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## Legislation

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

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

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

## II

(Non-legislative acts)

## INTERNATIONAL AGREEMENTS

## COUNCIL DECISION (EU) 2019/702

of 15 April 2019

**on the conclusion, on behalf of the Union, of the Air Transport Agreement between the European Community and its Member States, of the one part, and Canada, of the other part**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and in particular Article 100(2), in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

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

Whereas:

- (1) The Commission has negotiated on behalf of the European Community and its Member States, the Air Transport Agreement between the European Community and its Member States, of the one part, and Canada, of the other part (the 'Agreement') in accordance with the Council Decision authorising the Commission to open negotiations.
- (2) The Agreement was signed on 17 and 18 December 2009, subject to its conclusion at a later date, in accordance with Decision 2010/417/EC of the Council and the Representatives of the Governments of the Member States of the European Union meeting within the Council <sup>(2)</sup>.
- (3) The Agreement has been ratified by all Member States, except for the Republic of Croatia. It is intended that the Republic of Croatia will accede to the Agreement in accordance with Article 6(2) of the 2011 Act of Accession.
- (4) The Agreement should now be approved on behalf of the Union.
- (5) Articles 3 and 4 of Decision 2010/417/EC contain provisions on decision making and representation with regard to various matters set out in the Agreement. In view of the judgment of the Court of Justice of the European Union of 28 April 2015 in case C-28/12, the application of those provisions should be discontinued. Having regard to the Treaties, new provisions on those matters are not necessary, nor are provisions on information obligations of the Member States, such as those set out in Article 5 of Decision 2010/417/EC. Consequently, Articles 3, 4 and 5 of Decision 2010/417/EC should cease to apply at the date of entry into force of this Decision,

HAS ADOPTED THIS DECISION:

*Article 1*

The Air Transport Agreement between the European Community and its Member States, of the one part, and Canada, of the other part, is hereby approved on behalf of the Union <sup>(3)</sup>.

<sup>(1)</sup> Consent of 2 October 2018 (not yet published in the Official Journal).

<sup>(2)</sup> Decision 2010/417/EC of the Council and the Representatives of the Governments of the Member States of the European Union, meeting within the Council of 30 November 2009 on the signing and provisional application of the Agreement on Air Transport between the European Community and its Member States, of the one part, and Canada, of the other part (OJ L 207, 6.8.2010, p. 30).

<sup>(3)</sup> The Agreement has been published in OJ L 207 of 6 of August 2010, p. 32 together with the decision on signature.

*Article 2*

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 23 of the Agreement, in order to express the consent of the Union to be bound by the Agreement <sup>(4)</sup> and shall make the following notification:

‘As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to “the European Community” in the text of the Agreement are, where appropriate, to be read as to “the European Union.”

*Article 3*

Articles 3, 4 and 5 of Decision 2010/417/EC shall cease to apply at the date of entry into force of this Decision.

*Article 4*

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

Done at Luxembourg, 15 April 2019.

*For the Council*  
*The President*  
P. DAEA

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<sup>(4)</sup> The date of entry into force of the Agreement will be published in the Official Journal by the General Secretariat of the Council.

**COUNCIL DECISION (EU) 2019/703****of 8 October 2014****on the signing, on behalf of the Union and its Member States, of a Protocol amending the Agreement on Air Transport between Canada and the European Community and its Member States, to take account of the accession to the European Union of the Republic of Croatia**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with Article 218(5) thereof,

Having regard to the Act of Accession of Croatia, and in particular the second subparagraph of Article 6(2) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 14 September 2012, the Council authorised the Commission to open negotiations, on behalf of the Union, its Member States and the Republic of Croatia, to conclude a Protocol amending the Agreement on Air Transport between Canada and the European Community and its Member States <sup>(1)</sup>, to take account of the accession to the European Union of the Republic of Croatia ('the Protocol').
- (2) Those negotiations were successfully completed on 16 October 2013.
- (3) The Protocol should be signed on behalf of the Union and its Member States, subject to its conclusion at a later date,

HAS ADOPTED THIS DECISION:

*Article 1*

The signing of the Protocol amending the Agreement on Air Transport between Canada and the European Community and its Member States, to take account of the accession to the European Union of the Republic of Croatia <sup>(2)</sup> is hereby authorised on behalf of the Union and its Member States, subject to the conclusion of the Protocol.

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Protocol on behalf of the Union and its Member States.

*Article 3*

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

Done at Luxembourg, 8 October 2014.

*For the Council**The President*

M. LUPI

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<sup>(1)</sup> The text of the Agreement is published in OJ L 207, 6.8.2010, p. 32.

<sup>(2)</sup> The text of the Protocol will be published together with the decision on its conclusion.

**COUNCIL DECISION (EU) 2019/704****of 15 April 2019****on the conclusion, on behalf of the Union and its Member States, of a Protocol amending the Agreement on Air Transport between Canada and the European Community and its Member States, to take account of the accession to the European Union of the Republic of Croatia**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with Article 218(6)(a) thereof,

Having regard to the Act of Accession of Croatia, and in particular the second subparagraph of Article 6(2) thereof,

Having regard to the proposal from the European Commission,

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

Whereas:

- (1) In accordance with Council Decision (EU) 2019/703 <sup>(2)</sup>, the Protocol amending the Agreement on Air Transport between Canada and the European Community and its Member States <sup>(3)</sup>, to take account of the accession to the European Union of the Republic of Croatia ('the Protocol') has been signed, subject to its conclusion.
- (2) The Protocol should be approved,

HAS ADOPTED THIS DECISION:

*Article 1*

The Protocol amending the Agreement on Air Transport between Canada and the European Community and its Member States, to take account of the accession to the European Union of the Republic of Croatia is hereby approved on behalf of the Union and its Member States.

The text of the Protocol is attached to this Decision.

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to deposit, on behalf of the Union and its Member States, the instrument of approval provided for in Article 3 of the Protocol <sup>(4)</sup>.

*Article 3*

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

Done at Luxembourg, 15 April 2019.

*For the Council*

*The President*

P. DAEA

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<sup>(1)</sup> Consent of 12 September 2018 (not yet published in the Official Journal).

<sup>(2)</sup> Council Decision (EU) 2019/703 of 8 October 2014 on the signing, on behalf of the Union and its Member States, of a Protocol amending the Agreement on Air Transport between Canada and the European Community and its Member States, to take account of the accession to the European Union of the Republic of Croatia (see page 3 of this Official Journal).

<sup>(3)</sup> The text of the Agreement is published in OJ L 207, 6.8.2010, p. 32.

<sup>(4)</sup> The date of entry into force of the Protocol will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

**PROTOCOL****amending the Agreement on Air Transport between Canada and the European Community and its Member States, to take account of the accession to the European Union of the Republic of Croatia**

CANADA,

of the one part, and

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

IRELAND,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

THE REPUBLIC OF CROATIA,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

HUNGARY,

THE REPUBLIC OF MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

ROMANIA,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

being parties to the Treaty on European Union and to the Treaty on the Functioning of the European Union and being Member States of the European Union (hereinafter 'the Member States'), and

THE EUROPEAN UNION,

of the other part,

HAVING REGARD TO the accession of the Republic of Croatia to the European Union on 1 July 2013,

HAVE AGREED AS FOLLOWS:

*Article 1*

The Republic of Croatia is a Party to the Agreement on Air Transport between Canada and the European Community and its Member States <sup>(1)</sup>, signed on 17 December 2009 (hereinafter 'the Agreement').

