratory opinions (European Parliament, future Council presidencies, Commission);
- all adopted proposals for own-initiative opinions;
- certain mandatory or optional referrals.

Such referrals shall be handled by study groups of various sizes (6, 9, 12, 15, 18, 21 or 24 members) and possessing appropriate resources.

Category B (mandatory or optional referrals covering topics of secondary interest or of an urgent nature).

Such referrals shall normally be handled by a rapporteur working alone or a rapporteur-general. In exceptional cases, following a decision by the bureau, a category B referral may be handled by a three-member drafting group (category B +). The number of meetings and working languages shall be decided by the bureau.

Category C (mandatory or optional referrals of a purely technical nature).

Such referrals shall be dealt with in a standard opinion, which the bureau shall submit to the assembly. This procedure shall not involve either the appointment of a rapporteur or examination by a section, but simply the adoption or rejection of the opinion at the plenary session. When such items come up at the plenary session, the assembly shall first of all be asked whether it is in favour of or against them being handled according to the above-mentioned procedure, and then to vote for or against the adoption of the standard opinion.

4. For urgent matters, the provisions of Rule 63 of these Rules shall apply.

Rule 34

The Committee may, on a proposal from the bureau, decide to prepare an information report with a view to examining any question pertaining to the policies of the European Union and their possible developments.

Rule 35

The Committee may, following a proposal from a section, a group or a third of its members, issue resolutions on a current topic, which shall be adopted by the assembly in accordance with Rule 61(2). Draft resolutions shall be given priority on the agenda for the plenary session.

Rule 36

1. The bureau may govern activities directly or indirectly linked to its consultative function by general decisions and authorise such activities by specific decisions. This applies in particular to:

- the establishment, composition and management by the Committee of forums, platforms or other thematic consultation structures, and the format for the participation of the Committee and its members in the consultation structures set up by the institutions of the Union or in which such institutions take part;
- the preparation or commission of studies and their publication;
- the organisation of working visits and events away from headquarters;
- the evaluation of policies, decided by the bureau or requested by Union institutions, in particular in the form of opinions or information reports as defined in these Rules of Procedure; 'evaluation of policies' shall be understood as ex post evaluations, concerning policies or laws which are already being implemented. They shall express the assessments and requests of the organisations represented on the Committee ⁽²⁾.

2. In providing its own ex-post assessments (information reports), the EESC shall transmit the views of organised civil society on the impact of Union policies. Ex-post evaluation shall be qualitative and targeted. This evaluation exercise shall take account of social, economic and environmental impacts.

3. Members' participation in external bodies shall be decided by the bureau, regularly monitored and evaluated. Members' representation in external bodies shall be balanced and on a rotational basis.

CHAPTER II

ORGANISATION OF WORK

A. WORK OF THE SECTIONS

Rule 37

1. When an opinion or information report is to be produced, the Committee bureau, in accordance with Rule 9(4), shall designate the section which is to be responsible for preparing the work in question. Where the matter for consideration is clearly within the purview of a given section, the president shall designate that section and inform the bureau of his decision.

⁽²⁾ The complete definition in keeping with the bureau decision of 19 January 2016 will be set out in the Implementing Provisions of these Rules of Procedure.

2. Where a section that has been designated to prepare an opinion wishes to hear the views of the Consultative Commission on Industrial Change (CCMI) or where the CCMI wishes to set out its views on an opinion allocated to a section, the Committee bureau may authorise the CCMI to draw up a supplementary opinion on one or more of the issues covered by the referral. The bureau may also take this decision on its own initiative. The bureau shall organise the Committee's work in such a way that the CCMI is able to prepare its opinion in good time to be taken into consideration by the section.

The section alone shall be responsible for reporting to the Committee. It shall however append to its opinion the supplementary opinion drawn up by the CCMI.

3. The president of the section concerned shall be notified by the Committee president of the decision and of the time limit for the completion of the section's work.

4. The Committee president shall inform the members of the Committee of the referral to the section and of the date on which the subject is to be dealt with by the plenary session.

Rule 38

The Committee president, in agreement with the bureau, may authorise a section to hold a joint meeting with a European Parliament committee, or a Committee of the Regions commission.

Rule 39

Sections to which a question has been referred in accordance with these Rules shall be convened by their president.

Rule 40

1. Meetings of the sections shall be prepared by the section presidents in consultation with the section bureau.
2. Meetings shall be chaired by the section president or, in his absence, by one of the vice-presidents.

Rule 41

1. A quorum shall exist at section meetings if over half of the full members are present or represented.
2. If there is not a quorum, the president shall close the meeting and convene a further meeting to be held at a time which he considers appropriate, but during the course of the same day; at that further meeting a quorum shall exist irrespective of the number of members present or represented.

Rule 42

The sections shall adopt opinions with reference to the draft opinion submitted by the rapporteur and, where appropriate, the co-rapporteur.

Rule 43

1. Section opinions shall contain only texts adopted by the section in accordance with the procedure laid down in Rule 61 of these Rules of Procedure.
2. The text of proposed amendments which have been rejected, together with the result of the voting thereon, shall be appended to the opinion if the amendments received at least one-quarter of the votes cast.

Rule 44

Section opinions, together with all the documents appended thereto in accordance with Rule 43, shall be sent by the president of the section to the president of the Committee and shall be laid before the Committee by its bureau as soon as possible. These documents shall be made available to the members of the Committee in good time.

Rule 45

Concise minutes of each section meeting shall be drawn up and submitted to the section for approval.

Rule 46

The president, in agreement with the bureau or where appropriate the assembly, may refer a question back to a section if he considers that the procedure laid down in these Rules of Procedure for drawing up opinions has not been adhered to or that further study is necessary.

Rule 47

1. Without prejudice to Rule 20(2), the preparatory work of the sections shall be carried out, in principle, within a study group.
2. The rapporteur, assisted by his expert and, where appropriate, by one or more co-rapporteurs, shall study the question referred, take account of the views expressed and, on this basis, draw up the draft opinion, which shall be sent to the president of the section.
3. There shall be no voting at study group meetings.

B. PROCEEDINGS OF THE PLENARY SESSIONS*Rule 48*

The assembly, comprising all the members of the Committee, shall meet in plenary session.

Rule 49

1. Sessions shall be prepared by the president in consultation with the bureau. The bureau shall meet before each session, and where appropriate during a session, to organise the proceedings.
2. The bureau may set a time limit for the general discussion of each opinion at the session.

Rule 50

1. The draft agenda drawn up by the bureau on a proposal from the Committee presidency in collaboration with the group presidents shall be sent by the Committee president to all members and to the European Parliament, the Council and the Commission at least fifteen days before the opening of the relevant session.
2. The draft agenda shall be submitted to the assembly for approval at the opening of each session. Once the agenda has been adopted, the items must be examined during the sitting for which they are scheduled. The documents necessary for the Committee's deliberations shall be made available to the members in accordance with Rule 44.

Rule 51

1. A quorum shall exist at session sittings if more than half of the members of the Committee are present or represented.
2. If there is not a quorum, the president shall close the sitting and convene a further sitting to be held at a time he considers appropriate but during the same session; at that further sitting there shall be a quorum whatever the number of members present or represented.

Rule 52

When the agenda is submitted for adoption, the inclusion of any topical item shall be announced, where appropriate, by the president.

Rule 53

The Committee may amend the draft agenda for the purpose of examining draft resolutions submitted in accordance with the procedure referred to in Rule 35.

Rule 54

1. The president shall open session sittings, preside over discussions and ensure that these Rules are observed. The president shall be assisted by the vice-presidents.
2. If the president is absent, the vice-presidents shall deputise. If the vice-presidents are absent, the oldest member of the bureau shall deputise.

3. The Committee shall base its deliberations on the work of the section competent to report to the assembly on the questions concerned.

4. Where a text has been adopted by a section with less than five votes against, the bureau may propose that it be included on the plenary session agenda among the items to be voted on without a discussion.

This procedure shall not apply if:

- at least twenty-five members signify their objection,
- an amendment is tabled for discussion during the plenary session, or
- the section concerned decides that the text should be discussed at the plenary session.

5. If a text fails to secure a majority of votes in the assembly, the president may, with the consent of the assembly, refer the text back to the competent section for re-examination or appoint a rapporteur-general, who shall submit a new draft text at the same or another session.

Rule 55

1. Proposals for amendments must be drawn up in writing, signed by the proposers and lodged with the secretariat before the opening of the relevant session.

2. In the interests of efficient organisation of the proceedings of the assembly, the bureau shall fix the arrangements for the lodging of proposals for amendments.

3. The Committee shall, however, allow proposals for amendments to be lodged up to the opening of the relevant session sitting, provided such proposals are signed by at least twenty-five members.

