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I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2019/2115 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 27 November 2019****amending Directive 2014/65/EU and Regulations (EU) No 596/2014 and (EU) 2017/1129 as regards the promotion of the use of SME growth markets****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The Capital Markets Union initiative seeks to reduce dependence on bank lending, diversify market-based sources of financing for all small and medium-sized enterprises ("SMEs") and promote the issuance of bonds and shares by SMEs on public markets. Companies established in the Union that seek to raise capital on trading venues face high one-off and ongoing disclosure and compliance costs which can deter them from ever seeking admission to trading on Union trading venues. In addition, shares issued by SMEs on Union trading venues tend to suffer from lower levels of liquidity and higher volatility, thereby increasing the cost of capital and making that source of funding too onerous. A horizontal Union policy for SMEs in that regard is therefore essential. Such policy needs to be inclusive, coherent and effective, and take into account the variety of SMEs and their different needs.
- (2) Directive 2014/65/EU of the European Parliament and of the Council ⁽³⁾ created a new type of trading venue, the SME growth market, a subcategory of multilateral trading facilities ("MTFs"), in order to facilitate access to capital for SMEs and enable them to grow, and also to facilitate the further development of specialist markets catering for the needs of SME issuers that have growth potential. Directive 2014/65/EU also anticipated that '[a]ttention should be focused on how future regulation should further foster and promote the use of that market so as to make it attractive for investors, and provide a lessening of administrative burdens and further incentives for SMEs to access capital markets through SME growth markets'. In its opinion on the Commission proposal for this amending Regulation, the European Economic and Social Committee reiterated that the low level of communication and bureaucratic approaches are significant barriers and that much more effort must be put into overcoming those obstacles. In addition, it stated that the bottom of the chain, SMEs themselves, should be targeted by involving, among others, SME associations, social partners, and chambers of commerce.

⁽¹⁾ OJ C 440, 6.12.2018, p. 79.

⁽²⁾ Position of the European Parliament of 18 April 2019 (not yet published in the Official Journal) and decision of the Council of 8 November 2019.

⁽³⁾ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

- (3) It has, however, been noted that issuers of financial instruments admitted to trading on an SME growth market benefit from relatively few regulatory alleviations compared to issuers of financial instruments admitted to trading on other MTFs or regulated markets. Most of the obligations set out in Regulation (EU) No 596/2014 of the European Parliament and of the Council ⁽⁴⁾ apply in the same manner to all issuers, irrespective of their size or the trading venue where their financial instruments are admitted to trading. That low level of differentiation between issuers of financial instruments admitted to trading on SME growth markets and those on other MTFs acts as a disincentive for MTFs to seek registration as an SME growth market, which is illustrated by the low uptake of the SME growth market status to date. It is therefore necessary to introduce additional proportionate alleviations to adequately foster the use of SME growth markets. The use of SME growth markets should be actively promoted. Many SMEs are still not aware of the existence of SME growth markets as a new type of trading venue.
- (4) The attractiveness of SME growth markets should be reinforced by further reducing the compliance costs and administrative burdens faced by issuers of financial instruments admitted to trading on SME growth markets. To maintain the highest standards of compliance on regulated markets, the measures provided for in this Regulation should be limited to companies listed on SME growth markets, irrespective of the fact that not all SMEs are listed on SME growth markets and not all companies listed on SME growth markets are SMEs. Pursuant to Directive 2014/65/EU, up to 50 % of the issuers of financial instruments admitted to trading on SME growth markets can be non-SMEs, in order to maintain the profitability of the SME growth markets' business model through, inter alia, liquidity in non-SMEs securities. In view of the risks involved in applying different sets of rules to issuers listed on the same category of venue, namely SME growth markets, the measures provided for in this Regulation should not be limited only to SME issuers. For the sake of consistency for issuers and clarity for investors, the reduction in compliance costs and administrative burdens should apply to all issuers of financial instruments admitted to trading on SME growth markets, irrespective of their market capitalisation.
- (5) The success of an SME growth market should not be measured simply by the number of companies listed thereon, but rather by the rate of growth achieved by those companies. There is a need for a sharper focus on SMEs — the ultimate beneficiaries of this Regulation — and their needs. Cutting red tape is a vital part of that process, but other steps also need to be taken. Efforts need to be made to improve the information that is directly available to SMEs about the financing options open to them, in order to foster their development. Regulatory alleviation should be for the benefit of smaller companies that have growth potential.
- (6) According to Article 10(1) of Regulation (EU) No 596/2014, unlawful disclosure of inside information arises where a person possesses inside information and discloses that information to any other person, except where the disclosure is made in the normal exercise of an employment, a profession or duties. Pursuant to Article 11(4) of that Regulation, disclosure of inside information in the course of a market sounding is deemed to be made in the normal exercise of a person's employment, profession or duties, provided there is compliance with certain procedures established by the market sounding regime. A market sounding comprises the communication of information, prior to the announcement of a transaction, in order to gauge the interest of potential investors in a possible transaction and the conditions relating to it such as its potential size or pricing, to one or more potential investors. During the negotiation phase of an offer of securities to qualified investors (private placement), issuers enter into discussions with a limited number of potential qualified investors, as defined in Regulation (EU) 2017/1129 of the European Parliament and of the Council ⁽⁵⁾, and negotiate all the contractual terms and conditions of the transaction with those qualified investors.

The aim of the communication of information in that negotiation phase is to structure and complete the transaction as a whole, and not to gauge the interest of potential investors as regards a pre-defined transaction. The market sounding regime in respect of private placements of bonds can sometimes be burdensome and act as a disincentive to entering into discussions for such transactions for both issuers and investors. In order to increase the attraction

⁽⁴⁾ Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

⁽⁵⁾ Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

of private placements of bonds, the disclosure of inside information to qualified investors for the purpose of such transactions should be deemed to be made in the normal exercise of a person's employment, profession or duties and should be excluded from the scope of the market sounding regime, provided that an adequate non-disclosure agreement is in place.

- (7) Some liquidity in an issuer's shares can be achieved through liquidity mechanisms such as market-making arrangements or liquidity contracts. A market-making arrangement comprises a contract between the market operator and a third party who commits to maintaining the liquidity in certain shares and, in return, benefits from rebates on trading fees. A liquidity contract comprises a contract between an issuer and a third party who commits to providing liquidity in the shares of the issuer, and on its behalf. To ensure that market integrity is fully preserved, liquidity contracts should be available to all issuers of financial instruments admitted to trading on SME growth markets across the Union, subject to a number of conditions.

Not all competent authorities have established accepted market practices in accordance with Regulation (EU) No 596/2014 in relation to liquidity contracts, which means that not all issuers of financial instruments admitted to trading on SME growth markets currently have access to liquidity schemes across the Union. That absence of liquidity schemes can be an impediment to the effective development of SME growth markets. It is therefore necessary to create a Union framework that will enable issuers of financial instruments admitted to trading on SME growth markets to enter into a liquidity contract with a liquidity provider in the absence of an accepted market practice established at national level. Under such a Union framework, a person entering into a liquidity contract with a liquidity provider would not be deemed to be engaging in market manipulation. It is, however, essential that the proposed Union framework on liquidity contracts for SME growth markets does not replace, but rather complements, existing or future accepted national market practices. It is also essential that competent authorities retain the possibility of establishing accepted market practices in respect of liquidity contracts in order to tailor their conditions to local specificities or to extend such agreements to illiquid securities other than shares admitted to trading on trading venues.