*Article 2*

The text of the Agreement in the Croatian language <sup>(2)</sup> shall be authentic under the same conditions as the other language versions.

*Article 3*

This Protocol shall be approved by the Parties in accordance with their own procedures. It shall enter into force on the date of entry into force of the Agreement. However, should this Protocol be approved by the Parties after the date of entry into force of the Agreement, it would then enter into force, in accordance with Article 23(1) of the Agreement, one month after the date of the latest diplomatic note in which the Parties confirm that all necessary procedures for the entry into force of this Protocol have been completed.

Done at Brussels, in duplicate, on the twenty-seventh day of January in the year two thousand and seventeen, in the English, French, Bulgarian, Croatian, Czech, Danish, Dutch, Estonian, Finnish, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish and Swedish languages, each text being equally authentic.

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<sup>(1)</sup> The text of the Agreement is published in OJ L 207, 6.8.2010, p. 32.

<sup>(2)</sup> The Croatian text of the Agreement will be published in the Official Journal at a later date.

За държавите членки  
 Por los Estados miembros  
 Za členské státy  
 For medlemsstaterne  
 Für die Mitgliedstaaten  
 Liikmesriikide nimel  
 Για τα κράτη μέλη  
 For the Member States  
 Pour les États membres  
 Za države članice  
 Per gli Stati membri  
 Dalībvalstu vārdā –  
 Valstybių narių vardu  
 A tagállamok részéről  
 Ghall-Istati Membri  
 Voor de lidstaten  
 W imieniu Państw Członkowskich  
 Pelos Estados-Membros  
 Pentru statele membre  
 Za členské štáty  
 Za države članice  
 Jäsenvaltioiden puolesta  
 För medlemsstaterna



За Европейския съюз  
 Por la Unión Europea  
 Za Evropskou unii  
 For Den Europæiske Union  
 Für die Europäische Union  
 Euroopa Liidu nimel  
 Για την Ευρωπαϊκή Ένωση  
 For the European Union  
 Pour l'Union européenne  
 Za Europsku uniju  
 Per l'Unione europea  
 Eiropas Savienības vārdā –  
 Europos Sąjungos vardu  
 Az Európai Unió részéről  
 Ghall-Unjoni Ewropea  
 Voor de Europese Unie  
 W imieniu Unii Europejskiej  
 Pela União Europeia  
 Pentru Uniunea Europeană  
 Za Európsku úniu  
 Za Evropsko unijo  
 Euroopan unionin puolesta  
 För Europeiska unionen




За Канада  
 Por Canadá  
 Za Kanadu  
 For Canada  
 Für Kanada  
 Kanada nimel  
 Για τον Καναδά  
 For Canada  
 Pour le Canada  
 Za Kanadu  
 Per il Canada  
 Kanādas vārdā –  
 Kanados vardu  
 Kanada részéről  
 Ghall-Kanada  
 Voor Canada  
 W imieniu Kanady  
 Pelo Canadá  
 Pentru Canada  
 Za Kanadu  
 Za Kanado  
 Kanadan puolesta  
 För Kanada



# REGULATIONS

## COMMISSION IMPLEMENTING REGULATION (EU) 2019/705

of 2 May 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 <sup>(1)</sup>, 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 <sup>(2)</sup>, 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.

<sup>(1)</sup> OJ L 269, 10.10.2013, p. 1.

<sup>(2)</sup> 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 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, 2 May 2019.

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

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## ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
<p>A spinning top made of plastics, with a launcher and a ripcord.</p> <p>The spinning top is set in motion with the launcher and the ripcord. It can be used independently for the amusement of persons. Alternatively, two or more articles can be used by two or more persons (launched into a dedicated bowl-shaped arena (presented separately)) who compete with the aim of knocking out the opponents' spinning top.</p> <p>See image (*)</p>	9503 00 95	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 9503 00 and 9503 00 95.</p> <p>The article is a spinning top which is considered a toy of heading 9503 00 (see also the Harmonized System Explanatory Notes to heading 9503, (D), (xix)). It has the objective characteristics of a toy for the amusement of persons.</p> <p>Although the article can be used for competition between two or more persons, such use is not inherent to the article's objective characteristics when it is presented separately (without the dedicated arena). Classification under heading 9504 as an article for parlour games is therefore excluded.</p> <p>The article is therefore to be classified under CN code 9503 00 95 as other toys of plastics.</p>

(\*) The image is purely for information.



**COMMISSION IMPLEMENTING REGULATION (EU) 2019/706****of 7 May 2019****renewing the approval of the active substance carvone in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011****(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 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC <sup>(1)</sup>, and in particular Article 20(1) thereof,

Whereas:

- (1) Commission Directive 2008/44/EC <sup>(2)</sup> included carvone as an active substance in Annex I to Council Directive 91/414/EEC <sup>(3)</sup>.
- (2) Active substances included in Annex I to Directive 91/414/EEC are deemed to have been approved under Regulation (EC) No 1107/2009 and are listed in Part A of the Annex to Commission Implementing Regulation (EU) No 540/2011 <sup>(4)</sup>.
- (3) The approval of the active substance carvone, as set out in Part A of the Annex to Implementing Regulation (EU) No 540/2011, expires on 31 July 2019.
- (4) An application for the renewal of the approval of the active substance carvone was submitted in accordance with Article 1 of Commission Implementing Regulation (EU) No 844/2012 <sup>(5)</sup> within the time period provided for in that Article.
- (5) The applicant submitted the supplementary dossiers required in accordance with Article 6 of Implementing Regulation (EU) No 844/2012. The application was found to be complete by the rapporteur Member State.
- (6) The rapporteur Member State prepared a renewal assessment report in consultation with the co-rapporteur Member State and submitted it to the European Food Safety Authority ('the Authority') and the Commission on 31 May 2017.
- (7) The Authority communicated the renewal assessment report to the applicant and to the Member States for comments and forwarded the comments received to the Commission. The Authority also made the supplementary summary dossier available to the public.
- (8) On 12 July 2018 the Authority communicated to the Commission its conclusion <sup>(6)</sup> on whether carvone can be expected to meet the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009. The Commission presented an initial draft renewal report for carvone to the Standing Committee on Plants, Animals, Food and Feed on 24 January 2019.

<sup>(1)</sup> OJ L 309, 24.11.2009, p. 1.

<sup>(2)</sup> Commission Directive 2008/44/EC of 4 April 2008 amending Council Directive 91/414/EEC to include benthialavaliarb, boscalid, carvone, fluoxastrobin, Paecilomyces lilacinus and prothioconazole as active substances (OJ L 94, 5.4.2008, p. 13).

<sup>(3)</sup> Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1).

<sup>(4)</sup> Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

<sup>(5)</sup> Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ L 252, 19.9.2012, p. 26).

<sup>(6)</sup> EFSA Journal 2018;16(7):5390. EFSA (European Food Safety Authority), 2018. Conclusion on the peer review of the pesticide risk assessment of the active substance carvone. Available online: [www.efsa.europa.eu](http://www.efsa.europa.eu).