4. Proposals for amendments must specify the part of the text to which they refer and be supported by a brief explanatory statement. Amendments that are repetitive in their form and content shall be examined together.

5. As a general rule, for each amendment the assembly shall hear only the proposer, a member who is against the proposed amendment and the rapporteur.

6. When a proposal for an amendment is examined, the rapporteur may put forward compromise proposals orally with the agreement of the proposer of the amendment. In such cases the Committee shall only vote on these compromise proposals.

7. Where appropriate, the president of the Committee, in consultation with the president and the rapporteur of the competent section, may propose to the Committee that any amendments be dealt with in such a way as to ensure that the final text is consistent.

Rule 56

1. Any amendment or set of amendments which aim to set out a generally divergent view to an opinion presented by a section or consultative commission shall be described as a counter-opinion. A counter-opinion must be short and concise and constitute a self-sufficient document: it must contain conclusions and explanations.

2. The groups may ask the bureau to describe one or more amendments as a counter-opinion.

3. The bureau shall take its decision after hearing the views of the president of the section or consultative commission concerned.

4. The bureau may decide, having described one or more amendments as a counter-opinion, to refer the opinion, together with the counter-opinion, back to the section or consultative commission for further study, should the time limit set for adopting the opinion allow.

5. Where an amendment was not presented in sufficient time to allow the bureau to take a decision on whether to describe it as a counter-opinion, this decision, as well as any decision to refer the matter back to the body concerned, shall be taken by the assembly on a proposal from the enlarged presidency and following consultation with the president of the body concerned.

6. If, in the situation mentioned in paragraph 5 of this Rule, the matter is not referred back to the body concerned or the proposed text is not considered to be a counter-opinion, the plenary shall vote on the submitted amendments in the same way as for group amendments.

7. If the counter-opinion obtains a majority of the votes in the plenary, it shall be adopted.

In order to decide whether the original text should be appended to the adopted opinion, a new vote shall take place. The original text is appended to the new text if it obtains at least one quarter of the votes cast.

8. If the counter-opinion does not obtain a majority but obtains at least one quarter of the votes cast, it shall be appended to the original opinion.

Rule 57

1. The president, either on his own initiative or at the request of a member, may invite the Committee to decide on a limitation of speaking time or the number of speakers, the adjournment of a sitting or the closure of a discussion. Once a discussion has been declared closed, no member may speak except to explain his vote; such explanations of voting shall be made after the relevant vote has been taken and shall not exceed the speaking time allotted by the president.
2. A member may at any time request and be given precedence to speak during a discussion for the purpose of submitting a procedural motion.

Rule 58

1. Minutes of each plenary session shall be drawn up and submitted to the Committee for its approval.
2. The final version of such minutes shall be signed by the president and the secretary-general of the Committee.

Rule 59

1. Opinions of the Committee shall consist of, in addition to the legal basis of the opinion, an explanatory statement and the views of the Committee on the question as a whole.
2. The result of the voting on the opinion as a whole shall be set out in the procedural section of the opinion. Where a recorded vote is held, the names of the voters shall be given.
3. If proposed amendments are rejected by the plenary session but receive at least one quarter of the votes cast, their texts and explanatory statements shall be appended to the relevant Committee opinions, together with the results of the voting. This requirement shall also apply to counter-opinions.
4. Section opinion texts that are rejected in favour of amendments adopted by the assembly shall also be appended to Committee opinions together with the results of the voting, provided that at least one quarter of the votes cast were in favour of retention of the section opinion texts.
5. When one of the groups formed within the Committee under Rule 30 or one of the categories of economic and social activity formed under Rule 31 adopts a divergent but uniform standpoint on a matter submitted to the assembly for examination, its position may be summarised in a brief statement to be appended to the opinion, where the debate on that matter has been concluded by a recorded vote.

Rule 60

1. Opinions adopted by the Committee and minutes of Committee plenary sessions shall be sent to the European Parliament, the Council and the Commission.
2. Opinions adopted by the Committee may be forwarded to any other institution or concerned entity.

TITLE III

GENERAL PROVISIONS

CHAPTER I

METHODS OF VOTING

Rule 61

1. The valid forms of votes shall be: votes for, votes against and abstentions.
2. Except where otherwise provided in these Rules, adoption of the texts and decisions of the Committee and its constituent bodies shall be by a majority of the votes cast for and against.

3. Voting shall be by open ballot, by recorded vote, or by secret ballot.
4. Voting on a resolution, a proposed amendment, a counter-opinion, an opinion or any other text shall be by recorded vote if one quarter of the members present or represented so request.
5. Election to the various representative posts shall always be by secret ballot. Other votes may be taken by secret ballot if a majority of the members present or represented so request.
6. If the vote is a tie (an equal number of votes for and against), the chairman of the meeting shall have a casting vote.
7. The acceptance by the rapporteur of an amendment shall not constitute a reason for not voting on that amendment.

CHAPTER II

URGENCY PROCEDURE

Rule 62

1. Where the urgency results from a deadline for the submission of its opinion imposed on the Committee by the European Parliament, by the Council or by the Commission, the urgency procedure may be applied if the president finds that this is necessary to enable the Committee to adopt its opinion in good time.
2. In cases of urgency at Committee level the president may, immediately and without consulting the bureau beforehand, take all requisite steps to enable the Committee to carry out its work. He shall inform the members of the bureau of the steps which he takes.
3. Arrangements made by the president under the urgency procedure shall be submitted to the following session of the Committee for confirmation.

Rule 63

1. Where the urgency results from the deadlines imposed on a section for issuing an opinion, the president of that section may, with the agreement of the three group presidents, organise the work of the section otherwise than as provided in these Rules of Procedure.
2. Arrangements made by the president of a section under the urgency procedure shall be submitted to the following meeting of that section for confirmation.

CHAPTER III

ABSENCE AND REPRESENTATION

Rule 64

1. Any member of the Committee who is unable to attend a meeting to which he has been duly invited must give the president concerned advance notice of his absence.
2. Where a member of the Committee fails to attend more than three consecutive plenary sessions of the Committee without appointing a member to represent him and without providing a reason recognised as valid, the president may, after consulting the bureau and inviting the member concerned to explain his absence, call upon the Council to remove that member from office.
3. Where a member of a section fails to attend more than three consecutive meetings of the section without appointing a member to represent him and without providing a reason recognised as valid, the president of that section may, after inviting the member concerned to explain his absence, call upon him to yield his seat on the section to another member and shall inform the Committee bureau of this fact.

Rule 65

1. Any member of the Committee who is unable to attend a Committee session or a section meeting may, after notifying the president concerned, delegate his voting right, in writing, to another member of the Committee or section.
2. No member may hold more than one delegated voting right at a plenary session or section meeting.

Rule 66

1. Any member who is unable to attend a meeting to which he has been duly invited may, after giving written notice to the president concerned directly or through his group secretariat, arrange for another member of the Committee to represent him at the relevant meeting. This possibility does not apply for meetings of the Committee bureau or of the commission for financial and budgetary affairs.
2. Such proxies shall be valid solely for the meeting in respect of which they are issued.
3. At the time of the constitution of a study group, any member designated as a member of that study group may ask to be replaced by another member of the Committee. Such replacement shall apply for a specific question and for the duration of the work of the section on that question. However, should the work of the study group continue beyond the end of a two-and-a-half or five-year term, the replacement shall only remain valid until the end of the term during which it was decided.

CHAPTER IV

PUBLICATION AND DISTRIBUTION OF COMMITTEE TEXTS - ADMISSION OF THE PUBLIC*Rule 67*

1. The Committee shall publish its opinions in the *Official Journal of the European Union* in accordance with the procedure laid down by the Council and the Commission after consultation of the Committee bureau.
2. The names of the members of the Committee, its bureau and its sections, and all changes in the membership thereof, shall be published in the *Official Journal of the European Union* and on the Committee's website.

Rule 68

1. The Committee shall ensure the transparency of its decisions, in accordance with the second paragraph of Article 1 of the Treaty on European Union.
2. The secretary-general shall be responsible for taking the measures necessary to guarantee the public's right of access to the corresponding documents.
3. Any citizen of the European Union may write to the Committee in one of the official languages and receive a reply written in the same language, in accordance with the fourth paragraph of Article 24 of the Treaty on the Functioning of the European Union.

Rule 69

1. Plenary sessions of the Committee and meetings of the sections shall be public.
2. Certain debates that do not concern consultative work may be declared confidential by the Committee, acting on a request from a concerned institution or body or on a proposal from the bureau.
3. Other meetings shall not be public. However, in duly justified cases at the discretion of the chairman of the meeting other persons may attend as observers.