- (8) In order to ensure consistent harmonisation of the proposed Union framework for liquidity contracts, the Commission should adopt regulatory technical standards, setting out a template to be used for the purposes of such contracts, developed by the European Supervisory Authority (European Securities and Markets Authority) (ESMA), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁽⁶⁾, by means of delegated acts pursuant to Article 290 of the Treaty on the Functioning of the European Union and in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.
- (9) According to Article 17(4) of Regulation (EU) No 596/2014, issuers can decide to delay disclosure of inside information to the public if issuers' legitimate interests are likely to be prejudiced, if the delay is not likely to mislead the public, and if issuers are able to ensure the confidentiality of the information. Issuers are, however, required to notify the competent authority thereof and to provide a written explanation of the rationale supporting the decision. That notification obligation, when imposed on issuers whose financial instruments are admitted to trading only on an SME growth market, can be burdensome. A lighter requirement for such issuers, whereby they are required to provide an explanation of the reasons for the delay only upon request by the competent authority, would reduce the administrative burden for issuers without having any significant impact on the ability of the competent authority to monitor the disclosure of inside information, provided that the competent authority is still notified of the decision to delay and is able to open an investigation if it has doubts as regards that decision.
- (10) The current less stringent requirement for issuers whose financial instruments are admitted to trading on an SME growth market to produce, in accordance with Article 18(6) of Regulation (EU) No 596/2014, an insider list only upon the request of the competent authority is of limited practical effect because those issuers remain subject to requirements concerning ongoing monitoring of the persons who qualify as insiders in the context of ongoing projects. The existing requirement should therefore be replaced by the possibility for issuers whose financial instruments are admitted to trading on an SME growth market to maintain only a list of persons who, in the normal exercise of their duties, have regular access to inside information, such as directors, members of management bodies or in-house counsel. It would also be burdensome for issuers whose financial instruments are admitted to trading on an SME growth market to promptly update full insider lists in the manner provided for in Commission

⁽⁶⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

Implementing Regulation (EU) 2016/347 ⁽⁷⁾. However, since some Member States consider insider lists to be important for ensuring a higher level of market integrity, Member States should be given the option of introducing a requirement for issuers whose financial instruments are admitted to trading on an SME growth market to provide more extensive insider lists that include all persons who have access to inside information. Taking into account the need to ensure a proportionate administrative burden for SMEs, those more extensive lists should nevertheless represent a lighter administrative burden as compared to full insider lists.

- (11) It is essential to clarify that the obligation of drawing up insider lists rests both with issuers and any person acting on their behalf or on their account. The responsibilities of any person acting on behalf or on account of an issuer with regard to the drawing up of insider lists should be clarified in order to avoid divergent interpretations and practices across the Union. The relevant provisions of Regulation (EU) No 596/2014 should be amended accordingly.
- (12) Pursuant to Article 19(3) of Regulation (EU) No 596/2014, issuers and emission allowance market participants are required to make public information on transactions carried out by persons discharging managerial responsibilities ('PDMRs') and persons closely associated with them ('PCAs') within three business days after the transaction. The same deadline applies to PDMRs and PCAs as regards their duty to report their transactions to the issuer or to the emission allowance market participant. Where issuers or emission allowance market participants are notified late by PDMRs and PCAs of their transactions, it is technically challenging for those issuers or emission allowance market participants to comply with the three-day deadline, which may give rise to liability issues. Issuers and emission allowance market participants should therefore be allowed to disclose transactions within two business days of receipt of notification of those transactions by the PDMRs or the PCAs.
- (13) Under Regulation (EU) 2017/1129, an issuer is, under certain conditions, not required to publish a prospectus in the case of securities offered in connection with a takeover by means of an exchange offer and in the case of securities offered, allotted or to be allotted in connection with a merger or division. Instead, a document containing minimum information describing the transaction and its impact on the issuer is to be made available to the public. There is no requirement under Union law for a national competent authority to review or approve such a document before its publication, and its content is lighter compared to a prospectus. An unintended consequence of such an exemption is that, in some circumstances, an unlisted company can carry out an initial admission of its shares to trading on a regulated market without producing a prospectus. That deprives investors of the useful information contained in a prospectus, while avoiding any review by a national competent authority of the information provided to the market. It is therefore appropriate to introduce a requirement to publish a prospectus for an unlisted company which seeks admission to trading on a regulated market following an exchange offer, a merger or a division.
- (14) Article 14 of Regulation (EU) 2017/1129 does not currently allow the use of a simplified prospectus for issuers whose equity securities have been admitted to trading on either a regulated market or an SME growth market continuously for at least the last 18 months and that would seek to issue securities giving access to equity securities fungible with equity securities previously issued. Therefore, Article 14 of that Regulation should be amended to allow such issuers to use the simplified prospectus.
- (15) SME growth markets should not be perceived as a final step in the scaling up of issuers and should enable successful companies to grow and move one day to regulated markets, in order to benefit from greater liquidity and a larger investors' pool. To facilitate the transition from an SME growth market to a regulated market, growing companies should be able to use the simplified disclosure regime set out in Article 14 of Regulation (EU) 2017/1129, for the admission to trading on a regulated market of securities fungible with securities which have been previously issued, provided that those companies have offered securities to the public that have been continuously admitted to trading on an SME growth market for at least two years and have fully complied with reporting and disclosure obligations throughout that period. A two-year period should enable issuers to have a sufficient track record and to provide the market with information on their financial performance and reporting requirements under Directive 2014/65/EU.

⁽⁷⁾ Commission Implementing Regulation (EU) 2016/347 of 10 March 2016 laying down implementing technical standards with regard to the precise format of insider lists and for updating insider lists in accordance with Regulation (EU) No 596/2014 of the European Parliament and of the Council (OJ L 65, 11.3.2016, p. 49).

- (16) Regulation (EC) No 1606/2002 of the European Parliament and of the Council ⁽⁸⁾ does not require issuers of financial instruments admitted to trading on SME growth markets to publish their financial statements in conformity with International Financial Reporting Standards. However, in order to avoid diverging from regulated market standards, issuers of financial instruments admitted to trading on SME growth markets that wish to use the simplified disclosure regime set out in Article 14 of Regulation (EU) 2017/1129 for the admission of their securities to trading on a regulated market should nevertheless prepare their most recent financial statements in accordance with Regulation (EC) No 1606/2002, including comparative information for the previous year, provided that they would be required to prepare consolidated accounts as a result of the application of Directive 2013/34/EU of the European Parliament and of the Council ⁽⁹⁾ after the admission of their financial instruments to trading on a regulated market. Where the application of that Directive would not require issuers to prepare such accounts, they should comply with the national law of the Member State in which they are incorporated.
- (17) The purpose of this Regulation is consistent with the objectives of the EU Growth prospectus, as set out in Article 15 of Regulation (EU) 2017/1129. The EU Growth prospectus is short and therefore economical to produce, reducing costs for SMEs. SMEs should be able to choose to use the EU Growth prospectus. The current definition of SMEs in Regulation (EU) 2017/1129 can be too restrictive, in particular for those issuers seeking admission to trading on an SME growth market that tend to be larger than traditional SMEs. As a result, as regards public offers, immediately followed by an initial admission to trading on an SME growth market, smaller issuers would not be able to use the EU Growth prospectus, even if their market capitalisation after their initial admission to trading were lower than EUR 200 000 000. Therefore, Regulation (EU) 2017/1129 should be amended to allow issuers seeking an initial public offer with a tentative market capitalisation below EUR 200 000 000 to draw up an EU Growth prospectus.
- (18) Given the importance of SMEs for the functioning of the Union's economy, special attention should be paid to the impact of Union law relating to financial services on the financing of SMEs. To that end, the Commission should, when undertaking the review of legal acts affecting the financing of listed and unlisted SMEs, analyse regulatory and administrative barriers, including in relation to research, that limit or prevent investment in SMEs. In doing so, the Commission should assess the evolution of capital flows to SMEs and strive to create a favourable regulatory environment to foster the financing of SMEs.
- (19) Directive 2014/65/EU and Regulations (EU) No 596/2014 and (EU) 2017/1129 should therefore be amended accordingly.
- (20) This Regulation should apply from 31 December 2019. However, Article 1 should apply from 1 January 2021,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 596/2014

Regulation (EU) No 596/2014 is amended as follows:

- (1) in Article 11, the following paragraph is inserted:

‘1a. Where an offer of securities is addressed solely to qualified investors as defined in point (e) of Article 2 of Regulation (EU) 2017/1129 of the European Parliament and of the Council ^(*), communication of information to those qualified investors for the purposes of negotiating the contractual terms and conditions of their participation in an issuance of bonds by an issuer that has financial instruments admitted to trading on a trading venue, or by any person acting on its behalf or on its account, shall not constitute a market sounding. Such communication shall be deemed to be made in the normal exercise of a person's employment, profession or duties as provided for in Article 10(1) of this Regulation, and therefore shall not constitute unlawful disclosure of inside information. That issuer or any person acting on its behalf or on its account shall ensure that the qualified investors receiving the information are

⁽⁸⁾ Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).