- (9) The applicant was given the opportunity to submit comments on the draft renewal report.
- (10) As regards the new criteria to identify endocrine disrupting properties introduced by Commission Regulation (EU) 2018/605 <sup>(7)</sup>, the conclusion of the Authority indicates that it is highly unlikely that carvone is an endocrine disrupter via the estrogenic, androgenic, thyroidogenic and steroidogenic modalities. Furthermore, the available data and the scientific risk assessment performed by the Authority indicate that carvone is unlikely to have endocrine disruptive effects. Thus, the Commission considers that carvone is not to be considered as having endocrine disrupting properties.
- (11) It has been established with respect to one or more representative uses of at least one plant protection product containing the active substance carvone that the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009 are satisfied.
- (12) The risk assessment for the renewal of the approval of carvone is based on a limited number of representative uses, which however do not restrict the uses for which plant protection products containing carvone may be authorised. It is therefore appropriate not to maintain the restriction to use as a plant growth regulator. It is therefore appropriate to renew the approval of carvone.
- (13) Implementing Regulation (EU) No 540/2011 should therefore be amended accordingly.
- (14) This Regulation should apply from the day after the date of expiry of the approval of the active substance carvone.
- (15) 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*

### **Renewal of the approval of active substance**

The approval of the active substance carvone, as specified in Annex I, is renewed subject to the conditions laid down in that Annex.

#### *Article 2*

### **Amendments to Implementing Regulation (EU) No 540/2011**

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with Annex II to this Regulation.

#### *Article 3*

### **Entry into force and date of 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 August 2019.

<sup>(7)</sup> Commission Regulation (EU) 2018/605 of 19 April 2018 amending Annex II to Regulation (EC) No 1107/2009 by setting out scientific criteria for the determination of endocrine disrupting properties (OJ L 101, 20.4.2018, p. 33).

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

Done at Brussels, 7 May 2019.

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

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## ANNEX I

Common Name, Identification Numbers	IUPAC Name	Purity <sup>(1)</sup>	Date of approval	Expiration of approval	Specific provisions
carvone 244-16-8 (d-carvone = S-carvone = (+)-carvone) Carvone: 602 d-carvone: not allocated	(S)-5-isopropenyl-2-methyl- cyclohex-2-en-1-one Or (S)-p-mentha-6,8-dien-2-one	923 g/kg d-carvone	1 August 2019	31 July 2034	<p>For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the renewal report on carvone, and in particular Appendices I and II thereto, shall be taken into account.</p> <p>In this overall assessment Member States shall pay particular attention to:</p> <ul style="list-style-type: none"> <li>— the protection of operators, ensuring that conditions of use include the application of adequate personal protective equipment.</li> </ul> <p>Conditions of use shall include risk mitigation measures, where appropriate. In particular, consideration should be given to the necessary time period before entry into storage rooms after the application of plant protection products containing carvone.</p> <p>The applicant shall submit to the Commission, the Member States and the Authority confirmatory information as regards:</p> <ul style="list-style-type: none"> <li>— the effect of water treatment processes on the nature of residues present in surface and groundwater, when surface water is abstracted for drinking water.</li> </ul> <p>The applicant shall submit that information within two years from the date of publication, by the Commission, of a guidance document on evaluation of the effect of water treatment processes on the nature of residues present in surface and groundwater.</p>

<sup>(1)</sup> Further details on the identity and the specification of the active substance are provided in the renewal report.

## ANNEX II

The Annex to Commission Implementing Regulation (EU) No 540/2011 is amended as follows:

- (1) in Part A, entry 165 on carvone is deleted;
- (2) in Part B, the following entry is added:

No.	Common Name, Identification Numbers	IUPAC Name	Purity <sup>(1)</sup>	Date of approval	Expiration of approval	Specific provisions
135	carvone 244-16-8 (d-carvone = S-carvone = (+)-carvone) Carvone: 602 d-carvone: not allocated	(S)-5-isopropenyl-2-methylcyclohex-2-en-1-one Or (S)-p-mentha-6,8-dien-2-one	923 g/kg d-carvone	1 August 2019	31 July 2034	<p>For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the renewal report on carvone, and in particular Appendices I and II thereto, shall be taken into account.</p> <p>In this overall assessment Member States shall pay particular attention to:</p> <ul style="list-style-type: none"> <li>— the protection of operators, ensuring that conditions of use include the application of adequate personal protective equipment.</li> </ul> <p>Conditions of use shall include risk mitigation measures, where appropriate. In particular, consideration should be given to the necessary time period before entry into storage rooms after the application of plant protection products containing carvone.</p> <p>The applicant shall submit to the Commission, the Member States and the Authority confirmatory information as regards:</p> <ul style="list-style-type: none"> <li>— the effect of water treatment processes on the nature of residues present in surface and groundwater, when surface water is abstracted for drinking water.</li> </ul> <p>The applicant shall submit that information within two years from the date of publication, by the Commission, of a guidance document on evaluation of the effect of water treatment processes on the nature of residues present in surface and groundwater.'</p>

<sup>(1)</sup> Further details on the identity and the specification of the active substance are provided in the renewal report.

## COMMISSION IMPLEMENTING REGULATION (EU) 2019/707

of 7 May 2019

**amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances alpha-cypermethrin, beflubutamid, benalaxyl, benthialdicarb, bifentazate, boscalid, bromoxynil, captan, cyazofamid, desmedipham, dimethoate, dimethomorph, diuron, ethephon, etoxazole, famoxadone, fenamiphos, flumioxazine, fluoxastrobin, folpet, foramsulfuron, formetanate, metalaxyl-m, methiocarb, metribuzin, milbemectin, *Paecilomyces lilacinus* strain 251, phenmedipham, phosmet, pirimiphos-methyl, propamocarb, prothioconazole, s-metolachlor and tebuconazole**

(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 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC <sup>(1)</sup>, and in particular the first paragraph of Article 17 thereof,

Whereas:

- (1) Part A of the Annex to Commission Implementing Regulation (EU) No 540/2011 <sup>(2)</sup> sets out the active substances deemed to have been approved under Regulation (EC) No 1107/2009.
- (2) The approval periods of the active substances famoxadone, flumioxazine and metalaxyl-m were extended until 30 June 2019 by Commission Implementing Regulation (EU) 2018/917 <sup>(3)</sup>. Applications for the renewal of the inclusion of the active substances famoxadone, flumioxazin and metalaxyl-m in Annex I to Council Directive 91/414/EEC <sup>(4)</sup> were submitted in accordance with Article 4 of Commission Regulation (EU) No 1141/2010 <sup>(5)</sup>.
- (3) The approval periods of the active substances alpha-cypermethrin, beflubutamid, benalaxyl, benthialdicarb, bifentazate, boscalid, bromoxynil, captan, cyazofamid, desmedipham, dimethoate, dimethomorph, ethephon, etoxazole, fenamiphos, fluoxastrobin, folpet, foramsulfuron, formetanate, methiocarb, metribuzin, milbemectin, *Paecilomyces lilacinus* strain 251, phenmedipham, phosmet, pirimiphos-methyl, propamocarb, prothioconazole and s-metolachlor were extended until 31 July 2019 by Implementing Regulation (EU) 2018/917.
- (4) The approval period of the active substance diuron was extended until 30 September 2019 by Commission Implementing Regulation (EU) 2018/1262 <sup>(6)</sup>.
- (5) The approval period of the active substance tebuconazole will expire on 31 August 2019 <sup>(7)</sup>.

<sup>(1)</sup> OJ L 309, 24.11.2009, p. 1.