Rule 70

1. Members of the European institutions may attend and address meetings of the Committee and its constituent bodies.
2. Members of other bodies and duly authorised officials of the institutions and these other bodies may be invited to attend, address or answer questions at meetings, under the direction of the president of the meeting.

CHAPTER V

TITLES, PRIVILEGES, IMMUNITIES AND MEMBERS' STATUTE - QUAESTORS*Rule 71*

1. Members of the Committee shall have the title 'member of the European Economic and Social Committee'.
2. The provisions of Article 10, Chapter IV of Protocol No 7 on the privileges and immunities of the European Union, annexed to the Treaties, shall apply to the members of the European Economic and Social Committee.

Rule 72

1. The Members' Statute shall contain the rights and duties of Committee members, as well as the rules governing their activity and their relations with the institution and its services. This shall include sanctions in the event of inappropriate behaviour.

The Members' Statute shall also determine the measures that may be taken in the event of violations of the Rules of Procedure or of the Statute.

2. The Code of Conduct, which defines and clarifies the obligations applicable to members and alternates of the Committee, is appended to these Rules.

3. At the beginning of their mandate, members shall undertake to comply with the Code of Conduct adopted by the assembly and shall sign it. The conduct of members shall be characterised by mutual respect, and shall be based on the values and principles laid down in the Treaties. They shall conduct themselves with dignity, respecting the reputation of the Committee. In debates, members shall not resort to defamatory, racist, sexist or xenophobic language or behaviour.

Failure to comply with these standards and rules may lead to the application of the measures set out in the Code of Conduct.

The application of this Rule shall not restrict members' freedom of speech.

It shall be based on full respect for members' prerogatives, as laid down in Union primary law and the Members' Statute.

It shall be based on the principle of transparency and ensure that the relevant provisions are made clear to members, who shall be informed individually of their rights and obligations.

Where a person employed by a member, or another person for whom the member has arranged access to the Committee's premises or equipment, fails to comply with the standards of conduct set out above, the sanctions provided for in the Code of Conduct may, where appropriate, be applied to the member concerned.

Sanctions in the event of non-compliance with the standards of conduct are set out in the Code of Conduct adopted by the assembly.

The Committee shall align itself with the rules of the European Parliament insofar as they are compatible with the Committee Members' Statute and shall set up the appropriate bodies to this end.

An advisory committee on the conduct of members shall be established (in accordance with the Committee members' Code of Conduct).

4. Upon appointment, members shall draw up a declaration of any interest, financial or other, that might have an impact on their work at the Committee.

They shall explicitly confirm the validity of its content at least once a year and revise it as soon as any change in their situation occurs.

The Members' Statute and the Code of Conduct of members and alternates shall also determine the measures that may be taken in the event of violations of these Rules of Procedure, the Code of Conduct or of the Statute.

Rule 73

1. On a proposal from the bureau, the assembly shall elect, for each two-and-a-half year period, six members, three women and three men, who have no other permanent responsibilities within the Committee structure, to form the advisory committee.

2. In the event of an alleged breach of the Committee's Code of Conduct by a member, the advisory committee shall give any member who so requests, in confidence and within 30 calendar days, guidance on the interpretation and implementation of the provisions of the Code of Conduct. The member in question shall be entitled to rely on such guidance.

3. At the request of the Committee president, the advisory committee on the conduct of members shall also assess alleged breaches of the Code of Conduct, and advise the president on possible steps to be taken.

Rule 74

On a proposal from the bureau, the assembly shall elect, for each two-and-a-half-year period, three members, who have no other permanent responsibilities within the Committee structure, to form the quaestors' group with the following functions:

- a) to monitor and ensure the proper implementation of the Members' Statute;
- b) to draw up appropriate proposals for perfecting and improving the Members' Statute;
- c) to endeavour, by taking appropriate steps, to resolve any cases of doubt or dispute arising from application of the Members' Statute;
- d) to be responsible for relations between the members of the Committee and the general secretariat as regards application of the Members' Statute.

*CHAPTER VI***TERMINATION OF MEMBERS' TENURE OF OFFICE, INCOMPATIBILITIES***Rule 75*

1. Membership of the Committee shall expire at the end of the five-year term laid down by the Council at the time of the Committee's renewal.
2. Individual membership shall cease on resignation, on removal from office, through death, in the case of force majeure or in the event of an incompatibility of functions arising.
3. The functions of a member of the Committee shall be incompatible with those of a member of a government, a parliament, an institution of the European Union, the Committee of the Regions or the board of directors of the European Investment Bank, and with the post of official or other servant of the European Union in active employment.
4. Resignations shall be in writing and shall be addressed to the president.
5. The circumstances in which members may be removed from office are laid down in Rule 64(2) of these Rules of Procedure. In such cases the Council shall initiate the replacement procedure, if it decides to terminate membership.
6. In the case of resignation, death, force majeure or incompatibility of functions, the president shall notify the Council, which shall verify the vacancy and initiate the replacement procedure. In the case of resignation, however, the resigning member shall remain in office until the date on which the appointment of his replacement takes effect, unless the resigning member indicates otherwise.
7. In all the cases referred to in paragraph 2 of this Rule, the new member shall be appointed for the remainder of the current term of office.

Rule 76

1. On a proposal from the bureau adopted by at least three quarters of the members of the bureau, a motion of no confidence with regard to the president may be submitted to the assembly, for serious and duly verified reasons.

In such cases, this motion shall be the first item on the agenda of the next plenary session.

2. The assembly shall take a decision by secret ballot, with no provision for delegation of votes, having heard in succession a member of each group and then members of the presidency wishing to speak, and lastly the president.

The motion shall be deemed adopted if a majority of three quarters of the members present support it. Otherwise it shall be deemed rejected.

3. In the event of the adoption of a motion of no confidence, the assembly shall immediately arrange for the replacement of the president by a member of the same group.

For this purpose, the assembly shall be temporarily chaired by the Committee vice-president from the group due to take over the following Committee presidency.

4. If the assembly cannot make this replacement immediately, proceedings shall be suspended to enable the groups to formulate a proposal and it shall be reconvened, if possible the same day, by the member temporarily in the chair.

5. The member replacing the president, and belonging to the same group, shall remain in place until the end of the scheduled term of office.

CHAPTER VII

ADMINISTRATION OF THE COMMITTEE

Rule 77

1. The Committee shall be assisted by a secretariat headed by a secretary-general, who shall discharge his duties under the direction of the president, representing the bureau.
2. The secretary-general shall attend the meetings of the bureau in an advisory capacity and shall keep the minutes of those meetings.
3. He shall give a solemn undertaking, before the bureau, to discharge his duties conscientiously and with complete impartiality.
4. The secretary-general shall be responsible for giving effect to decisions taken by the assembly, the bureau and the president pursuant to these Rules of Procedure; he shall report in writing every three months to the president on the criteria and implementing provisions which have been adopted or are envisaged for handling administrative or organisational problems and staff matters.
5. The secretary-general may delegate his powers within the limits decided by the president.
6. The bureau, acting on a proposal from the secretary-general, shall draw up the establishment plan for the general secretariat in such a way that it can ensure the efficient functioning of the Committee and its constituent bodies and help the members in the performance of their duties, in particular in the organisation of meetings and the preparation of opinions.
7. The powers conferred on the secretary-general in accordance with the delegation of powers of the president shall be temporary: they shall end at the latest at the end of the term of office of the president.

Rule 78

The procedure for appointing a new secretary-general shall be as follows:

1. The bureau shall:
 - decide on the secretary-general's status (official or temporary member of staff), appoint a drafting panel made up of three members and then adopt the vacancy notice;
 - appoint a screening panel made up of six members of the Committee and set the time limit by which the panel must present its findings to the bureau.
2. The mandate of the screening panel shall consist of examining applications, conducting interviews, drawing up a reasoned report listing the candidates in order of preference, in the light of their skills and in accordance with the procedure and criteria set out in the vacancy notice, and proposing a candidate or a list of candidates for the post.
3. The screening panel shall be fully independent and its work shall be impartial, confidential and based on criteria defined by the bureau when the panel is set up.

The panel shall be assisted by the competent services of the Committee secretariat and may, if necessary, call on the services of outside experts.

4. After consulting the report of the screening panel, the bureau shall take the final decision by means of a vote, if necessary with several rounds.

A candidate receiving, in the first round, votes exceeding half the number of members of the bureau, including those who are absent, shall be appointed without the need for a second round.

If no applicant meets this condition in the first round, the bureau shall hold a second round of voting for the two candidates who obtained the largest number of votes; the candidate receiving the largest number of votes from the members present in the second round shall be appointed.

In the event of a tie making it impossible to identify only two candidates after the first round or to appoint the secretary-general after the second round, a new meeting of the bureau shall be convened at a next possible date to appoint the secretary-general.