⁽⁹⁾ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

aware of, and acknowledge in writing, the legal and regulatory duties entailed and are aware of the sanctions applicable to insider dealing and unlawful disclosure of inside information.

(*) Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).;

(2) in Article 13, the following paragraphs are added:

'12. Without prejudice to accepted market practices as established in accordance with paragraphs 1 to 11 of this Article, an issuer of financial instruments admitted to trading on an SME growth market may enter into a liquidity contract for its shares where all of the following conditions are met:

- (a) the terms and conditions of the liquidity contract comply with the criteria set out in paragraph 2 of this Article and in Commission Delegated Regulation (EU) 2016/908 (*);
- (b) the liquidity contract is drawn up in accordance with the Union template referred to in paragraph 13 of this Article;
- (c) the liquidity provider is duly authorised by the competent authority in accordance with Directive 2014/65/EU and is registered as a market member with the market operator or the investment firm operating the SME growth market;
- (d) the market operator or the investment firm operating the SME growth market acknowledges in writing to the issuer that it has received a copy of the liquidity contract and agrees to that contract's terms and conditions.

The issuer referred to in the first subparagraph of this paragraph shall be able to demonstrate at any time that the conditions under which the contract was concluded are met on an ongoing basis. That issuer and the market operator or the investment firm operating the SME growth market shall provide the relevant competent authorities with a copy of the liquidity contract upon their request.

13. ESMA shall develop draft regulatory technical standards to draw up a contractual template to be used for the purposes of entering into a liquidity contract in accordance with paragraph 12, in order to ensure compliance with the criteria set out in paragraph 2, including as regards transparency to the market and performance of the liquidity provision.

ESMA shall submit those draft regulatory technical standards to the Commission by 1 September 2020.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

(*) Commission Delegated Regulation (EU) 2016/908 of 26 February 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council laying down regulatory technical standards on the criteria, the procedure and the requirements for establishing an accepted market practice and the requirements for maintaining it, terminating it or modifying the conditions for its acceptance (OJ L 153, 10.6.2016, p. 3).;

(3) in Article 17(4), the following subparagraph is added:

'By way of derogation from the third subparagraph of this paragraph, an issuer whose financial instruments are admitted to trading only on an SME growth market shall provide a written explanation to the competent authority specified under paragraph 3 only upon request. As long as the issuer is able to justify its decision to delay, the issuer shall not be required to keep a record of that explanation.'

(4) Article 18 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

'1. Issuers and any person acting on their behalf or on their account, shall each:

- (a) draw up a list of all persons who have access to inside information and who are working for them under a contract of employment, or otherwise performing tasks through which they have access to inside information, such as advisers, accountants or credit rating agencies (insider list);
- (b) promptly update the insider list in accordance with paragraph 4; and
- (c) provide the insider list to the competent authority as soon as possible upon its request.

2. Issuers and any person acting on their behalf or on their account, shall take all reasonable steps to ensure that any person on the insider list acknowledges in writing the legal and regulatory duties entailed and is aware of the sanctions applicable to insider dealing and unlawful disclosure of inside information.

Where another person is requested by the issuer to draw up and update the issuer's insider list, the issuer shall remain fully responsible for complying with this Article. The issuer shall always retain a right of access to the insider list that the other person is drawing up.;

(b) paragraphs 4, 5 and 6 are replaced by the following:

'4. Issuers and any person acting on their behalf or on their account shall each update their insider list promptly, including the date of the update, in the following circumstances:

- (a) where there is a change in the reason for including a person already on the insider list;
- (b) where there is a new person who has access to inside information and needs, therefore, to be added to the insider list; and
- (c) where a person ceases to have access to inside information.

Each update shall specify the date and time when the change triggering the update occurred.

5. Issuers and any person acting on their behalf or on their account shall each retain their insider list for a period of at least five years after it is drawn up or updated.

6. Issuers whose financial instruments are admitted to trading on an SME growth market shall be entitled to include in their insider lists only those persons who, due to the nature of their function or position within the issuer, have regular access to inside information.

By way of derogation from the first subparagraph of this paragraph and where justified by specific national market integrity concerns, Member States may require issuers whose financial instruments are admitted to trading on an SME growth market to include in their insider lists all persons referred to in point (a) of paragraph 1. Those lists shall comprise information specified in the format determined by ESMA pursuant to the fourth subparagraph of this paragraph.

The insider lists referred to in the first and second subparagraphs of this paragraph shall be provided to the competent authority as soon as possible upon its request.

ESMA shall develop draft implementing technical standards to determine the precise format of the insider lists referred to in the second subparagraph of this paragraph. The format of the insider lists shall be proportionate and represent a lighter administrative burden compared to the format of insider lists referred to in paragraph 9.

ESMA shall submit those draft implementing technical standards to the Commission by 1 September 2020.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the fourth subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.;

(5) in Article 19(3), the first subparagraph is replaced by the following:

'3. The issuer or emission allowance market participant shall make public the information contained in a notification referred to in paragraph 1 within two business days of receipt of such a notification.;

(6) Article 35(2) is replaced by the following:

'2. The power to adopt delegated acts referred to in Article 6(5) and (6), Article 12(5), the third subparagraph of Article 17(2), Article 17(3), Article 19(13) and (14), and Article 38 shall be conferred on the Commission for a period of five years from 31 December 2019. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.'

Article 2

Amendments to Regulation (EU) 2017/1129

Regulation (EU) 2017/1129 is amended as follows:

(1) in Article 1, the following paragraphs are inserted:

'6a. The exemptions set out in point (f) of paragraph 4 and in point (e) of paragraph 5 shall only apply to equity securities, and only in the following cases:

- (a) the equity securities offered are fungible with existing securities already admitted to trading on a regulated market prior to the takeover and its related transaction, and the takeover is not considered to be a reverse acquisition transaction within the meaning of paragraph B19 of international financial reporting standard (IFRS) 3, Business Combinations, adopted by Commission Regulation (EC) No 1126/2008 (*); or
- (b) the supervisory authority that has the competence, where applicable, to review the offer document under Directive 2004/25/EC of the European Parliament and of the Council (**) has issued a prior approval of the document referred to in point (f) of paragraph 4 or point (e) of paragraph 5 of this Article.

6b. The exemptions set out in point (g) of paragraph 4 and in point (f) of paragraph 5 shall apply only to equity securities in respect of which the transaction is not considered to be a reverse acquisition transaction within the meaning of paragraph B19 of IFRS 3, Business Combinations, and only in the following cases:

- (a) the equity securities of the acquiring entity have already been admitted to trading on a regulated market prior to the transaction; or
- (b) the equity securities of the entities subject to the division have already been admitted to trading on a regulated market prior to the transaction.

(*) Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2008, p. 1).

(**) Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids (OJ L 142, 30.4.2004, p. 12).;

(2) Article 14 is amended as follows:

(a) the first subparagraph of paragraph 1 is amended as follows:

(i) point (b) is replaced by the following:

‘(b) without prejudice to Article 1(5), issuers whose equity securities have been admitted to trading on a regulated market or an SME growth market continuously for at least the last 18 months and who issue non-equity securities or securities giving access to equity securities fungible with the existing equity securities of the issuer already admitted to trading;’

(ii) the following point is added:

‘(d) issuers whose securities have been offered to the public and admitted to trading on an SME growth market continuously for at least two years, and who have fully complied with reporting and disclosure obligations throughout the period of being admitted to trading, and who seek admission to trading on a regulated market of securities fungible with existing securities which have been previously issued.’;

(b) paragraph 2 is amended as follows:

(i) in the second subparagraph, the following sentence is added:

‘Those issuers referred to in point (d) of the first subparagraph of paragraph 1 of this Article that are required to prepare consolidated accounts in line with Directive 2013/34/EU of the European Parliament and of the Council (*) after their securities’ admission to trading on a regulated market shall compile the most recent financial information pursuant to point (a) of the second subparagraph of paragraph 3 of this Article, containing comparative information for the previous year included in the simplified prospectus, in accordance with the International Financial Reporting Standards referred to in Regulation (EC) No 1606/2002 of the European Parliament and of the Council (**).