<sup>(2)</sup> Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

<sup>(3)</sup> Commission Implementing Regulation (EU) 2018/917 of 27 June 2018 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances alpha-cypermethrin, beflubutamid, benalaxyl, benthialdicarb, bifentazate, boscalid, bromoxynil, captan, carvone, chlorpropham, cyazofamid, desmedipham, dimethoate, dimethomorph, diquat, ethephon, ethoprophos, etoxazole, famoxadone, fenamidone, fenamiphos, flumioxazine, fluoxastrobin, folpet, foramsulfuron, formetanate, *Gliocladium catenulatum* strain: J1446, isoxaflutole, metalaxyl-m, methiocarb, methoxyfenozide, metribuzin, milbemectin, oxasulfuron, *Paecilomyces lilacinus* strain 251, phenmedipham, phosmet, pirimiphos-methyl, propamocarb, prothioconazole, pymetrozine and s-metolachlor (OJ L 163, 28.6.2018, p. 13).

<sup>(4)</sup> Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1).

<sup>(5)</sup> Commission Regulation (EU) No 1141/2010 of 7 December 2010 laying down the procedure for the renewal of the inclusion of a second group of active substances in Annex I to Council Directive 91/414/EEC and establishing the list of those substances (OJ L 322, 8.12.2010, p. 10).

<sup>(6)</sup> Commission Implementing Regulation (EU) 2018/1262 of 20 September 2018 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances 1-methylcyclopropene, beta-cyfluthrin, chlorothalonil, chlorotoluron, clomazone, cypermethrin, daminozide, deltamethrin, dimethenamid-p, diuron, fludioxonil, flufenacet, flurtamone, fosthiazate, indoxacarb, MCPA, MCPB, prosulfocarb, thiophanate-methyl and tribenuron (OJ L 238, 21.9.2018, p. 62).

<sup>(7)</sup> Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

- (6) Applications for the renewal of the approvals of the substances referred to in recitals 3 to 5 were submitted in accordance with Commission Implementing Regulation (EU) No 844/2012 <sup>(8)</sup>.
- (7) Due to the fact that the assessment of the substances has been delayed for reasons beyond the control of the applicants, the approvals of those active substances are likely to expire before a decision has been taken on their renewal. It is therefore necessary to extend their approval periods.
- (8) In view of the aim of the first paragraph of Article 17 of Regulation (EC) No 1107/2009, as regards cases where the Commission is to adopt a Regulation providing that the approval of an active substance referred to in the Annex to this Regulation is not renewed because the approval criteria are not satisfied, the Commission is to set the expiry date at the same date as before this Regulation or at the date of the entry into force of the Regulation providing that the approval of the active substance is not renewed, whichever date is later. As regards cases where the Commission is to adopt a Regulation providing for the renewal of an active substance referred to in the Annex to this Regulation, the Commission will endeavour to set, as appropriate under the circumstances, the earliest possible application date.
- (9) Implementing Regulation (EU) No 540/2011 should therefore be amended accordingly.
- (10) 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 Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on the twentieth 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, 7 May 2019.

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

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<sup>(8)</sup> Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ L 252, 19.9.2012, p. 26).

## ANNEX

Part A of the Annex to Implementing Regulation (EU) No 540/2011 is amended as follows:

- (1) in the sixth column, expiration of approval, of row 35, Famoxadone, the date is replaced by '30 June 2020';
- (2) in the sixth column, expiration of approval, of row 37, Metalaxyl-M, the date is replaced by '30 June 2020';
- (3) in the sixth column, expiration of approval, of row 39, Flumioxazine, the date is replaced by '30 June 2020';
- (4) in the sixth column, expiration of approval, of row 44, Foramsulfuron, the date is replaced by '31 July 2020';
- (5) in the sixth column, expiration of approval, of row 46, Cyazofamid, the date is replaced by '31 July 2020';
- (6) in the sixth column, expiration of approval, of row 83, Alpha-cypermethrin, the date is replaced by '31 July 2020';
- (7) in the sixth column, expiration of approval, of row 84, Benalaxyl, the date is replaced by '31 July 2020';
- (8) in the sixth column, expiration of approval, of row 85, Bromoxynil, the date is replaced by '31 July 2020';
- (9) in the sixth column, expiration of approval, of row 86, Desmedipham, the date is replaced by '31 July 2020';
- (10) in the sixth column, expiration of approval, of row 88, Phenmedipham, the date is replaced by '31 July 2020';
- (11) in the sixth column, expiration of approval, of row 97, S-metolachlor, the date is replaced by '31 July 2020';
- (12) in the sixth column, expiration of approval, of row 99, Etoazole, the date is replaced by '31 July 2020';
- (13) in the sixth column, expiration of approval, of row 109, Bifenazate, the date is replaced by '31 July 2020';
- (14) in the sixth column, expiration of approval, of row 110, Milbemectin, the date is replaced by '31 July 2020';
- (15) in the sixth column, expiration of approval, of row 141, Fenamiphos, the date is replaced by '31 July 2020';
- (16) in the sixth column, expiration of approval, of row 142, Ethephon, the date is replaced by '31 July 2020';
- (17) in the sixth column, expiration of approval, of row 145, Captan, the date is replaced by '31 July 2020';
- (18) in the sixth column, expiration of approval, of row 146, Folpet, the date is replaced by '31 July 2020';
- (19) in the sixth column, expiration of approval, of row 147, Formetanate, the date is replaced by '31 July 2020';
- (20) in the sixth column, expiration of approval, of row 148, Methiocarb, the date is replaced by '31 July 2020';
- (21) in the sixth column, expiration of approval, of row 149, Dimethoate, the date is replaced by '31 July 2020';
- (22) in the sixth column, expiration of approval, of row 150, Dimethomorph, the date is replaced by '31 July 2020';
- (23) in the sixth column, expiration of approval, of row 152, Metribuzin, the date is replaced by '31 July 2020';
- (24) in the sixth column, expiration of approval, of row 153, Phosmet, the date is replaced by '31 July 2020';
- (25) in the sixth column, expiration of approval, of row 154, Propamocarb, the date is replaced by '31 July 2020';

- (26) in the sixth column, expiration of approval, of row 156, Pirimiphos-methyl, the date is replaced by '31 July 2020';
- (27) in the sixth column, expiration of approval, of row 158, Bflubutamid, the date is replaced by '31 July 2020';
- (28) in the sixth column, expiration of approval, of row 163, Benthiavalicarb, the date is replaced by '31 July 2020';
- (29) in the sixth column, expiration of approval, of row 164, Boscalid, the date is replaced by '31 July 2020';
- (30) in the sixth column, expiration of approval, of row 166, Fluoxastrobin, the date is replaced by '31 July 2020';
- (31) in the sixth column, expiration of approval, of row 167, *Paecilomyces lilacinus* strain 251, the date is replaced by '31 July 2020';
- (32) in the sixth column, expiration of approval, of row 168, Prothioconazole, the date is replaced by '31 July 2020';
- (33) in the sixth column, expiration of approval, of row 192, Diuron, the date is replaced by '30 September 2020';
- (34) in the sixth column, expiration of approval, of row 268, Tebuconazole, the date is replaced by '31 August 2020'.
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# DECISIONS

## COMMISSION DELEGATED DECISION (EU) 2019/708

of 15 February 2019

**supplementing Directive 2003/87/EC of the European Parliament and of the Council concerning the determination of sectors and subsectors deemed at risk of carbon leakage for the period 2021 to 2030**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC <sup>(1)</sup>, and in particular Article 10b(5) thereof,

Whereas:

- (1) Directive 2003/87/EC provides that auctioning of greenhouse gas emission allowances is the basic principle within the scope of the system for greenhouse gas emission allowance trading within the Union (EU ETS).
- (2) The European Council of October 2014 considered that free allocation should not expire and that existing measures should continue after 2020 to prevent the risk of carbon leakage due to climate policy, as long as no comparable efforts are undertaken in other major economies. To preserve the environmental benefit of emission reductions in the Union while measures by third countries do not provide industry with comparable incentives to reduce emissions, transitional free allocation should continue to installations in sectors and subsectors at risk of carbon leakage.
- (3) Experience gathered during the operation of the EU ETS has confirmed that sectors and subsectors are at risk of carbon leakage to varying degrees, and that free allocation has prevented carbon leakage. While some sectors and subsectors can be deemed to be at a higher risk of carbon leakage, others are able to pass on a considerable share of the costs of allowances to cover their emissions in product prices without losing market share, and only bear the remaining part of the costs so that they are at a low risk of carbon leakage. To address the risk of carbon leakage, paragraph 5 of Article 10b of Directive 2003/87/EC provides that the Commission is to determine a list of sectors and subsectors deemed to be at risk of carbon leakage list. Those sectors and subsectors are to receive free allowances at 100 % of the quantity determined pursuant to Article 10a of Directive 2003/87/EC.
- (4) By its Decision 2014/746/EU <sup>(2)</sup>, the Commission determined a carbon leakage list for the period 2015 to 2019. By Directive (EU) 2018/410 of the European Parliament and of the Council <sup>(3)</sup>, the validity of the carbon leakage list was extended until 31 December 2020.
- (5) Article 10b of Directive 2003/87/EC sets out the criteria for the assessment based on data from the three most recent calendar years available. In this regard, the Commission used data from the years 2013, 2014 and 2015 since, at the time of the assessment, data from 2016 were only available for some of the parameters.

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

<sup>(2)</sup> Commission Decision 2014/746/EU of 27 October 2014 determining, pursuant to Directive 2003/87/EC of the European Parliament and of the Council, a list of sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage, for the period 2015 to 2019 (OJ L 308, 29.10.2014, p. 114)

<sup>(3)</sup> Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814, OJ L 76, 19.3.2018, p. 3.

- (6) In order to establish the carbon leakage list for 2021-2030, the Commission assessed the risk of carbon leakage of sectors and subsectors at NACE-4 level of the statistical classification of economic activities in the Union in accordance with Regulation (EC) No 1893/2006 of the European Parliament and of the Council <sup>(4)</sup>. NACE-4 is the level with optimal data availability defining sectors precisely. A sector is denoted at a 4-digit level of the NACE classification, and a subsector is denoted at Prodcod-6 or 8-digit level, that is, the classification of goods used for statistics on industrial production in the Union, following directly from the NACE classification.
- (7) The carbon leakage assessment was carried out in two steps. For the quantitative first-level assessment at NACE-4 level, a sector is deemed to be at risk of carbon leakage if the 'carbon leakage indicator' exceeds the 0,2 threshold set out in Article 10b(1) of Directive 2003/87/EC. For a limited number of cases meeting clearly established eligibility criteria specified in paragraphs 2 and 3 of Article 10b of Directive 2003/87/EC, a 'second-level assessment' was carried out, either as a qualitative assessment with specified criteria or as a quantitative assessment at a disaggregated level.
- (8) In accordance with Article 10b of Directive 2003/87/EC, the carbon leakage indicator was calculated by multiplying the sector's intensity of trade with third countries by the sector's emission intensity.
- (9) In accordance with Article 10b of Directive 2003/87/EC, intensity of trade with third countries was calculated as the ratio between total value of exports to third countries plus the value of imports from third countries and the total market size for the European Economic Area (annual turnover plus total imports from third countries). The Commission assessed the trade intensity for each sector and subsector on the basis of data reported by Eurostat in the Comext database. The Commission considers this to be the most complete and reliable data on the total values of exports to third countries and imports from third countries as well as on the total annual turnover in the Union.
- (10) Emission intensity was calculated as the sum of direct and indirect emissions for the sector concerned, divided by the gross value added and is measured in kg CO<sub>2</sub> divided by euros. The Commission considers the European Union Transaction Log to be the most accurate and transparent source of CO<sub>2</sub> emissions data at installation level and have therefore been used to calculate the direct emissions for sectors. Installations have been attributed to sectors at NACE-4 level based on installation-level information provided by Member States in the national implementation measures submitted pursuant to Article 11 of Directive 2003/87/EC and Commission Decision 2011/278/EU <sup>(5)</sup>. Regarding the estimation of gross value added at sectoral level, data from the Eurostat structural business statistics have been used as it is considered to be the most accurate source.
- (11) In order to determine indirect emissions, data on electricity consumption collected directly from Member States is considered to be the most reliable source due to unavailability of data at EU-28 level. The electricity emission factor is used to convert electricity consumption into indirect emissions. The Commission used the average EU electricity generation mix as the reference value. This is based on the Union overall annual amount of emissions from the power sector accounting for all generation sources for electricity in Europe divided by the corresponding amount of electricity generation. The electricity emission factor has been updated to take into account decarbonisation of the electricity system and the increasing share of renewables. The new value should be referenced to 2015 which is aligned with the data for the three most recent calendar years available (2013-2015). The updated value is 376 grams of carbon dioxide per kWh.
- (12) Articles 10b(2) and (3) of Directive 2003/87/EC provide detailed rules for eligibility of specific sectors and subsectors for a second assessment, in case they fail to meet the main carbon leakage criterion for inclusion on the carbon leakage list. In cases where the carbon leakage indicator was between 0,15 and 0,2, a qualitative assessment may have been requested by a sector to be carried out according to the criteria outlined in Article 10b(2) of that Directive. In accordance with Article 10b(3) sectors and subsectors with an emission intensity exceeding 1,5 were eligible to apply for either a qualitative assessment or a quantitative assessment at disaggregated level (Prodcod-6 or 8-digit level). Sectors and subsectors for which free allocation is calculated on the basis of the refineries benchmarks were also eligible to apply for both types of assessments. Those sectors and subsectors which are listed in point 1.2 of the Annex to Decision 2014/746/EU were eligible to submit applications for a quantitative assessment at a disaggregated level.

<sup>(4)</sup> Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

<sup>(5)</sup> Commission Decision 2011/278/EU of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 130, 17.5.2011, p. 1).