Rule 79

1. All the powers which the Staff Regulations of Officials of the European Union confer on the appointing authority and which the Conditions of Employment of Other Servants (CEOS) of the European Union confer on the authority empowered to conclude contracts shall be exercised, with respect to the secretary-general, by the bureau.
2. The powers which the Staff Regulations of Officials of the European Union confer on the appointing authority shall be exercised as follows:
 - with respect to deputy secretaries-general and directors, by the bureau, on a proposal from the secretary-general, as regards the application of Articles 29, 30, 31, 40, 41, 49, 50, 51, 78 and 90(1) of the Staff Regulations; by the president, on a proposal from the secretary-general, as regards the application of the other provisions of the Staff Regulations, including Article 90(2);
 - with respect to:
 - deputy directors,
 - heads of unit,by the president, acting on a proposal from the secretary-general and following consultation with the enlarged presidency,
 - with respect to officials in the AD function group who do not have a management post at the level of head of unit or above and officials of the AST and AST/SC function groups, by the secretary-general.
3. The powers which the CEOS confer on the authority empowered to conclude contracts shall be exercised as follows:
 - with respect to temporary staff appointed to the post of deputy secretary-general or director, by the bureau, on a proposal by the secretary-general, as regards the application of Articles 11, 17, 33 and 48 of the CEOS; as regards the other provisions of the CEOS, by the president, on a proposal from the secretary-general;
 - with respect to temporary staff appointed to the post of deputy director or head of unit, by the president, on a proposal from the secretary-general;
 - with respect to temporary staff in the AD function group who do not have a management post at the level of head of unit or above and temporary staff of the AST and AST/SC function groups, by the secretary-general;
 - with respect to special advisers and contract staff, by the secretary-general.
4. The president shall exercise the powers conferred on the institution by Article 110 of the Staff Regulations with a view to implementing the general provisions for giving effect to the Staff Regulations and the rules adopted by agreement between the institutions. With regard to the other provisions of a general nature, these powers shall be exercised by the secretary-general.
5. The bureau, the president and the secretary-general may delegate the powers vested in them by this Rule.
6. Decisions to delegate adopted pursuant to the above paragraph shall specify the scope of the powers delegated, their limits and period of validity, as well as stating whether they may be subdelegated.
7. For the appointment of officials to the posts of deputy secretary-general, director deputy director, head of unit of consultative work:
 - the vacancy notice shall be published simultaneously in all the EU institutions;
 - before applications are examined, the secretary-general shall establish an assessment grid based on the vacancy notice;
 - when the various applications are examined, the secretary-general shall be assisted, in particular, by three members of the bureau;
 - at the end of the procedure, he shall present a proposal for appointment to the bureau, who shall decide on that basis.

Rule 80

1. The groups shall each have a secretariat which reports directly to the group president.
2. The powers of the appointing authority shall be exercised, with respect to officials seconded to the groups in accordance with the second indent of Article 37(a) of the Staff Regulations, on a proposal from the group president concerned, as regards the application of Article 38 of the Staff Regulations, including decisions relating to their career development within the group.

When an official seconded to a group rejoins the Committee secretariat, he shall be classified in the grade to which he would have been entitled as an official.

3. The powers of the authority empowered to conclude contracts of employment shall be exercised, with respect to temporary staff seconded to the groups in accordance with Article 2(c) of the CEOS, on a proposal from the group president concerned, as regards the application of the third paragraph of Article 8, Article 9 and Article 10(3) of the CEOS.

Rule 81

1. The president shall have a private secretariat.
2. The staff of the secretariat shall be engaged under the budget as temporary staff, the powers of the authority competent to conclude contracts of service being exercised by the president.

Rule 82

1. Before 1 June of each year the secretary-general shall submit to the bureau the draft estimates of the expenditure and revenue of the Committee for the next financial year. The commission for financial and budgetary affairs shall examine the draft before the bureau discussion and, where appropriate, make remarks or propose modifications. The bureau shall draw up the estimates of the expenditure and revenue of the Committee. It shall forward these in accordance with the procedure and within the time limits laid down in the Financial Regulation applicable to the general budget of the Union.
2. The president of the Committee, acting in accordance with the Financial Regulation applicable to the general budget of the Union, shall implement or cause to be implemented the statement of expenditure and revenue.

Rule 83

1. An audit committee shall be set up with the task of advising the president and bureau on audit matters. It shall perform its tasks in complete independence, in compliance with the Financial Regulation applicable to the general budget of the Union and, in particular, with the powers and duties of the internal auditor.

The audit committee shall in particular have the oversight of all reporting processes, systems of internal control and all monitoring processes with respect to compliance with laws, regulations, professional and ethical standards and codes of conduct.

2. The audit committee shall submit its reports to the president, who shall forward them to the bureau without delay.
3. The structure, membership, responsibilities and procedural rules of the audit committee shall be determined by a decision of the bureau.
4. The members of the audit committee shall be appointed by the bureau on a proposal from the groups.

Membership of the audit committee shall be incompatible with membership of the Committee bureau, of the commission for financial and budgetary affairs or of the quaestors' group.

5. The audit committee shall adopt its own procedural rules to ensure the fulfilment of its role and purpose and the implementation of its responsibilities, rights and obligations as described in this Rule.
6. Should a member of the audit committee have to be replaced, the procedure shall be that laid down in the first subparagraph of paragraph 4 of this Rule.

Rule 84

Correspondence to the Committee shall be addressed to the president or the secretary-general.

CHAPTER VIII

GENERAL PROVISIONS*Rule 85*

The terms used in these Rules of Procedure for the various offices are not gender-specific.

Rule 86

1. The Committee may decide by an absolute majority of its members that these Rules of Procedure should be revised.
2. If such a decision is taken, the Committee shall set up a panel, which shall be known as the Rules of Procedure Panel. The Committee shall appoint a rapporteur-general to produce a draft text of the new Rules of Procedure.
3. After the adoption of the amended Rules of Procedure by an absolute majority, the assembly shall renew the mandate of the Rules of Procedure Panel for a maximum period of sixty days so that, if necessary, it may draw up a draft amendment of the Implementing Provisions and submit it to the bureau, who will take a decision after receiving the views of the groups.
4. The date on which the new Rules of Procedure and the changes to the Implementing Provisions shall enter into force shall be decided at the time of their adoption by the Committee.

Rule 87

These Rules of Procedure shall enter into force on 15 March 2019.

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PART FOUR

CODE OF CONDUCT OF THE MEMBERS OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

PREAMBLE

The members of the European Economic and Social Committee, hereinafter referred to as 'the Committee',

Having regard to the Treaty on European Union, and in particular Articles 2 ⁽³⁾, 3 ⁽⁴⁾ and 13(4) ⁽⁵⁾ thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 300 to 304 ⁽⁶⁾ thereof,

Having regard to the provisions of Chapter IV, Article 10 of the Protocol (No 7) annexed to the Treaties, on the privileges and immunities of the European Union,

Having regard to the Treaty on the Functioning of the European Union, and in particular to Articles 8, 10, 19, 25, 43(2), 46, 50, 59(1), 91(1), 95(3), 100(2), 113, 114, 115, 148(2), 149, 151, 153, 156, 157(3), 159, 164, 165(4) (first indent), 166(4), 168(4) and (5), 169(3), 172, 173(3), 175, 177, 178, 182, 188, 192 and 194(2) ⁽⁷⁾ thereof, concerning the Committee's advisory capacity,

Having regard to the Committee's Rules of Procedure ⁽⁸⁾ and the Members' Statute ⁽⁹⁾,

Having regard to the Charter of Fundamental Rights of the European Union,

Whereas without prejudice to the applicable provisions of the Members' Statute and the Rules of Procedure, certain obligations arising under those provisions should be set out in a Code of Conduct,

Whereas during their membership in accordance with Article 300 of the Treaty on the Functioning of the European Union, members of the Committee shall be completely independent in the performance of their duties, in the general interest of the European Union and the European public. During the performance of their duties and on journeys to and from the place of meetings, members shall enjoy the privileges and immunities established in the Protocol on the privileges and immunities of the European Union ⁽¹⁰⁾. They shall in particular behave with respect and integrity during their tenure of office,

Whereas the Code of Conduct, which defines and clarifies the obligations applicable to members and alternates of the Committee, should be revised in order to take account of the experience gained in its application and to meet the high ethical standards that are expected of members of the Committee,

have decided by a vote of their plenary assembly, on a proposal from the quaestors of the Committee and after consulting the Committee bureau, to adopt this Code of Conduct.

It shall apply to their conduct towards each other and towards any other person working in the Committee.

At the beginning of their term of office, members shall sign up to this Code of Conduct, as adopted by the assembly at its meeting of 20 February 2019.