(*) Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

(**) Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).;

(ii) the following subparagraphs are added:

‘Those issuers referred to in point (d) of the first subparagraph of paragraph 1 of this Article that are not required to prepare consolidated accounts in line with Directive 2013/34/EU after their securities’ admission to trading on a regulated market shall compile the most recent financial information pursuant to point (a) of the second subparagraph of paragraph 3 of this Article, containing comparative information for the previous year included in the simplified prospectus, in accordance with the national law of the Member State in which the issuer is incorporated.

Third country issuers whose securities have been admitted to trading on an SME growth market shall compile the most recent financial information pursuant to point (a) of the second subparagraph of paragraph 3 of this Article, containing comparative information for the previous year included in the simplified prospectus, in accordance with their national accounting standards, provided that those standards are equivalent to Regulation (EC) No 1606/2002. If those national accounting standards are not equivalent to the International Financial Reporting Standards, the financial information shall be restated pursuant to Regulation (EC) No 1606/2002.’;

(c) point (e) of the second subparagraph of paragraph 3 is replaced by the following:

‘(e) for equity securities, including securities giving access to equity securities, the working capital statement, the statement of capitalisation and indebtedness, a disclosure of relevant conflicts of interest and related-party transactions, major shareholders and, where applicable, *pro forma* financial information.’;

(3) in the first subparagraph of Article 15(1), the following point is inserted:

‘(ca) issuers, other than SMEs, offering shares to the public at the same time as seeking admission of those shares to trading on an SME growth market, provided that such issuers have no shares already admitted to trading on an SME growth market and the combined value of the following two items is less than EUR 200 000 000:

(i) the final offer price, or the maximum price in the case referred to in point (b)(i) of Article 17(1);

(ii) the total number of shares outstanding immediately after the share offer to the public, calculated either on the basis of the amount of shares offered to the public or, in the case referred to in point (b)(i) of Article 17(1), on the basis of the maximum amount of shares offered to the public.’;

(4) in Annex V, point II is replaced by the following:

II. Statement of capitalisation and indebtedness (only for equity securities issued by companies with market capitalisation above EUR 200 000 000) and working capital statement (only for equity securities).

The purpose is to provide information on the issuer’s capitalisation and indebtedness and information as to whether the working capital is sufficient to meet the issuer’s present requirements or, if not, how the issuer proposes to provide the additional working capital needed.’.

Article 3

Amendment to Directive 2014/65/EU

In Article 33 of Directive 2014/65/EU, the following paragraph is added:

‘9. The Commission shall set up an expert stakeholder group by 1 July 2020 to monitor the functioning and success of SME growth markets. By 1 July 2021, the expert stakeholder group shall publish a report on its conclusions.’.

Article 4

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 31 December 2019. However, Article 1 shall apply from 1 January 2021.

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

Done at Strasbourg, 27 November 2019.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
T. TUPPURAINEN

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2019/2116

of 28 November 2019

**setting the weighted average of maximum mobile termination rates across the Union and repealing
Implementing Regulation (EU) 2018/1979**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union ⁽¹⁾, and in particular Article 6e(2) thereof,

Whereas:

- (1) In accordance with Regulation (EU) No 531/2012, from 15 June 2017 domestic providers should not levy any surcharge in addition to the domestic retail price on roaming customers in any Member State for any regulated roaming call received, where those calls are within the limits allowed by fair use policy.
- (2) Regulation (EU) No 531/2012 limits any surcharge applied for receiving regulated roaming calls to the weighted average of maximum mobile termination rates across the Union.
- (3) Commission Implementing Regulation (EU) 2018/1979 ⁽²⁾ set out the weighted average of maximum mobile termination rates across the Union, to be applied in 2019 on the basis of the values of the data as of 1 July 2018.
- (4) The Body of European Regulators for Electronic Communications has provided the Commission with updated information gathered from Member States' national regulatory authorities on the maximum level of mobile termination rates imposed, in accordance with Articles 7 and 16 of Directive 2002/21/EC of the European Parliament and of the Council ⁽³⁾ and Article 13 of Directive 2002/19/EC of the European Parliament and of the Council ⁽⁴⁾ in each national market for wholesale voice call termination on individual mobile networks and on the total number of subscribers in the Member States.
- (5) Pursuant to Regulation (EU) No 531/2012, the Commission has calculated the weighted average of the maximum mobile termination rates across the Union by multiplying the maximum mobile termination rate permitted in a given Member State by the total number of subscribers in that Member State, summing that product over all Member States and then dividing the total obtained by the total number of subscribers in all Member States, on the basis of the values of the data as of 1 July 2019. For non-euro Member States, the relevant exchange rate is the average for the second quarter of 2019 obtained from the European Central Bank's database.

⁽¹⁾ OJ L 172, 30.6.2012, p. 10.

⁽²⁾ Commission Implementing Regulation (EU) 2018/1979 of 13 December 2018 setting the weighted average of maximum mobile termination rates across the Union and repealing Implementing Regulation (EU) 2017/2311 (OJ L 317, 14.12.2018, p. 10).

⁽³⁾ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).

⁽⁴⁾ Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (OJ L 108, 24.4.2002, p. 7).

- (6) It is therefore necessary to update the value of the weighted average of maximum mobile termination rates across the Union laid down in Implementing Regulation (EU) 2018/1979.
- (7) Implementing Regulation (EU) 2018/1979 should therefore be repealed.
- (8) Pursuant to Regulation (EU) No 531/2012, the Commission is to review the weighted average of maximum mobile termination rates across the Union as set by this Implementing Regulation annually.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Communications Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The weighted average of maximum mobile termination rates across the Union is set at EUR 0,0079 per minute.

Article 2

Implementing Regulation (EU) 2018/1979 is repealed.

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*.

It shall apply from 1 January 2020.

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

Done at Brussels, 28 November 2019.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION REGULATION (EU) 2019/2117

of 29 November 2019

amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein ⁽¹⁾, and in particular Article 19(5) thereof,

Whereas:

- (1) Regulation (EC) No 338/97 regulates trade in animal and plant species listed in the Annex to the Regulation. The species listed in the Annex include the species set out in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) ('the Convention') as well as species whose conservation status requires that trade from, into and within the Union be regulated or monitored.
- (2) At the 18th meeting of the Conference of the Parties to the Convention, held in Geneva, Switzerland, from 17 to 28 August 2019 (CoP 18), certain amendments were made to the Appendices to the Convention. These amendments should be reflected in the Annexes to Regulation (EC) No 338/97.
- (3) The following taxa were included in Appendix I to the Convention and should be included in Annex A to Regulation (EC) No 338/97: *Ceratophora erdeleni*, *Ceratophora karu*, *Ceratophora tennentii*, *Cophotis ceylanica*, *Cophotis dumbara*, *Gonatodes daudini*, *Achillides chikae hermeli* and *Parides burchellanus*.
- (4) The following species were transferred from Appendix II to Appendix I to the Convention and should be removed from Annex B and included in Annex A to Regulation (EC) No 338/97: *Aonyx cinerea*, *Lutrogale perspicillata*, *Balearica pavonina*, *Cuora bourreti*, *Cuora picturata*, *Mauremys annamensis* and *Geochelone elegans*. *Malacochersus tornieri* was transferred from Appendix II to Appendix I; the species is already included in Annex A and only the reference to the relevant Appendix should be changed.
- (5) The following taxa were transferred from Appendix I to Appendix II to the Convention and should be removed from Annex A and included in Annex B to Regulation (EC) No 338/97: *Vicugna vicugna* (population of the Province of Salta, Argentina, with annotation), *Leporillus conditor*, *Pseudomys fieldi praeconis* (with nomenclature change to *Pseudomys fieldi*), *Xeromys myoides*, *Zyzomys pedunculatus*, *Dasyornis broadbenti litoralis*, *Dasyornis longirostris* and *Crocodylus acutus* (population of Mexico, with annotation).
- (6) The following family, genera and species were included in Appendix II to the Convention and should be included in Annex B to Regulation (EC) No 338/97: *Giraffa camelopardalis*, *Syrmaticus reevesii*, *Ceratophora aspera* (with annotation), *Ceratophora stoddartii* (with annotation), *Lyriocephalus scutatus* (with annotation), *Goniurosaurus* spp., (with annotation), *Gekko gekko*, *Paroedura androyensis*, *Ctenosaura* spp. (four species of this genus were included in Appendix II previously and have now become part of the genus listing), *Pseudocerastes urarachnoides*, *Echinotriton chinhaiensis*, *Echinotriton maxiquadratus*, *Paramesotriton* spp. (one species of this genus was included in Appendix II previously and has now become part of the genus listing), *Tylotriton* spp., *Isurus oxyrinchus*, *Isurus paucus*, *Glaucostegus* spp., Rhinidae spp., *Holothuria fuscogilva* (with delayed implementation), *Holothuria nobilis* (with delayed implementation), *Holothuria whitmaei* (with delayed implementation), *Poecilotheria* spp., *Widdringtonia whytei*, *Pterocarpus tinctorius* (with annotation), *Cedrela* spp. (with annotation and with delayed implementation).
- (7) *Syrmaticus reevesii*, *Ctenosaura quinquecarinata*, *Paramesotriton* spp. and *Tylotriton* spp., which were so far listed in Annex D to Regulation (EC) No 338/97, should be removed from that Annex following their inclusion in Appendix II to the Convention at CoP 18.

⁽¹⁾ OJ L 61, 3.3.1997, p. 1.

- (8) The interpretation section of the Appendices was amended, and a number of annotations relating to several taxa included in the Appendices of the Convention were adopted or amended at CoP 18 and also need to be reflected in the Annexes to Regulation (EC) No 338/97.
- (a) The following annotations were included:
- an annotation for the species *Saiga tatarica* and *Saiga borealis* listed in Appendix II, and
 - the annotation #17 (to replace Annotation #5) for the species *Pericopsis elata* listed in Appendix II.
- (b) The following annotations were amended:
- the annotation for the species *Vicugna vicugna* listed in Appendix II,
 - the annotation #4 f) for the species *Aloe ferox* listed in Appendix II,
 - the annotation #16 for the listing of *Adansonia grandidieri* in Appendix II, and
 - the annotation #15 for the listing in Appendix II of the genus *Dalbergia* spp. and the species *Guibourtia demeusei*, *Guibourtia pellegriniana*, *Guibourtia tessmannii*.
- (9) Definitions of the terms 'Finished musical instruments', 'Finished musical instrument accessories', 'Finished musical instrument parts', 'Shipment' and 'Transformed wood' should be included in the 'Notes on interpretation of Annexes A, B, C and D', as those definitions were adopted at CoP 18.
- (10) The following species were recently included in Appendix III to the Convention: *Sphaerodactylus armasi*, *Sphaerodactylus celicara*, *Sphaerodactylus dimorphicus*, *Sphaerodactylus intermedius*, *Sphaerodactylus nigropunctatus alayoi*, *Sphaerodactylus nigropunctatus granti*, *Sphaerodactylus nigropunctatus lissodesmus*, *Sphaerodactylus nigropunctatus ocujal*, *Sphaerodactylus nigropunctatus strategus*, *Sphaerodactylus notatus atactus*, *Sphaerodactylus oliveri*, *Sphaerodactylus pimienta*, *Sphaerodactylus ruibali*, *Sphaerodactylus siboney*, *Sphaerodactylus torrei*, *Anolis agueroi*, *Anolis baracoae*, *Anolis barbatus*, *Anolis chamaeleonides*, *Anolis equestris*, *Anolis guamuhaya*, *Anolis luteogularis*, *Anolis pigmaequestris*, *Anolis porcus*, all at the request of Cuba. These species should therefore be included in Annex C to Regulation (EC) No 338/97.
- (11) The following species were recently removed from Appendix III to the Convention: *Galictis vittata*, *Bassaricyon gabbii*, *Bassariscus sumichrasti*, *Cabassous centralis*, *Choloepus hoffmanni*, *Sciurus deppei* and *Crax rubra* (only the population of Costa Rica), all at the request of Costa Rica. The reference to Costa Rica in the listing of *Crax rubra* and these other species should therefore be removed from Annex C to Regulation (EC) No 338/97.
- (12) The Union has not entered a reservation in respect of any of those amendments.
- (13) At CoP 18, new nomenclatural references for animals and plants were adopted, which relate in particular to a number of species of the genus *Ovis* and several species belonging to the family Felidae. These changes need to be reflected in the Annexes to Regulation (EC) No 338/97, while maintaining the currently applicable stricter EU measures for imports of the species previously described as *Ovis ammon*, in line with Annex XIII to Commission Regulation (EC) No 865/2006 ^(?).
- (14) Certain species names (both English and Latin) should be corrected to reflect the current practice in their use.
- (15) Further corrections should be made in existing annotations, in particular the annotation '(possibly extinct)' should be removed from the listing of four species, in line with amendments made at CoP 17.
- (16) In view of the extent of these amendments it is appropriate, for reasons of clarity, to replace the Annex to Regulation (EC) No 338/97 in its entirety.
- (17) Regulation (EC) No 338/97 should therefore be amended accordingly.
- (18) Article XV.1(c) of the Convention states that 'amendments adopted at a meeting [of the Conference of the Parties] shall enter into force 90 days after that meeting for all Parties'. In order to meet that deadline and ensure the timely entry into force of the changes to the Annex to this Regulation, the entry into force of this Regulation should be on the third day following that of its publication.
- (19) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Trade in Wild Fauna and Flora established pursuant to Article 18(1) of Regulation (EC) No 338/97,

^(?) Commission Regulation (EC) No 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 (OJ L 166, 19.6.2006, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 338/97 is replaced by the text set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 29 November 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Notes on interpretation of Annexes A, B, C and D

1. Species included in Annexes A, B, C and D are referred to:
 - (a) by the name of the species; or
 - (b) as being all of the species included in a higher taxon or designated part thereof.
2. The abbreviation 'spp.' is used to denote all species of a higher taxon.
3. Other references to taxa higher than species are for the purposes of information or classification only.
4. Species printed in bold in Annex A are listed there in consistency with their protection as provided for by Directive 2009/147/EC of the European Parliament and of the Council ⁽¹⁾ or Council Directive 92/43/EEC ⁽²⁾.
5. The following abbreviations are used for plant taxa below the level of species:
 - (a) 'ssp.' is used to denote subspecies;
 - (b) 'var(s)।' is used to denote variety (varieties); and
 - (c) 'fa.' is used to denote forma.
6. The symbols '(I)', '(II)' and '(III)' placed against the name of a species or higher taxon refer to the Appendices to the Convention in which the species concerned are listed as indicated in notes 7, 8 and 9. Where none of these annotations appears, the species concerned are not listed in the Appendices to the Convention.
7. (I) against the name of a species or higher taxon indicates that the species or higher taxon concerned is included in Appendix I to the Convention.
8. (II) against the name of a species or higher taxon indicates that the species or higher taxon concerned is included in Appendix II to the Convention.
9. (III) against the name of a species or higher taxon indicates that it is included in Appendix III to the Convention. In this case the country with respect to which the species or higher taxon is included in Appendix III is also indicated.
10. 'Cultivar' means, following the definition of the 8th edition of the *International Code of Nomenclature for Cultivated Plants*, an assemblage of plants that (a) has been selected for a particular character or combination of characters, (b) is distinct, uniform, and stable in these characters, and (c) when propagated by appropriate means, retains those characters. No new taxon of a cultivar can be regarded as such until its category name and circumscription has been formally published in the latest edition of the *International Code of Nomenclature for Cultivated Plants*.
11. Hybrids may be specifically included in the Appendices but only if they form distinct and stable populations in the wild. Hybrid animals that have in their previous four generations of the lineage one or more specimens of species included in Annexes A or B shall be subject to this Regulation just as if they were full species, even if the hybrid concerned is not specifically included in the Annexes.
12. When a species is included in Annex A, B or C, the whole animal or plant, whether alive or dead, and all parts and derivatives thereof are also included. Regarding animal species listed in Annex C and plant species listed in Annex B or C, all parts and derivatives of the species are also included in the same Annex unless the species is annotated to indicate that only specific parts and derivatives are included. In accordance with Article 2(t), the symbol '#' followed by a number placed against the name of a species or higher taxon included in Annex B or C designates parts or derivatives which are specified in relation thereto for the purposes of this Regulation as follows:

⁽¹⁾ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

⁽²⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

- #1 Designates all parts and derivatives, except:
- (a) seeds, spores and pollen (including pollinia);
 - (b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers;
 - (c) cut flowers of artificially propagated plants; and
 - (d) fruits and parts and derivatives thereof of artificially propagated plants of the genus *Vanilla*.
- #2 Designates all parts and derivatives, except:
- (a) seeds and pollen; and
 - (b) finished products packaged and ready for retail trade.
- #3 Designates whole and sliced roots and parts of roots, excluding manufactured parts or derivatives, such as powders, pills, extracts, tonics, teas and confectionery.
- #4 Designates all parts and derivatives, except:
- (a) seeds (including seedpods of Orchidaceae), spores and pollen (including pollinia). The exemption does not apply to seeds from Cactaceae spp. exported from Mexico, and to seeds from *Beccariophoenix madagascariensis* and *Dypsis decaryi* exported from Madagascar;
 - (b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers;
 - (c) cut flowers of artificially propagated plants;
 - (d) fruits and parts and derivatives thereof of naturalized or artificially propagated plants of the genus *Vanilla* (Orchidaceae) and of the family Cactaceae;
 - (e) stems, flowers, and parts and derivatives thereof of naturalized or artificially propagated plants of the genera *Opuntia* subgenus *Opuntia* and *Selenicereus* (Cactaceae); and
 - (f) finished products of *Aloe ferox* and *Euphorbia antisiphilitica* packaged and ready for retail trade.
- #5 Designates logs, sawn wood and veneer sheets.
- #6 Designates logs, sawn wood, veneer sheets and plywood.
- #7 Designates logs, wood-chips, powder and extracts.
- #8 Designates underground parts (i.e. roots, rhizomes): whole, parts and powdered.
- #9 Designates all parts and derivatives, except those bearing a label 'Produced from *Hoodia* spp. material obtained through controlled harvesting and production under the terms of an agreement with the relevant CITES Management Authority of [Botswana under agreement No. BW/xxxxxx] [Namibia under agreement No. NA/xxxxxx] [South Africa under agreement No. ZA/xxxxxx]'.
- #10 Designates logs, sawn wood, veneer sheets, including unfinished wood articles used for the fabrication of bows for stringed musical instruments.
- #11 Designates logs, sawn wood, veneer sheets, plywood, powder and extracts. Finished products containing such extracts as ingredients, including fragrances, are not considered to be covered by this annotation.
- #12 Designates logs, sawn wood, veneer sheets, plywood and extracts. Finished products containing such extracts as ingredients, including fragrances, are not considered to be covered by this annotation.
- #13 Designates the kernel (also known as 'endosperm', 'pulp' or 'copra') and any derivative thereof.
- #14 Designates all parts and derivatives, except:
- (a) seeds and pollen;
 - (b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers;
 - (c) fruits;
 - (d) leaves;
 - (e) exhausted agarwood powder, including compressed powder in all shapes; and

- (f) finished products packaged and ready for retail trade, this exemption does not apply to wood chips, beads, prayer beads and carvings.

#15 Designates all parts and derivatives, except:

- (a) leaves, flowers, pollen, fruits, and seeds;
- (b) finished products to a maximum weight of wood of the listed species of up to 10 kg per shipment;
- (c) finished musical instruments, finished musical instrument parts and finished musical instrument accessories;
- (d) parts and derivatives of *Dalbergia cochinchinensis* which are covered by Annotation #4;
- (e) parts and derivatives of *Dalbergia* spp. originating and exported from Mexico which are covered by Annotation #6;

#16 Designates seeds, fruits, and oils;

#17 Logs, sawn wood, veneer sheets, plywood and transformed wood.

13. The terms and expressions below, used in annotations in these Annexes, are defined as follows:

Extract

Any substance obtained directly from plant material by physical or chemical means regardless of the manufacturing process. An extract may be solid (e.g. crystals, resin, fine or coarse particles), semisolid (e.g. gums, waxes) or liquid (e.g. solutions, tinctures, oil and essential oils).

Finished musical instruments

A musical instrument (as referenced by the Harmonized System of the World Customs Organization, Chapter 92; musical instruments, parts and accessories of such articles) that is ready to play or needs only the installation of parts to make it playable. This term includes antique instruments (as defined by the Harmonized System codes 97.05 and 97.06; Works of art, collectors' pieces and antiques).

Finished musical instrument accessories

A musical instrument accessory (as referenced by the Harmonized System of the World Customs Organization, Chapter 92; musical instruments, parts and accessories of such articles) that is separate from the musical instrument, and is specifically designed or shaped to be used explicitly in association with an instrument, and that requires no further modification to be used.

Finished musical instrument parts

A part (as referenced by the Harmonized System of the World Customs Organization, Chapter 92; musical instruments, parts and accessories of such articles) of a musical instrument that is ready to install and is specifically designed and shaped to be used explicitly in association with the instrument to make it playable.

Finished products packaged and ready for retail trade

Products, shipped singly or in bulk, requiring no further processing, packaged, labelled for final use or the retail trade in a state fit for being sold to or used by the general public.

Powder

A dry, solid substance in the form of fine or coarse particles

Shipment

Cargo transported under the terms of a single bill of lading or air waybill, irrespective of the quantity or number of containers or packages; or pieces worn, carried or included in personal baggage.

10 kg per shipment

For the term '10 kg per shipment', the 10 kg limit should be interpreted as referring to the weight of the individual portions of each item in the shipment made of wood of the species concerned. In other words, the 10 kg limit is to be assessed against the weight of the individual portions of wood of *Dalbergia*/*Guibourtia* species contained in each item of the shipment, rather than against the total weight of the shipment.

Transformed wood

Defined by Harmonized System code 44.09. Wood (including strips, friezes for parquet flooring, not assembled), continuously shaped (tongued, grooved, v-jointed, beaded or the like) along any edges, ends or faces, whether or not planed, sanded or end-jointed.

Woodchips

Wood that has been reduced to small pieces.

14. As none of the species or higher taxa of FLORA included in Annex A is annotated to the effect that its hybrids shall be treated in accordance with Article 4(1), this means that artificially propagated hybrids produced from one or more of these species or taxa may be traded with a certificate of artificial propagation, and that seeds and pollen (including pollinia), cut flowers, seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers of these hybrids are not subject to this Regulation.
15. Urine, faeces and ambergris which are waste products and gained without the manipulation of the animal concerned are not subject to this Regulation.
16. In respect of fauna species listed in Annex D, this Regulation shall apply only to live specimens and whole, or substantially whole, dead specimens except for taxa which are annotated as follows to show that other parts and derivatives are also covered:
 - § 1 Any whole, or substantially whole, skins, raw or tanned.
17. In respect of flora species listed in Annex D, this Regulation shall apply only to live specimens except for taxa which are annotated as follows to show that other parts and derivatives are also covered:
 - § 3 Dried and fresh plants, including, where appropriate; leaves, roots/rootstock, stems, seeds/spores, bark and fruits.
 - § 4 Logs, sawn wood and veneer sheets.