- (13) An online consultation was conducted from November 2017 to February 2018, during which stakeholders were invited to provide views on the methodological choices for determining the carbon leakage list. Respondents were generally in favour of second-level assessments that would be as robust, fair and transparent as the first-level quantitative assessments, and expressed support for a uniform assessment framework that involves stakeholders. Four meetings took place to prepare the carbon leakage list and further work regarding the assessments to be carried out with Member States and with stakeholders between February and May 2018.
- (14) An impact assessment was conducted <sup>(6)</sup> to ensure that first-level assessments and second-level assessments for the carbon leakage list 2021-2030 are carried out in a comparable manner, i.e. that both assessments ensure that only sectors at risk of carbon leakage are identified. The impact assessment focused on the operational options related to the second-level assessment framework.
- (15) A preliminary carbon leakage list for 2021-2030 <sup>(7)</sup> was published on 8 May 2018, together with Commission framework guidance documents for qualitative and disaggregated quantitative assessments <sup>(8)</sup>.
- (16) Assessments based on the criteria set out in Articles 10b(2) and (3) of Directive 2003/87/EC have been carried out on a number of sectors that were not deemed to be at risk of carbon leakage based on the quantitative criteria set out in Article 10b(1).
- (17) The Commission assessed a total of 245 industrial sectors classified under the 'Mining and quarrying' and 'Manufacturing' divisions of the NACE classification. The sectors and subsectors listed in point 1 of the Annex to this Decision meet the criteria set out in Article 10b(1) of Directive 2003/87/EC and should be deemed to be at risk of carbon leakage.
- (18) Qualitative assessments, based on the criteria set out in Article 10b(2) and 10b(3) of Directive 2003/87/EC have been carried out on a number of sectors. In the case of the sectors: 'Extraction of salt' (NACE code 0893), 'Finishing of textiles' (NACE code 1330), 'Manufacture of basic pharmaceutical products' (NACE code 2110), 'Manufacture of ceramic household and ornamental articles' (NACE code 2341), 'Manufacture of ceramic sanitary fixtures' (NACE code 2342) and 'Manufacture of bricks, tiles and construction products, in baked clay' (NACE code 2332) it was concluded that the addition of those sectors to the carbon leakage list is justified. Those sectors should therefore be deemed to be at risk of carbon leakage for the period 2021-2030.
- (19) In the case of the sector 'Mining of lignite' (NACE code 0520), the qualitative assessment that was carried out identified a number of shortcomings, including the fact that the sector cannot be considered to be impacted by direct emission costs and doubts concerning the link made between intra-Union competition from other fuel sources and carbon leakage. Some regional competition from extra-Union lignite power plants was demonstrated, although the Union wide assessment confirms the extremely limited exposure to external competition. It was therefore concluded that the addition of this sector to the list of sectors and subsectors deemed to be exposed to a risk of carbon leakage is not justified.
- (20) Three applications were received from sectors not included in the preliminary carbon leakage list: 'Extraction of natural gas' (NACE code 0620), 'Manufacture of plaster products for construction purposes' (NACE code 2362) and 'Casting of light metals' (NACE code 2453). The assessment of these applications focused on their eligibility to be on the carbon leakage list based on a quantitative first-level assessment at NACE-4 level. The official data used to carry out the first-level assessments were communicated to stakeholders, and were considered as sufficiently robust for the publication of the preliminary carbon leakage list. The Commission has examined the additional information provided by the three sectors in their applications and does not consider that this justifies changing the initial position. Those sectors continue not to be deemed to be at risk of carbon leakage, as the relevant carbon leakage indicators do not exceed the 0,2 threshold set out in Article 10b(1) of Directive 2003/87/EC. Furthermore, these sectors continue not to meet the eligibility criteria for further assessments as set out in Article 10b(2) and 10b(3) of Directive 2003/87/EC.
- (21) Quantitative disaggregated assessments based on the criteria set out in Article 10b(1) and (3) of Directive 2003/87/EC have been carried on a number of subsectors. In the case of the sub sectors: 'Kaolin and other kaolinic clays' (Prodcom code 08.12.21), 'Frozen potatoes, prepared or preserved (including potatoes cooked or partly cooked in oil and then frozen; excluding by vinegar or acetic acid)' (Prodcom code 10.31.11.30), 'Dried potatoes in the form of flour, meal, flakes, granules and pellets' (Prodcom code 10.31.13.00), 'Concentrated tomato puree and paste' (Prodcom code 10.39.17.25), 'Skimmed milk powder' (Prodcom code 10.51.21), 'Whole milk powder' (Prodcom code 10.51.22), 'Casein' (Prodcom code 10.51.53), 'Lactose and lactose syrup' (Prodcom code 10.51.54), 'Whey and modified whey in powder, granules or other solid forms, whether or not concentrated

<sup>(6)</sup> Commission Staff Working Document SWD (2019) 22.

<sup>(7)</sup> Commission Notice on Preliminary Carbon Leakage, 2021-2030 (OJ C 162, 8.5.2018, p. 1).

<sup>(8)</sup> [https://ec.europa.eu/clima/sites/clima/files/ets/allowances/leakage/docs/framework\\_for\\_qualitative\\_assessments.pdf](https://ec.europa.eu/clima/sites/clima/files/ets/allowances/leakage/docs/framework_for_qualitative_assessments.pdf) [https://ec.europa.eu/clima/sites/clima/files/ets/allowances/leakage/docs/framework\\_for\\_disaggregated\\_assessments.pdf](https://ec.europa.eu/clima/sites/clima/files/ets/allowances/leakage/docs/framework_for_disaggregated_assessments.pdf)

or containing added sweetening matter' (Prodcom code 10.51.55.30), 'Bakers' yeast' (Prodcom code 10.89.13.34), 'Vitrifiable enamels and glazes, engobes (slips) and similar preparations for ceramics, enamelling or glass' (Prodcom code 20.30.21.50), 'Liquid lustres and similar preparations; glass frit and other glass in powder; granules or flakes' (Prodcom code 20.30.21.70) and 'Open die forged ferrous parts for transmission shafts, camshafts, crankshafts and cranks etc.' (Prodcom code 25.50.11.34) it was concluded that the addition of those subsectors to the carbon leakage list is justified. Those subsectors should therefore be deemed to be exposed to a risk of carbon leakage for the period 2021-2030.

- (22) In the case of the subsectors 'Cocoa paste, whether or not defatted' (Prodcom code 10.82.11), 'Cocoa butter, fat and oil' (Prodcom code 10.82.12) and 'Cocoa powder, not containing added sugar or other sweetening matter' (Prodcom code 10.82.13), the quantitative disaggregated assessments that were carried out identified a number of deviations from the harmonised methodology leading to risks of significantly overestimating the carbon leakage indicator. It was therefore concluded that the addition of those subsectors to the carbon leakage list is not justified.
- (23) As the carbon leakage list is to be valid for the period 2021-2030, this Decision should apply from 1 January 2021,

HAS ADOPTED THIS DECISION:

*Article 1*

The sectors and subsectors listed in the Annex shall be deemed to be at risk of carbon leakage for the period 2021 to 2030.

*Article 2*

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

It shall apply from 1 January 2021.

Done at Brussels, 15 February 2019.

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

## ANNEX

**Sectors and subsectors which, pursuant to Article 10b of Directive 2003/87/EC, are deemed to be at risk of carbon leakage**

**1. Based on the criteria set out in Article 10b(1) of Directive 2003/87/EC**

NACE Code	Description
0510	Mining of hard coal
0610	Extraction of crude petroleum
0710	Mining of iron ores
0729	Mining of other non-ferrous metal ores
0891	Mining of chemical and fertiliser minerals
0899	Other mining and quarrying n.e.c.
1041	Manufacture of oils and fats
1062	Manufacture of starches and starch products
1081	Manufacture of sugar
1106	Manufacture of malt
1310	Preparation and spinning of textile fibres
1395	Manufacture of non-wovens and articles made from non-wovens, except apparel
1411	Manufacture of leather clothes
1621	Manufacture of veneer sheets and wood-based panels
1711	Manufacture of pulp
1712	Manufacture of paper and paperboard
1910	Manufacture of coke oven products
1920	Manufacture of refined petroleum products
2011	Manufacture of industrial gases
2012	Manufacture of dyes and pigments
2013	Manufacture of other inorganic basic chemicals
2014	Manufacture of other organic basic chemicals
2015	Manufacture of fertilisers and nitrogen compounds
2016	Manufacture of plastics in primary forms
2017	Manufacture of synthetic rubber in primary forms
2060	Manufacture of man-made fibres
2311	Manufacture of flat glass
2313	Manufacture of hollow glass