Article 1

General principles

1. This Code of Conduct shall apply to members of the Committee and their alternates.
2. The members of the European Economic and Social Committee represent various categories of economic and social actors. They are nominated by their governments and appointed by the Council ⁽¹¹⁾ for a five-year term.

⁽³⁾ OJ C 326, 26.10.2012, p. 13 – In particular, Article 2 of the Treaty on European Union states that '[t]he Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, solidarity and equality between women and men prevail'.

⁽⁴⁾ OJ C 326, 26.10.2012, p. 13 - Article 3 further specifies that '[t]he Union's aim is to promote peace, its values and the well-being of its peoples'.

⁽⁵⁾ OJ C 326, 26.10.2012, p. 13 - The European Parliament, the Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity.

⁽⁶⁾ JO C 326, 26.10.2012, p. 47.

⁽⁷⁾ OJ C 326, 26.10.2012, p. 47.

⁽⁸⁾ Rules of Procedure, 2019.

⁽⁹⁾ Members' Statute, 2012, in particular Article 2 on incompatibilities, and Rules of Procedure, 2019, Rule 75.

⁽¹⁰⁾ Rule 2(3) of the Rules of Procedure, 2019, and Article 9 of the Members' Statute.

⁽¹¹⁾ Article 302(1) and (2) TFEU.

3. The members of the Committee 'are completely independent in the performance of their duties' ⁽¹²⁾ and, under the Treaty, they may not be bound by any mandatory instructions.
4. The members of the Committee shall be guided by and observe the following general principles of conduct: integrity, openness, diligence, honesty, accountability and respect for the Committee's reputation.
5. The members of the Committee shall act with full independence in the performance of their duties, in the general interest of the European Union and the European public.
6. In accordance with Articles 2 and 3 of the Treaty on European Union, and with the Charter of Fundamental Rights of the European Union, the members of the Committee shall ensure, in the performance of their duties, the promotion, effective protection and respect of fundamental rights and values such as human dignity, non-discrimination, tolerance, freedom, solidarity, the principle of the rule of law and equality between women and men ⁽¹³⁾.
7. In their participation in the Committee's activities, members must not put their individual interests ahead of the general interest of the Union ⁽¹⁴⁾.

Article 2

Scope of tasks

1. The members of the Committee serve the advisory role of the Committee ⁽¹⁵⁾.
2. Although they represent the Committee on a permanent basis, they are not continuously present at its headquarters.
3. Members shall carry out their duties in a spirit of fruitful cooperation.
4. In their work, members shall promote democracy and values based on human rights.
5. Members shall perform their tasks as Committee members to the full and shall contribute to advisory work.
6. Members shall undertake to ensure follow-up of the opinions of the Committee.

Article 3

Freedom, independence and respect

In performing their tasks, and with regard to Article 1(4) above, members shall commit themselves to building the best possible consensus among themselves, in a spirit of mutual respect for the freedom of each person and in the interests of all, regardless of the choices that they make in their private lives ⁽¹⁶⁾.

Article 4

Dignity

1. Without prejudice to their freedom of expression, in the exercise of their duties members shall commit themselves to performing their tasks with dignity in the workplace. They shall refrain from any form of harassment and condemn this practice ⁽¹⁷⁾.
2. They shall commit themselves to making appropriate use of their immunity and the facilities provided in the interests of the Committee and their advisory role.
3. They shall comply with the requirement of confidentiality where the Treaty and their Statute so provides ⁽¹⁸⁾.

⁽¹²⁾ Article 300(4) TFEU and Rule 2(3) of the Rules of Procedure of the Committee.

⁽¹³⁾ OJ C 326, 26.10.2012, p. 13, Charter of Fundamental Rights.

⁽¹⁴⁾ Articles 300(4) and 304 TFEU.

⁽¹⁵⁾ Articles 300(1) and 304 TFEU.

⁽¹⁶⁾ Charter of Fundamental Rights, Article 11(1).

⁽¹⁷⁾ In this matter EESC personnel are bound by Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulation of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community.

⁽¹⁸⁾ Article 339 TFEU; Article 8 of the EESC Members' Statute.

*Article 5***Integrity and financial transparency**

1. For exercising their advisory role, members are entitled to allowances as determined by the Council ⁽¹⁹⁾, but do not receive any remuneration from the Committee.
2. Missions for which they have been reimbursed by the Committee shall not be the subject of double reimbursement by a third party ⁽²⁰⁾.
3. Although their opinions are of a purely advisory nature, members shall, in accordance with the principle of transparency, submit a declaration of their financial interests to the president upon taking up their duties.
4. The obligation to declare financial interests entered into force during 2011 for the members of the Committee at the time. The declaration of financial interests shall contain the information stated in Article 5a of the Members' Statute ⁽²¹⁾.

*Article 6***Conflicts of interests**

Members of the Committee shall avoid any situation which may give rise to a personal conflict of interest or which may be reasonably be perceived as such. A personal conflict of interest arises where a personal interest may influence the independent performance of their duties as set out in Article 300 of the Treaty on the Functioning of the European Union, in the Committee's Rules of Procedure 2019, in particular Rule 2(3), and in Article 9 of the Members' Statute.

*Article 7***Advisory committee on the conduct of members**

1. An advisory committee on the conduct of members (the 'advisory committee') is hereby established.
2. On a proposal from the bureau, the assembly shall elect, for each two-and-a-half year period, six members, three women and three men, who have no other permanent responsibilities within the Committee structure ⁽²²⁾, to form the advisory committee.
3. The advisory committee shall give any member who so requests, in confidence and within 30 calendar days, guidance on the interpretation and implementation of the provisions of this Code of Conduct. The member in question shall be entitled to rely on such guidance.
4. At the request of the president, the advisory committee shall also assess alleged breaches of this Code of Conduct, and advise the president on possible steps to be taken.

*Article 8***Procedure in the event of possible breaches of the Code of Conduct**

1. Without prejudice to the presumption of innocence and the protection of victims, where there is a reason to think that a member may have breached this Code of Conduct, the president shall inform the members concerned in writing and promptly refer the matter to the advisory committee ⁽²³⁾.
2. The advisory committee shall examine the circumstances of the alleged breach and shall hear the members concerned in complete confidentiality. On the basis of its conclusions, it shall make recommendations to the president on a possible decision.
3. Taking into account the advisory committee's recommendations, and having invited the member concerned to submit written observations, the Committee president shall consult the enlarged presidency and then ask the bureau to make a decision on the measures that may be taken in accordance with the Members' Statute and the Committee's Rules of Procedure.

⁽¹⁹⁾ Article 301 TFEU.

⁽²⁰⁾ EESC Decision of 11 October 1999 and Interinstitutional Agreement of 25 May 1999 (OLAF internal investigations).

⁽²¹⁾ Members' Statute of the EESC, 2012 - Article 5a (Declaration of financial interests).

⁽²²⁾ EESC president and vice-presidents, group and section/CCMI presidents, and the quaestors.

⁽²³⁾ The Committee president shall promptly submit any complaint he receives to the advisory committee.

According to the degree of severity of the member's behaviour, the following sanctions may be applied:

- a written warning;
- inclusion of the written warning in the bureau minutes and, where applicable, in the plenary session minutes;
- temporary suspension of the member from any duties as rapporteur, president or member of a study group, and from any participation in missions and extraordinary meetings.

Article 9

Application of the Code

The president shall be responsible for ensuring that members comply with this Code. In the event of difficulties in applying the Code, the president shall consult the enlarged presidency and then ask the bureau to take a decision.

Article 10

Entry into force

This Code of Conduct shall enter into force upon its adoption by the plenary assembly of the Committee.

III

(Other acts)

EUROPEAN ECONOMIC AREA

DECISION OF THE EEA JOINT COMMITTEE

No 112/2018

of 31 May 2018

amending Annex IX (Financial services) to the EEA Agreement [2019/656]

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ('the EEA Agreement'), and in particular Article 98 thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) No 148/2013 of 19 December 2012 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 ⁽¹⁾ is to be incorporated into the EEA Agreement.
- (2) Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements, the clearing obligation, the public register, access to a trading venue, non-financial counterparties, and risk mitigation techniques for OTC derivatives contracts not cleared by a CCP ⁽²⁾ is to be incorporated into the EEA Agreement.
- (3) Commission Delegated Regulation (EU) No 150/2013 of 19 December 2012 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 specifying the details of the application for registration as a trade repository ⁽³⁾ is to be incorporated into the EEA Agreement.
- (4) Commission Delegated Regulation (EU) No 151/2013 of 19 December 2012 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 specifying the data to be published and made available by trade repositories and operational standards for aggregating, comparing and accessing the data ⁽⁴⁾ is to be incorporated into the EEA Agreement.
- (5) Commission Delegated Regulation (EU) No 152/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on capital requirements for central counterparties ⁽⁵⁾ is to be incorporated into the EEA Agreement.
- (6) Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties ⁽⁶⁾ is to be incorporated into the EEA Agreement.