	Annex A	Annex B	Annex C	Common name
FAUNA				
CHORDATA (CHORDATES)				
MAMMALIA				Mammals
ARTIODACTYLA				
Antilocapridae				Pronghorn
	<i>Antilocapra americana</i> (I) (Only the population of Mexico; no other population is included in the Annexes to this Regulation)			Mexican pronghorn
Bovidae	<p><i>Addax nasomaculatus</i> (I)</p> <p><i>Bos gaurus</i> (I) (Excludes the domesticated form referenced as <i>Bos frontalis</i> which is not subject to this Regulation)</p> <p><i>Bos mutus</i> (I) (Excludes the domesticated form referenced as <i>Bos grunniens</i> which is not subject to this Regulation)</p> <p><i>Bos sauveli</i> (I)</p> <p><i>Bubalus depressicornis</i> (I)</p> <p><i>Bubalus mindorensis</i> (I)</p> <p><i>Bubalus quarlesi</i> (I)</p>	<p><i>Ammotragus lervia</i> (II)</p> <p><i>Budorcas taxicolor</i> (II)</p>	<p><i>Antilope cervicapra</i> (III Nepal/Pakistan)</p> <p><i>Boselaphus tragocamelus</i> (III Pakistan)</p> <p><i>Bubalus arnee</i> (III Nepal) (Excludes the domesticated form referenced as <i>Bubalus bubalis</i>, which is not subject to this Regulation)</p>	<p>Antelopes, cattle, duikers, gazelles, goats, sheep etc.</p> <p>Addax</p> <p>Barbary sheep</p> <p>Blackbuck</p> <p>Gaur</p> <p>Wild yak</p> <p>Kouprey</p> <p>Nilgai</p> <p>Wild Asiatic buffalo</p> <p>Lowland anoa</p> <p>Tamarau</p> <p>Mountain anoa</p> <p>Takin</p>

	Annex A	Annex B	Annex C	Common name	
	<i>Capra falconeri</i> (I)	<i>Capra caucasica</i> (II)	<i>Capra hircus aegagrus</i> (III Pakistan) (Specimens of the domesticated form are not subject to this Regulation)	Markhor	
				Caucasian Tur	
				Wild goat	
				<i>Capra sibirica</i> (III Pakistan)	Siberian Ibex
	<i>Capricornis milneedwardsii</i> (I)				Chinese serow
	<i>Capricornis rubidus</i> (I)				Red serow
	<i>Capricornis sumatraensis</i> (I)				Sumatran serow
	<i>Capricornis thar</i> (I)				Himalayan serow
				<i>Cephalophus brookei</i> (II)	Brooke's duiker
				<i>Cephalophus dorsalis</i> (II)	Bay duiker
	<i>Cephalophus jentinki</i> (I)				Jentink's duiker
				<i>Cephalophus ogilbyi</i> (II)	Ogilby's duiker
				<i>Cephalophus silvicultor</i> (II)	Yellow-backed duiker
		<i>Cephalophus zebra</i> (II)	Zebra duiker		
		<i>Damaliscus pygargus pygargus</i> (II)	Bontebok		
			<i>Gazella bennettii</i> (III Pakistan)	Chinkara	
	<i>Gazella cuvieri</i> (I)		Cuvier's gazelle		
			<i>Gazella dorcas</i> (III Algeria/Tunisia)	Dorcas gazelle	
	<i>Gazella leptoceros</i> (I)		Slender-horned gazelle		
	<i>Hippotragus niger variani</i> (I)		Giant sable antelope		
		<i>Kobus leche</i> (II)	Lechwe		
	<i>Naemorhedus baileyi</i> (I)		Red goral		
	<i>Naemorhedus caudatus</i> (I)		Long-tailed goral		
	<i>Naemorhedus goral</i> (I)		Himalayan goral		

	Annex A	Annex B	Annex C	Common name
	<i>Naemorhedus griseus</i> (I)			Chinese goral
	<i>Nanger dama</i> (I)			Dama gazelle
	<i>Oryx dammah</i> (I)			Scimitar-horned oryx
	<i>Oryx leucoryx</i> (I)			Arabian oryx
		<i>Ovis ammon</i> (II)		Altai argali
		<i>Ovis arabica</i> (II)		Arabian wild sheep
		<i>Ovis bochariensis</i> (II)		Bukhara ural
		<i>Ovis canadensis</i> (II) (Only the population of Mexico; no other population is included in the Annexes to this Regulation)		Mexican bighorn sheep
		<i>Ovis collium</i> (II) (*)		Kazakhstan argali
		<i>Ovis cycloceros</i> (II)		Afghan ural
		<i>Ovis darwini</i> (II) (*)		Gobi argali
	<i>Ovis gmelini</i> (I) (population of Cyprus)			Anatolian sheep
	<i>Ovis hodgsonii</i> (I)			Tibetan argali
		<i>Ovis jubata</i> (II) (*)		Shansi argali
		<i>Ovis karelini</i> (II) (*)		Tianshan argali
	<i>Ovis nigrimontana</i> (I)			Karatau argali
		<i>Ovis polii</i> (II) (*)		Marco Polo argali
		<i>Ovis punjabiensis</i> (II)		Punjab ural
		<i>Ovis severtzovi</i> (II) (*)		Severtzov's agali
	<i>Ovis vignei</i> (I)			Ladakh ural
	<i>Pantholops hodgsonii</i> (I)			Chiru
		<i>Philantomba monticola</i> (II)		Blue duiker
			<i>Pseudois nayaur</i> (III Pakistan)	Bharal

	Annex A	Annex B	Annex C	Common name
	<p><i>Pseudoryx nghetinhensis</i> (I)</p> <p><i>Rupicapra pyrenaica ornata</i> (II)</p>	<p><i>Saiga borealis</i> (II) (A zero export quota for wild specimens traded for commercial purposes)</p> <p><i>Saiga tatarica</i> (II) (A zero export quota for wild specimens traded for commercial purposes)</p>	<p><i>Tetracerus quadricornis</i> (III Nepal)</p>	<p>Saola</p> <p>Abruzzo chamois</p> <p>Mongolian saiga</p> <p>Steppe saiga</p> <p>Four-horned antelope</p>
Camelidae	<p><i>Vicugna vicugna</i> (I) (Except for the populations of: Argentina [the populations of the Provinces of Jujuy, Catamarca and Salta, and the semi-captive populations of the Provinces of Jujuy, Salta, Catamarca, La Rioja and San Juan]; Bolivia [the whole population]; Chile [populations of the region of Tarapacá and of the region of Arica and Parinacota]; Ecuador [the whole population] and Peru [the whole population]; which are included in Annex B)</p>	<p><i>Lama guanicoe</i> (II)</p> <p><i>Vicugna vicugna</i> (II) (Only the populations of Argentina [the populations of the Provinces of Jujuy, Catamarca and Salta, and the semi-captive populations of the Provinces of Jujuy, Salta, Catamarca, La Rioja and San Juan]; Bolivia [the whole population]; Chile [populations of the region of Tarapacá and of the region of Arica and Parinacota]; Ecuador [the whole population] and Peru [the whole population]; all other populations are included in Annex A) (1)</p>		<p>Camels, guanaco, vicuña</p> <p>Guanaco</p> <p>Vicuña</p>
Cervidae	<p><i>Axis calamianensis</i> (I)</p> <p><i>Axis kuhlii</i> (I)</p> <p><i>Axis porcinus annamiticus</i> (I)</p> <p><i>Blastocerus dichotomus</i> (I)</p>		<p><i>Axis porcinus</i> (III Pakistan (Except for the subspecies included in Annex A))</p>	<p>Deer, huemuls, muntjacs, pudus</p> <p>Calamian deer</p> <p>Bawean deer</p> <p>Hog deer</p> <p>Indochina hog deer</p> <p>Marsh deer</p>