NACE Code	Description
2314	Manufacture of glass fibres
2319	Manufacture and processing of other glass, including technical glassware
2320	Manufacture of refractory products
2331	Manufacture of ceramic tiles and flags
2351	Manufacture of cement
2352	Manufacture of lime and plaster
2399	Manufacture of other non-metallic mineral products n.e.c.
2410	Manufacture of basic iron and steel and of ferro-alloys
2420	Manufacture of tubes, pipes, hollow profiles and related fittings, of steel
2431	Cold drawing of bars
2442	Aluminium production
2443	Lead, zinc and tin production
2444	Copper production
2445	Other non-ferrous metal production
2446	Processing of nuclear fuel
2451	Casting of iron

**2. Based on the criteria set out in Article 10b(2) of Directive 2003/87/EC**

NACE Code	Description
0893	Extraction of salt
1330	Finishing of textiles
2110	Manufacture of basic pharmaceutical products
2341	Manufacture of ceramic household and ornamental articles
2342	Manufacture of ceramic sanitary fixtures

**3. Based on the criteria set out in Article 10b(3), first subparagraph of Directive 2003/87/EC**

NACE Code	Description
2332	Manufacture of bricks, tiles and construction products, in baked clay

**4. Based on the criteria set out in Article 10b(3), fifth subparagraph of Directive 2003/87/EC**

Prodcom Code	Description
081221	Kaolin and other kaolinic clays
10311130	Frozen potatoes, prepared or preserved (including potatoes cooked or partly cooked in oil and then frozen; excluding by vinegar or acetic acid)

Prodcom Code	Description
10311300	Dried potatoes in the form of flour, meal, flakes, granules and pellets
10391725	Concentrated tomato puree and paste
105121	Skimmed milk powder
105122	Whole milk powder
105153	Casein
105154	Lactose and lactose syrup
10515530	Whey and modified whey in powder, granules or other solid forms, whether or not concentrated or containing added sweetening matter
10891334	Bakers' yeast
20302150	Vitrifiable enamels and glazes, engobes (slips) and similar preparations for ceramics, enamelling or glass
20302170	Liquid lustres and similar preparations; glass frit and other glass in powder; granules or flakes
25501134	Open die forged ferrous parts for transmission shafts, camshafts, crankshafts and cranks etc.

**COMMISSION IMPLEMENTING DECISION (EU) 2019/709****of 6 May 2019****on the appointment of the network manager for air traffic management (ATM) network functions of the single European sky***(notified under document C(2019) 3228)*

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation) <sup>(1)</sup>, and in particular point (b) of Article 6(2) thereof,

After consulting the Single Sky Committee,

Whereas:

- (1) In accordance with Article 6(6) of Regulation (EC) No 551/2004, Member States entrusted Eurocontrol with the performance of air traffic flow management, through the implementation of the Central Flow Management Unit (CFMU).
- (2) By its Decision C(2011) 4130 final of 7 July 2011, the Commission appointed Eurocontrol as Network Manager to perform the tasks necessary for the execution of the ATM network functions of the single European sky between July 2011 and December 2019.
- (3) The Commission regularly reviewed the effectiveness of the manner in which Eurocontrol performed those tasks in the period between 2011 and 2016. The Commission concluded that Eurocontrol had done so in a manner, which is satisfactory from an operational perspective.
- (4) In 2017, the Commission reviewed the governance, financial arrangements, and cost-base and cost-efficiency aspects of the ATM network functions and concluded that the Network Manager should benefit from greater management autonomy. The Director-General of Eurocontrol granted the Director Network Manager, which performs the tasks of the Network Manager at Eurocontrol, such autonomy by Decision No XI/91 (2017) of 1 November 2017 <sup>(2)</sup>.
- (5) The Commission also concluded that the ATM network functions should be performed in an enhanced and more cost-efficient manner than in the 2011-2016 period, in particular by avoiding any duplication of effort, thus requiring fewer, or at least not more, financial and human resources for performing those functions in the Member States.
- (6) Considering the overall positive assessment of the performance in a cost-efficient manner of the tasks of the Network Manager by Eurocontrol in the first and second reference period of the performance scheme as set out in Article 8 of Commission Implementing Regulation (EU) No 390/2013 <sup>(3)</sup>, as well as the need to ensure business continuity in the performance of the ATM network functions, the Commission invited, on 17 July 2018, Eurocontrol to put forward a proposal. The Commission requested Eurocontrol to specify its willingness and ability to be again appointed as Network Manager, in accordance with the criteria provided for in Article 6(2) of Regulation (EC) No 551/2004. In that respect, it also requested Eurocontrol to describe how it would meet the conditions set in Article 4(3) of Commission Implementing Regulation (EU) 2019/123 <sup>(4)</sup>, and to outline how, once appointed, it would meet the requirements as defined in Article 4(4) of that Regulation.
- (7) In its proposal submitted on 17 December 2018, Eurocontrol submitted information regarding the requirements set out in Article 4(3) and 4(4) of Implementing Regulation (EU) 2019/123.

<sup>(1)</sup> OJ L 96, 31.3.2004, p. 20.

<sup>(2)</sup> Decision concerning the delegation to the Director Network Manager of powers and/or authority to sign on matters concerning support services from other Agency units, the network management budget process, network management operational staff social dialogue technical meetings, and operational and technical agreements necessary for Eurocontrol's performance of the network functions.

<sup>(3)</sup> Commission Implementing Regulation (EU) No 390/2013 of 3 May 2013 laying down a performance scheme for air navigation services and network functions (OJ L 128, 9.5.2013, p. 1).

<sup>(4)</sup> Commission Implementing Regulation (EU) 2019/123 of 24 January 2019 laying down detailed rules for the implementation of air traffic management (ATM) network functions and repealing Commission Regulation (EU) No 677/2011 (OJ L 28, 31.1.2019, p. 1).

- (8) Following a subsequent request made by the Commission, Eurocontrol provided additional clarifications.
- (9) The Commission has assessed the elements presented by Eurocontrol and found that the requirements set out in Article 4(3) of Implementing Regulation (EU) 2019/123 are met.
- (10) In its proposal, referring notably to the results it had achieved in its capacity as Network Manager during the first and second reference periods, Eurocontrol addresses the issues referred to in point (a) of Article 4(3) of Implementing Regulation (EU) 2019/123. The proposal demonstrates its competence and ability to perform the tasks set out in Article 7 of that Regulation.
- (11) In accordance with Article 4(3)(b) of Implementing Regulation (EU) 2019/123, Eurocontrol described in its proposal in a qualitative and quantitative manner the main objectives it plans to achieve with regard to the management of network functions and how it will ensure a good quality of the services it provides to operational stakeholders.
- (12) In accordance with Article 4(3)(c) of Implementing Regulation (EU) 2019/123, referring, inter alia, to the lessons learnt of the first and second reference period, Eurocontrol described the approach and means it plans to use to act as Network Manager.
- (13) Where the Network Manager also performs activities other than those relevant to the execution of the network functions, Article 4(3)(d) of Implementing Regulation (EU) 2019/123 requires it to demonstrate that those other activities will be carried out independently from the Network Manager's tasks set out in Article 7. In its proposal, Eurocontrol indicated that the tasks of the Network Manager relevant to the execution of the network functions would be performed by its Network Manager Directorate and that the activities of that part of its organisation would be adequately separated from other activities.
- (14) In addition to fulfilling the requirements of Article 4(3), Eurocontrol proposed to continue improving the cost-efficiency in performing the tasks of the Network Manager over the period of its appointment.
- (15) Eurocontrol should therefore be appointed as Network Manager.
- (16) That appointment should cover both the third and the fourth reference periods, specified in Article 7 of Commission Implementing Regulation (EU) 2019/317<sup>(5)</sup>, given the investments needed for the deployment of a state-of-art system to support the performance of the ATM network functions and the need to ensure stability and continuity of network operations.
- (17) In accordance with Article 4(4)(a) of Implementing Regulation (EU) 2019/123 the Network Manager should be certified by the European Union Aviation Safety Agency before the start of the third reference period.
- (18) In order to ensure the autonomy of the Network Manager it is important that there is an adequate separation of activities within the organisation appointed as Network Manager. In accordance with point (d) of Article 4(3) of Implementing Regulation (EU) 2019/123, Eurocontrol should therefore carry out its activities as Network Manager independently from any other activity, including in respect of activities related to the work of international organisations.
- (19) In order to ensure fairness in respect of Member States and third countries to whom the Network Manager provides its services, the Network Manager should have appropriate funding and spending arrangements and respect dedicated rules on account management,

HAS ADOPTED THIS DECISION:

#### *Article 1*

### **Appointment of the Network Manager**

1. Eurocontrol is appointed as the Network Manager.
2. The appointment referred to in paragraph 1 shall cover the third and fourth reference period specified in Article 7 of Implementing Regulation (EU) 2019/317.