⁽¹⁾ OJ L 52, 23.2.2013, p. 1.

⁽²⁾ OJ L 52, 23.2.2013, p. 11.

⁽³⁾ OJ L 52, 23.2.2013, p. 25.

⁽⁴⁾ OJ L 52, 23.2.2013, p. 33.

⁽⁵⁾ OJ L 52, 23.2.2013, p. 37.

⁽⁶⁾ OJ L 52, 23.2.2013, p. 41.

- (7) Commission Delegated Regulation (EU) No 876/2013 of 28 May 2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on colleges for central counterparties ⁽⁷⁾ is to be incorporated into the EEA Agreement.
- (8) Commission Delegated Regulation (EU) No 1002/2013 of 12 July 2013 amending Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to the list of exempted entities ⁽⁸⁾ is to be incorporated into the EEA Agreement.
- (9) Commission Delegated Regulation (EU) No 1003/2013 of 12 July 2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to fees charged by the European Securities and Markets Authority to trade repositories ⁽⁹⁾ is to be incorporated into the EEA Agreement.
- (10) Commission Delegated Regulation (EU) No 285/2014 of 13 February 2014 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on direct, substantial and foreseeable effect of contracts within the Union and to prevent the evasion of rules and obligations ⁽¹⁰⁾ is to be incorporated into the EEA Agreement.
- (11) Commission Delegated Regulation (EU) No 667/2014 of 13 March 2014 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to rules of procedure for penalties imposed on trade repositories by the European Securities and Markets Authority including rules on the right of defence and temporal provisions ⁽¹¹⁾ is to be incorporated into the EEA Agreement.
- (12) Commission Implementing Regulation (EU) No 1247/2012 of 19 December 2012 laying down implementing technical standards with regard to the format and frequency of trade reports to trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories ⁽¹²⁾ is to be incorporated into the EEA Agreement.
- (13) Commission Implementing Regulation (EU) No 1248/2012 of 19 December 2012 laying down implementing technical standards with regard to the format of applications for the registration of trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories ⁽¹³⁾ is to be incorporated into the EEA Agreement.
- (14) Commission Implementing Regulation (EU) No 1249/2012 of 19 December 2012 laying down implementing technical standards with regard to the format of the records to be maintained by central counterparties according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories ⁽¹⁴⁾ is to be incorporated into the EEA Agreement.
- (15) Commission Implementing Regulation (EU) No 484/2014 of 12 May 2014 laying down implementing technical standards with regard to the hypothetical capital of a central counterparty according to Regulation (EU) No 648/2012 of the European Parliament and of the Council ⁽¹⁵⁾ is to be incorporated into the EEA Agreement.
- (16) Annex IX to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex IX to the EEA Agreement shall be amended as follows:

1. The following is added in point 31bc (Regulation (EU) No 648/2012 of the European Parliament and of the Council):

‘, as amended by:

— **32013 R 1002**: Commission Delegated Regulation (EU) No 1002/2013 of 12 July 2013 (OJ L 279, 19.10.2013, p. 2).’

⁽⁷⁾ OJ L 244, 13.9.2013, p. 19.

⁽⁸⁾ OJ L 279, 19.10.2013, p. 2.

⁽⁹⁾ OJ L 279, 19.10.2013, p. 4.

⁽¹⁰⁾ OJ L 85, 21.3.2014, p. 1.

⁽¹¹⁾ OJ L 179, 19.6.2014, p. 31.

⁽¹²⁾ OJ L 352, 21.12.2012, p. 20.

⁽¹³⁾ OJ L 352, 21.12.2012, p. 30.

⁽¹⁴⁾ OJ L 352, 21.12.2012, p. 32.

⁽¹⁵⁾ OJ L 138, 13.5.2014, p. 57.

2. The following is inserted after point 31bcai (Commission Implementing Decision (EU) 2015/2042):

‘31bcb. **32012 R 1247**: Commission Implementing Regulation (EU) No 1247/2012 of 19 December 2012 laying down implementing technical standards with regard to the format and frequency of trade reports to trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories (OJ L 352, 21.12.2012, p. 20).

The provisions of the Implementing Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

In Article 5, as regards the EFTA States:

(i) paragraphs 1 and 2 shall read as follows:

“1. Derivative contracts shall be reported:

(a) Within six months of the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018, where a trade repository for that particular derivative class has been registered under Article 55 of Regulation (EU) No 648/2012 before the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018;

(b) 90 days after the registration of a trade repository for a particular derivative class under Article 55 of Regulation (EU) No 648/2012, where there is no trade repository registered for that particular derivative class before or on the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018, but in any event no earlier than six months after the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018;

(c) Within six months of the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018, where there is no trade repository registered for that particular derivative class under Article 55 of Regulation (EU) No 648/2012 six months after the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018. The reporting obligation shall commence on this date and contracts shall be reported to ESMA in accordance with Article 9(3) of that Regulation until a trade repository is registered for that particular derivative class.”;

(ii) in paragraphs 3 and 4, the words “16 August 2012” shall read “the date of entry into force of Decision of the EEA Joint Committee No 206/2016 of 30 September 2016.”

31bcc. **32012 R 1248**: Commission Implementing Regulation (EU) No 1248/2012 of 19 December 2012 laying down implementing technical standards with regard to the format of applications for the registration of trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories (OJ L 352, 21.12.2012, p. 30).

31bcd. **32012 R 1249**: Commission Implementing Regulation (EU) No 1249/2012 of 19 December 2012 laying down implementing technical standards with regard to the format of the records to be maintained by central counterparties according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories (OJ L 352, 21.12.2012, p. 32).

31bce. **32013 R 0148**: Commission Delegated Regulation (EU) No 148/2013 of 19 December 2012 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 52, 23.2.2013, p. 1).

31bcf. **32013 R 0149**: Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements, the clearing obligation, the public register, access to a trading venue, non-financial counterparties, and risk mitigation techniques for OTC derivatives contracts not cleared by a CCP (OJ L 52, 23.2.2013, p. 11).

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

In Article 12, as regards the EFTA States:

(i) the words “and including 28 February 2014” shall read “six months after the date of entry into force of Decision of the EEA Joint No 112/2018 of 31 May 2018”;

- (ii) the words “after 28 February 2014” shall read “after six months of the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018”;
- (iii) the words “and including 31 August 2013” shall read “five months after the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018”;
- (iv) the words “after 31 August 2013” shall read “after five months of the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018”;
- (v) the words “and including 31 August 2014” shall read “six months after the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018”;
- (vi) the words “after 31 August 2014” shall read “after six months of the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018”.

31bcg. **32013 R 0150:** Commission Delegated Regulation (EU) No 150/2013 of 19 December 2012 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 specifying the details of the application for registration as a trade repository (OJ L 52, 23.2.2013, p. 25).

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

The words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

31bch. **32013 R 0151:** Commission Delegated Regulation (EU) No 151/2013 of 19 December 2012 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 specifying the data to be published and made available by trade repositories and operational standards for aggregating, comparing and accessing the data (OJ L 52, 23.2.2013, p. 33).

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Article 2(3) shall apply as regards the EFTA States subject to the content and entry into force of a decision of the EEA Joint Committee incorporating Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of the Energy Regulators.

(b) In Article 3, as regards the EFTA States:

- (i) in paragraph 1, the words “the Union as referred to in Article 75” shall read “its EFTA State of establishment as referred to in Article 81(3)(h)”;
- (ii) in paragraph 2, the words “ESMA as referred to in Article 76” shall read “its EFTA State of establishment as referred to in Article 81(3)(k)”.

31bci. **32013 R 0152:** Commission Delegated Regulation (EU) No 152/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on capital requirements for central counterparties (OJ L 52, 23.2.2013, p. 37).

31bcj. **32013 R 0153:** Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties (OJ L 52, 23.2.2013, p. 41).

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

- (a) In Article 2(i), the words “Union currency” shall be replaced by the words “official currency of a Contracting Party to the EEA Agreement”.

- 31bck. **32013 R 0876:** Commission Delegated Regulation (EU) No 876/2013 of 28 May 2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on colleges for central counterparties (OJ L 244, 13.9.2013, p. 19).

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

The words “Union currencies” shall be replaced by the words “official currencies of Contracting Parties to the EEA Agreement”.

- 31bcl. **32013 R 1003:** Commission Delegated Regulation (EU) No 1003/2013 of 12 July 2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to fees charged by the European Securities and Markets Authority to trade repositories (OJ L 279, 19.10.2013, p. 4).

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) In Article 1, as regards the EFTA States, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “the European Securities and Markets Authority (ESMA)”.

- (b) In Articles 2 and 4, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

- (c) In Article 10(2):

- (i) as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”;

- (ii) the following subparagraph shall be added:

“When, as regards trade repositories established in the EFTA States, the EFTA Surveillance Authority is to reimburse the registration fee paid, ESMA shall without delay make available the amounts to be reimbursed to a trade repository to the EFTA Surveillance Authority for that purpose.”

- (d) In Article 11:

- (i) the following subparagraph shall be added in paragraph 1:

“When, as regards trade repositories established in the EFTA States, the EFTA Surveillance Authority is to send the invoices for the instalments, ESMA shall inform the EFTA Surveillance Authority of the calculations necessary as regards each trade repository sufficiently in advance of the respective payment date.”;

- (ii) in paragraph 2, as regards the EFTA States, the word “ESMA” shall read “the EFTA Surveillance Authority”.

- (e) In Article 13:

- (i) in paragraph 1, the words “Only ESMA” shall be replaced by the words “Only ESMA or, as regards trade repositories established in the EFTA States, the EFTA Surveillance Authority”;

- (ii) in paragraph 2, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the word “ESMA”.

- 31bcm. **32014 R 0285:** Commission Delegated Regulation (EU) No 285/2014 of 13 February 2014 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on direct, substantial and foreseeable effect of contracts within the Union and to prevent the evasion of rules and obligations (OJ L 85, 21.3.2014, p. 1).

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

In Article 4, as regards the EFTA States, the words “10 October 2014” shall read “six months after the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018”.

- 31bcn. **32014 R 0484**: Commission Implementing Regulation (EU) No 484/2014 of 12 May 2014 laying down implementing technical standards with regard to the hypothetical capital of a central counterparty according to Regulation (EU) No 648/2012 of the European Parliament and of the Council (OJ L 138, 13.5.2014, p. 57).
- 31bco. **32014 R 0667**: Commission Delegated Regulation (EU) No 667/2014 of 13 March 2014 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to rules of procedure for penalties imposed on trade repositories by the European Securities and Markets Authority including rules on the right of defence and temporal provisions (OJ L 179, 19.6.2014, p. 31).

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) In Article 1, as regards the EFTA States, the words “the European Securities and Markets Authority (ESMA)” and “ESMA” shall read “the EFTA Surveillance Authority”.
- (b) In Article 2, as regards the EFTA States, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.
- (c) In Article 3, as regards the EFTA States:
 - (i) in paragraph 1, the words “and the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
 - (ii) the words “inform the EFTA Surveillance Authority thereof. The EFTA Surveillance Authority shall, without undue delay,” shall be inserted after the words “it shall” in paragraphs 2, 4 and 5 and before the words “decide to close the case” in paragraph 3;
 - (iii) in the second subparagraph of paragraph 4 and in the third sentence of the first subparagraph of paragraph 5, the words “, before preparing a draft for the EFTA Surveillance Authority, or the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
 - (iv) in the third subparagraph of paragraph 4 and in the second subparagraph of paragraph 5, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
 - (v) in paragraph 6, the word “ESMA” shall read “the EFTA Surveillance Authority”.
- (d) In Article 4, as regards the EFTA States:
 - (i) in the first subparagraph, the word “ESMA” shall read “the EFTA Surveillance Authority”;
 - (ii) in the fourth subparagraph, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”.
- (e) In Article 5, as regards the EFTA States:
 - (i) the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “If so requested, ESMA”;
 - (ii) the words “ESMA has sent a statement of findings” shall read “the EFTA Surveillance Authority has sent a statement of findings”.
- (f) In Article 6, as regards the EFTA States:
 - (i) in paragraphs 1 and 4, the word “ESMA” shall read “the EFTA Surveillance Authority”;
 - (ii) in paragraph 3, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the word “ESMA”;
 - (iii) in paragraph 5, the following subparagraph shall be added:

“The limitation period for imposing fines and periodic penalty payments shall be suspended for as long as the decision of the EFTA Surveillance Authority is the subject of proceedings pending before the EFTA Court in accordance with Article 35 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”

(g) In Article 7, as regards the EFTA States:

(i) the word “ESMA” shall read “the EFTA Surveillance Authority”;

(ii) in paragraph 5(b), the words “ESMA Board of Appeal, in accordance with Article 58 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council, and the Court of Justice of the European Union, in accordance with Article 69 of Regulation (EU) No 648/2012” shall read “the EFTA Court in accordance with Article 35 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.”

Article 2

The texts of Delegated Regulations (EU) No 148/2013, (EU) No 149/2013, (EU) No 150/2013, (EU) No 151/2013, (EU) No 152/2013, (EU) No 153/2013, (EU) No 876/2013, (EU) No 1002/2013, (EU) No 1003/2013, (EU) No 285/2014 and (EU) No 667/2014 and Implementing Regulations (EU) No 1247/2012, (EU) No 1248/2012, (EU) No 1249/2012 and (EU) No 484/2014 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 1 June 2018, provided that all the notifications under Article 103(1) of the EEA Agreement have been made (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 31 May 2018.

For the EEA Joint Committee

The President

Claude MAERTEN

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 113/2018

of 31 May 2018

amending Annex IX (Financial services) to the EEA Agreement [2019/657]

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ('the EEA Agreement'), and in particular Article 98 thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2015/1515 of 5 June 2015 amending Regulation (EU) No 648/2012 of the European Parliament and of the Council as regards the extension of the transitional periods related to pension scheme arrangements ⁽¹⁾ is to be incorporated into the EEA Agreement.
- (2) Commission Delegated Regulation (EU) 2015/2205 of 6 August 2015 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation ⁽²⁾ is to be incorporated into the EEA Agreement.
- (3) Commission Delegated Regulation (EU) 2016/592 of 1 March 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation ⁽³⁾ is to be incorporated into the EEA Agreement.
- (4) Commission Delegated Regulation (EU) 2016/1178 of 10 June 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation ⁽⁴⁾, as corrected by OJ L 196, 21.7.2016, p. 56, is to be incorporated into the EEA Agreement.
- (5) 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 ⁽⁵⁾ is to be incorporated into the EEA Agreement.
- (6) Commission Delegated Regulation (EU) 2017/751 of 16 March 2017 amending Delegated Regulations (EU) 2015/2205, (EU) 2016/592 and (EU) 2016/1178 as regards the deadline for compliance with clearing obligations for certain counterparties dealing with OTC derivatives ⁽⁶⁾ is to be incorporated into the EEA Agreement.
- (7) Commission Implementing Regulation (EU) 2017/105 of 26 October 2016 amending Implementing Regulation (EU) No 1247/2012 laying down implementing technical standards with regard to the format and frequency of trade reports to trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories ⁽⁷⁾, as corrected by OJ L 19, 25.1.2017, p. 97, is to be incorporated into the EEA Agreement.
- (8) Annex IX to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex IX to the EEA Agreement shall be amended as follows:

1. The following indent is inserted in point 31bc (Regulation (EU) No 648/2012 of the European Parliament and of the Council):

‘— **32015 R 1515**: Commission Delegated Regulation (EU) 2015/1515 of 5 June 2015 (OJ L 239, 15.9.2015, p. 63).’

⁽¹⁾ OJ L 239, 15.9.2015, p. 63.

⁽²⁾ OJ L 314, 1.12.2015, p. 13.

⁽³⁾ OJ L 103, 19.4.2016, p. 5.

⁽⁴⁾ OJ L 195, 20.7.2016, p. 3.

⁽⁵⁾ OJ L 17, 21.1.2017, p. 1.

⁽⁶⁾ OJ L 113, 29.4.2017, p. 15.

⁽⁷⁾ OJ L 17, 21.1.2017, p. 17.

2. The text of point 31bcb (Commission Implementing Regulation (EU) No 1247/2012) is replaced by the following:

‘**32012 R 1247**: Commission Implementing Regulation (EU) No 1247/2012 of 19 December 2012 laying down implementing technical standards with regard to the format and frequency of trade reports to trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories (OJ L 352, 21.12.2012, p. 20), as amended by:

— **32017 R 0105**: Commission Implementing Regulation (EU) 2017/105 of 26 October 2016 (OJ L 17, 21.1.2017, p. 17), as corrected by OJ L 19, 25.1.2017, p. 17.

The provisions of the Implementing Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In Article 4(5) and Article 4b, as regards the EFTA States, the words “in the EEA” shall be inserted after the words “date of application”.