<sup>(5)</sup> Commission Implementing Regulation (EU) 2019/317 of 11 February 2019 laying down a performance and charging scheme in the single European sky and repealing Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013 (OJ L 56, 25.2.2019, p. 1).

*Article 2***Tasks of the Network Manager**

1. Eurocontrol acting as Network Manager shall perform the tasks necessary for the execution of the ATM network functions referred to in Article 7 of Implementing Regulation (EU) 2019/123.
2. Eurocontrol acting as Network Manager shall perform its tasks in accordance with the requirements laid down in Article 4 of Implementing Regulation (EU) 2019/123.

*Article 3***Certification**

Before carrying out the tasks entrusted to it, by 2 January 2020 Eurocontrol as Network Manager shall be certified by the Agency in accordance with Commission Implementing Regulation (EU) 2017/373 <sup>(6)</sup>.

*Article 4***Network Manager and Network Management Board**

1. The manager of the Network Manager referred to in Article 18(4)(c) of Implementing Regulation (EU) 2019/123 shall be the Director of Eurocontrol's Network Manager Directorate.
2. The representative of Eurocontrol referred to in Article 18(4)(f) of Implementing Regulation (EU) 2019/123 shall be the Director-General of Eurocontrol.
3. The Network Manager shall bear the costs related to the administrative support of the chair of the Network Management Board.

*Article 5***Participation in the consultation of Member States**

At the Commission's request, the Network Manager shall participate in the consultation of the Member States' referred to in Article 21 of Implementing Regulation (EU) 2019/123.

*Article 6***Independent exercise of tasks**

In accordance with Article 4(3)(d) of Implementing Regulation (EU) 2019/123, Eurocontrol shall carry out its tasks as Network Manager independently from any other activity, including in respect of activities related to the work of international organisations.

*Article 7***Network Manager funding and spending arrangements and separation of accounts**

1. Without prejudice to the agreements referred to in Article 24(1) of Implementing Regulation (EU) 2019/123, the Network Manager shall have arrangements in place, which ensure that Member States and third countries as referred to in Article 24(1) and (2) of that Regulation, make a fair and proportionate financial contribution for the tasks entrusted to the Network Manager. Regarding the management of its accounts, it shall respect paragraphs 3 and 4.

<sup>(6)</sup> Commission Implementing Regulation (EU) 2017/373 of 1 March 2017 laying down common requirements for providers of air traffic management/air navigation services and other air traffic management network functions and their oversight, repealing Regulation (EC) No 482/2008, Implementing Regulations (EU) No 1034/2011, (EU) No 1035/2011 and (EU) 2016/1377 and amending Regulation (EU) No 677/2011 (OJ L 62, 8.3.2017, p. 1).

2. The Network Manager shall ensure that payments made by Union Member States in accordance with Article 25(1) of Implementing Regulation (EU) 2019/123 are not used to fund expenses for activities other than covered by the tasks referred to in Article 7 of that Regulation or incurred due to the participation of third countries under Article 24(3) and (4) of that Regulation.
3. In accordance with Article 25(3)(c) of Implementing Regulation (EU) 2019/123, the tasks of Eurocontrol as Network Manager shall be covered by a separate account within Eurocontrol's budget.
4. Within the account referred to in paragraph 3, the Network Manager shall display separately costs incurred and payments made due to any cooperative arrangements as referred to in Article 24(3) and (4) of Implementing Regulation (EU) 2019/123.

*Article 8*

**Entry into force**

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

Done at Brussels, 6 May 2019.

*For the Commission*  
Violeta BULC  
*Member of the Commission*

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## ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

### DECISION No 1/2019 OF THE EU-UKRAINE ASSOCIATION COMMITTEE IN TRADE CONFIGURATION

of 25 March 2019

**on the establishment of the list of arbitrators referred to in Article 323(1) of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part [2019/710]**

THE ASSOCIATION COMMITTEE IN TRADE CONFIGURATION,

Having regard to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part <sup>(1)</sup>, signed in Brussels on 27 June 2014 ('the Agreement'), and in particular Articles 323(1) and 465(3) thereof,

Whereas:

- (1) In accordance with Article 323(1) of the Agreement, the Association Committee meeting in Trade configuration (the 'Trade Committee') is to, no later than six months from the entry into force of the Agreement, establish a list of individuals who are willing and able to serve as arbitrators.
- (2) The Union has proposed five individuals willing and able to serve as arbitrators, while Ukraine has proposed four. The Union and Ukraine have agreed on five individuals that are not nationals of either Party who are to serve as chairpersons to an arbitration panel.
- (3) In order to avoid further delays in the establishment of the list of individuals willing and able to serve as arbitrators and thereby ensure the proper functioning of the Agreement, in particular of Chapter 14 of Title IV thereof, the Trade Committee should approve that list on the basis of the submitted proposals.
- (4) Ukraine should submit its proposal for a fifth candidate to the Trade Committee as soon as possible,

HAS ADOPTED THIS DECISION:

#### *Article 1*

1. The list of individuals who are willing and able to serve as arbitrators pursuant to Article 323(1) of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, is set out in the Annex to this Decision.

2. Ukraine shall submit its proposal for a fifth candidate who is willing and able to serve as arbitrator to the Trade Committee as soon as possible.

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<sup>(1)</sup> OJ L 161, 29.5.2014, p. 3.

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*Article 2*

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

Done at Kyiv, 25 March 2019.

*For the Association Committee in Trade configuration*

*The Chair*

Petros SOURMELIS

*The Secretaries*

*For Ukraine*

Oleksandra NECHYPORENKO

*For the EU*

Christian FRIGAARD RASMUSSEN

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## ANNEX

**LIST OF ARBITRATORS  
PURSUANT TO ARTICLE 323(1) OF THE AGREEMENT**

Arbitrators proposed by the Union:

1. Claus-Dieter EHLERMANN
2. Giorgio SACERDOTI
3. Jacques BOURGEOIS
4. Pieter Jan KUIJPER
5. Ramon TORRENT

Arbitrators proposed by Ukraine:

1. Serhiy HRYSHKO
2. Taras KACHKA
3. Victor MURAVYOV
4. Yuriy RUDYUK

Chairpersons selected by the Parties:

1. William DAVEY (USA)
  2. Helge SELAND (Norway)
  3. Maryse ROBERT (Canada)
  4. Christian HÄBERLI (Switzerland)
  5. Merit JANOW (USA)
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