(b) In Article 5, as regards the EFTA States:

(i) paragraphs 1 and 2 shall read as follows:

“1. Derivative contracts shall be reported:

(a) Within six months of the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018, where a trade repository for that particular derivative class has been registered under Article 55 of Regulation (EU) No 648/2012 before the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018;

(b) 90 days after the registration of a trade repository for a particular derivative class under Article 55 of Regulation (EU) No 648/2012, where there is no trade repository registered for that particular derivative class before or on the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018, but in any event no earlier than six months after the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018;

(c) Within six months of the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018, where there is no trade repository registered for that particular derivative class under Article 55 of Regulation (EU) No 648/2012 six months after the date of entry into force of Decision of the EEA Joint Committee No 112/2018 of 31 May 2018. The reporting obligation shall commence on this date and contracts shall be reported to ESMA in accordance with Article 9(3) of that Regulation until a trade repository is registered for that particular derivative class.”;

(ii) in paragraphs 3 and 4, the words “16 August 2012” shall read “1 July 2017.”

3. The following shall be inserted in point 31bce (Commission Delegated Regulation (EU) No 148/2013), with effect from nine months after the date of entry into force of this Decision:

‘, as amended by:

— **32017 R 0104**: Commission Delegated Regulation (EU) 2017/104 of 19 October 2016 (OJ L 17, 21.1.2017, p. 1).’

4. The following is added after point 31bco (Commission Delegated Regulation (EU) No 667/2014):

‘31bcp. **32015 R 2205**: Commission Delegated Regulation (EU) 2015/2205 of 6 August 2015 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation (OJ L 314, 1.12.2015, p. 13), as amended by:

— **32017 R 0751**: Commission Delegated Regulation (EU) 2017/751 of 16 March 2017 (OJ L 113, 29.4.2017, p. 15).

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) In point (b) of Article 2(1), as regards the EFTA States, the words “January, February and March 2016” shall read “January, February and March of the year of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”.

(b) In Article 3:

(i) as regards the EFTA States, the first subparagraph of paragraph 1 shall read as follows:

“In respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect:

(a) six months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 1;

(b) one year after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 2;

(c) 21 June 2019 for counterparties in Category 3;

(d) two years after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 4.”;

(ii) in the second subparagraph of paragraph 1, the words “, or between one counterparty established in an EFTA State and one counterparty established in an EU Member State” shall be inserted after the words “between two counterparties included in different categories of counterparties”;

(iii) as regards the EFTA States, the first subparagraph of paragraph 2 shall read as follows:

“By way of derogation from points (a), (b) and (c) of paragraph 1, in respect of contracts pertaining to a class of OTC derivatives set out in the Annex and concluded between counterparties other than counterparties in Category 4 which are part of the same group and where one counterparty is established in a third country and the other counterparty is established in the EEA, the clearing obligation shall take effect:

(a) two years after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 in case no equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts referred to in the Annex to this Regulation in respect of the relevant third country applies in the EEA; or

(b) the later of the following dates in case an equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts referred to in the Annex to this Regulation in respect of the relevant third country applies in the EEA:

(i) 60 days after the date of entry into force of the decision of the EEA Joint Committee containing the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts referred to in the Annex to this Regulation in respect of the relevant third country;

(ii) the date when the clearing obligation takes effect pursuant to paragraph 1.”

(c) In Article 4:

(i) in paragraph 1, as regards the EFTA States, the words “21 February 2016” shall read “two months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”;

(ii) in paragraph 2, as regards the EFTA States, the words “21 May 2016” shall read “five months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”;

(iii) in paragraph 4, the words “, between one financial counterparty established in an EFTA State and one financial counterparty established in an EU Member State” shall be inserted after the words “between two financial counterparties belonging to different categories”.

31bcq. **32016 R 0592:** Commission Delegated Regulation (EU) 2016/592 of 1 March 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation (OJ L 103, 19.4.2016, p. 5), as amended by:

— **32017 R 0751:** Commission Delegated Regulation (EU) 2017/751 of 16 March 2017 (OJ L 113, 29.4.2017, p. 15).

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) In point (b) of Article 2(1), as regards the EFTA States, the words “January, February and March 2016” shall read “January, February and March of the year of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”.
- (b) In Article 3:
 - (i) as regards the EFTA States, the first subparagraph of paragraph 1 shall read as follows:

“In respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect:

 - (a) one year after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 1;
 - (b) eighteen months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 2;
 - (c) 21 June 2019 for counterparties in Category 3;
 - (d) thirty-nine months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 4.”;
 - (ii) in the second subparagraph of paragraph 1, the words “, or between one counterparty established in an EFTA State and one counterparty established in an EU Member State” shall be inserted after the words “between two counterparties included in different categories of counterparties”;
 - (iii) as regards the EFTA States, the first subparagraph of paragraph 2 shall read as follows:

“By way of derogation from points (a), (b) and (c) of paragraph 1, in respect of contracts pertaining to a class of OTC derivatives set out in the Annex and concluded between counterparties other than counterparties in Category 4 which are part of the same group and where one counterparty is established in a third country and the other counterparty is established in the EEA, the clearing obligation shall take effect:

 - (a) thirty-nine months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 in case no equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in the Annex to this Regulation in respect of the relevant third country applies in the EEA; or
 - (b) the later of the following dates in case an equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in the Annex to this Regulation in respect of the relevant third country applies in the EEA:
 - (i) 60 days after the date of entry into force of the decision of the EEA Joint Committee containing the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in the Annex to this Regulation in respect of the relevant third country;
 - (ii) the date when the clearing obligation takes effect pursuant to paragraph 1.”
- (c) In Article 4:
 - (i) in paragraphs 1 and 2, as regards the EFTA States, the words “9 October 2016” shall read “five months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”;
 - (ii) in paragraph 4, the words “, between one financial counterparty established in an EFTA State and one financial counterparty established in an EU Member State” shall be inserted after the words “between two financial counterparties belonging to different categories”.

31bcr. **32016 R 1178:** Commission Delegated Regulation (EU) 2016/1178 of 10 June 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation (OJ L 195, 20.7.2016, p. 3), as corrected by OJ L 196, 21.7.2016, p. 56, as amended by:

— **32017 R 0751:** Commission Delegated Regulation (EU) 2017/751 of 16 March 2017 (OJ L 113, 29.4.2017, p. 15).

The provisions of the Delegated Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) In point (b) of Article 2(1), as regards the EFTA States, the words “January, February and March 2016” shall read “January, February and March of the year of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”.
- (b) In Article 3:
 - (i) as regards the EFTA States, the first subparagraph of paragraph 1 shall read as follows:

“In respect of contracts pertaining to a class of OTC derivatives set out in Annex I, the clearing obligation shall take effect:

 - (a) six months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 1;
 - (b) one year after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 2;
 - (c) 21 June 2019 for counterparties in Category 3;
 - (d) two years after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 for counterparties in Category 4.”;
 - (ii) in the second subparagraph of paragraph 1, the words “, or between one counterparty established in an EFTA State and one counterparty established in an EU Member State” shall be inserted after the words “between two counterparties included in different categories of counterparties”;
 - (iii) as regards the EFTA States, the first subparagraph of paragraph 2 shall read as follows:

“By way of derogation from points (a), (b) and (c) of paragraph 1, in respect of contracts pertaining to a class of OTC derivatives set out in Annex I and concluded between counterparties other than counterparties in Category 4 which are part of the same group and where one counterparty is established in a third country and the other counterparty is established in the EEA, the clearing obligation shall take effect:

 - (a) two years after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018 in case no equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country applies in the EEA; or
 - (b) the later of the following dates in case an equivalence decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country applies in the EEA:
 - (i) 60 days after the date of entry into force of the decision of the EEA Joint Committee containing the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country;
 - (ii) the date when the clearing obligation takes effect pursuant to paragraph 1.”
- (c) In Article 4:
 - (i) in paragraphs 1 and 2, as regards the EFTA States, the words “9 October 2016” shall read “two months after the date of entry into force of Decision of the EEA Joint Committee No 113/2018 of 31 May 2018”;
 - (ii) in paragraph 4, the words “, between one financial counterparty established in an EFTA State and one financial counterparty established in an EU Member State” shall be inserted after the words “between two financial counterparties belonging to different categories.”

Article 2

The texts of Delegated Regulations (EU) 2015/1515, (EU) 2015/2205, (EU) 2016/592, (EU) 2016/1178, as corrected by OJ L 196, 21.7.2016, p. 56, (EU) 2017/104, and (EU) 2017/751 and Implementing Regulation (EU) 2017/105, as corrected by OJ L 19, 25.1.2017, p. 97, in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 1 June 2018, provided that all the notifications under Article 103(1) of the EEA Agreement have been made (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 31 May 2018.

For the EEA Joint Committee

The President

Claude MAERTEN

(*) No constitutional requirements indicated.