	Annex A	Annex B	Annex C	Common name
	<p><i>Cervus elaphus hanglu</i> (I)</p> <p><i>Dama dama mesopotamica</i> (I)</p> <p><i>Hippocamelus</i> spp. (I)</p> <p><i>Muntiacus crinifrons</i> (I)</p> <p><i>Muntiacus vuquangensis</i> (I)</p> <p><i>Ozotoceros bezoarticus</i> (I)</p> <p><i>Pudu puda</i> (I)</p> <p><i>Rucervus duvaucelii</i> (I)</p> <p><i>Rucervus eldii</i> (I)</p>	<p><i>Cervus elaphus bactrianus</i> (II)</p> <p><i>Pudu mephistophiles</i> (II)</p>	<p><i>Cervus elaphus barbarus</i> (III Algeria/Tunisia)</p> <p><i>Mazama temama cerasina</i> (III Guatemala)</p> <p><i>Odocoileus virginianus mayensis</i> (III Guatemala)</p>	<p>Bactrian deer</p> <p>Barbary deer</p> <p>Hangul</p> <p>Persian fallow deer</p> <p>Huemuls</p> <p>Central American red brocket</p> <p>Black muntjac</p> <p>Giant muntjac</p> <p>Guatemalan white-tailed deer</p> <p>Pampas deer</p> <p>Northern pudu</p> <p>Southern pudu</p> <p>Barasingha</p> <p>Eld's deer</p>
Giraffidae		<i>Giraffa camelopardalis</i> (II)		Giraffes Giraffe
Hippopotamidae		<p><i>Hexaprotodon liberiensis</i> (II)</p> <p><i>Hippopotamus amphibius</i> (II)</p>		Hippopotamuses Pygmy hippopotamus Common hippopotamus
Moschidae	<i>Moschus</i> spp. (I) (Only the populations of Afghanistan, Bhutan, India, Myanmar, Nepal and Pakistan; all other populations are included in Annex B)	<i>Moschus</i> spp. (II) (Except for the populations of Afghanistan, Bhutan, India, Myanmar, Nepal and Pakistan, which are included in Annex A)		Musk deer Musk deer

	Annex A	Annex B	Annex C	Common name
Suidae	<i>Babyrousa babyrussa</i> (I) <i>Babyrousa bolabatuensis</i> (I) <i>Babyrousa celebensis</i> (I) <i>Babyrousa togeanensis</i> (I) <i>Sus salvanius</i> (I)			Babirusa, hogs, pigs Buru babirusa Bola Batu babirusa North Sulawesi babirusa Malenge babirusa Pygmy hog
Tayassuidae	<i>Catagonus wagneri</i> (I)	Tayassuidae spp. (II) (Except for the species included in Annex A and excluding the populations of <i>Pecari tajacu</i> of Mexico and the United States, which are not included in the Annexes to this Regulation)		Peccaries Peccaries Chacoan peccary
CARNIVORA Ailuridae	<i>Ailurus fulgens</i> (I)			Red panda
Canidae	<i>Canis lupus</i> (I/II) (All populations except those of Spain north of the Duero and Greece north of the 39th parallel. Populations of Bhutan, India, Nepal and Pakistan are listed in Appendix I; all other populations are listed in Appendix II. Excludes the domesticated form and the dingo which are referenced as <i>Canis lupus familiaris</i> and <i>Canis lupus dingo</i>) <i>Canis simensis</i>	<i>Canis lupus</i> (II) (Populations of Spain north of the Duero and Greece north of the 39th parallel. Excludes the domesticated form and the dingo which are referenced as <i>Canis lupus familiaris</i> and <i>Canis lupus dingo</i>)	<i>Canis aureus</i> (III India)	Dogs, foxes, wolves Golden jackal Grey wolf Ethiopian wolf

	Annex A	Annex B	Annex C	Common name
	<i>Speothos venaticus</i> (I)	<i>Cerdocyon thous</i> (II) <i>Chrysocyon brachyurus</i> (II) <i>Cuon alpinus</i> (II) <i>Lycalopex culpaeus</i> (II) <i>Lycalopex fulvipes</i> (II) <i>Lycalopex griseus</i> (II) <i>Lycalopex gymnocercus</i> (II) <i>Vulpes cana</i> (II) <i>Vulpes zerda</i> (II)	<i>Vulpes bengalensis</i> (III India)	Crab-eating fox Maned wolf Dhole Culpeo Darwin's fox South American grey fox Pampas fox Bush dog Bengal fox Blanford's fox Fennec fox
Eupleridae		<i>Cryptoprocta ferox</i> (II) <i>Eupleres goudotii</i> (II) <i>Fossa fossana</i> (II)		Fossa Falanouc Malagasy civet
Felidae		<p>Felidae spp. (II) (Except for the species included in Annex A. Specimens of the domesticated form are not subject to this Regulation. For Panthera leo (African populations): A zero annual export quota is established for specimens of bones, bone pieces, bone products, claws, skeletons, skulls and teeth removed from the wild and traded for commercial purposes.</p> <p>Annual export quotas for trade in bones, bone pieces, bone products, claws, skeletons, skulls and teeth for commercial purposes, derived from captive breeding operations in South Africa, will be established and communicated annually to the CITES Secretariat.)</p>		Cats, cheetahs, leopards, lions, tigers etc. Cats

	Annex A	Annex B	Annex C	Common name
	<p><i>Acinonyx jubatus</i> (I) (Annual export quotas for live specimens and hunting trophies are granted as follows: Botswana: 5; Namibia: 1 50; Zimbabwe: 50. The trade in such specimens is subject to Article 4(1))</p> <p><i>Caracal caracal</i> (I) (Only the population of Asia; all other populations are included in Annex B)</p> <p><i>Catopuma temminckii</i> (I)</p> <p><i>Felis nigripes</i> (I)</p> <p><i>Felis silvestris</i> (II)</p> <p><i>Herpailurus yagouaroundi</i> (I) (Only the populations of Central and North America; all other populations are included in Annex B)</p> <p><i>Leopardus geoffroyi</i> (I)</p> <p><i>Leopardus guttulus</i> (I)</p> <p><i>Leopardus jacobita</i> (I)</p> <p><i>Leopardus pardalis</i> (I)</p> <p><i>Leopardus tigrinus</i> (I)</p> <p><i>Leopardus wiedii</i> (I)</p> <p><i>Lynx lynx</i> (II)</p> <p><i>Lynx pardinus</i> (I)</p> <p><i>Neofelis diardi</i> (I)</p> <p><i>Neofelis nebulosa</i> (I)</p> <p><i>Panthera leo</i> (I) (Only the populations of India; all other populations are included in Annex B)</p>			<p>Cheetah</p> <p>Asian Caracal</p> <p>Asian golden cat</p> <p>Black-footed cat</p> <p>Wild cat</p> <p>Jaguarundi</p> <p>Geoffroy's cat</p> <p>Southern tigrina</p> <p>Andean mountain cat</p> <p>Ocelot</p> <p>Oncilla</p> <p>Margay</p> <p>Eurasian lynx</p> <p>Iberian lynx</p> <p>Sunda clouded leopard</p> <p>Mainland clouded leopard</p> <p>Asiatic lion</p>

	Annex A	Annex B	Annex C	Common name
	<p><i>Panthera onca</i> (I)</p> <p><i>Panthera pardus</i> (I)</p> <p><i>Panthera tigris</i> (I)</p> <p><i>Panthera uncia</i> (I)</p> <p><i>Pardofelis marmorata</i> (I)</p> <p><i>Prionailurus bengalensis bengalensis</i> (I) (Only the populations of Bangladesh, India and Thailand; all other populations are included in Annex B)</p> <p><i>Prionailurus iriomotensis</i> (II)</p> <p><i>Prionailurus planiceps</i> (I)</p> <p><i>Prionailurus rubiginosus</i> (I) (Only the population of India; all other populations are included in Annex B)</p> <p><i>Puma concolor</i> (I) (Only the populations of Costa Rica and Panama; all other populations are included in Annex B)</p>			<p>Jaguar</p> <p>Leopard</p> <p>Tiger</p> <p>Snow leopard</p> <p>Marbled cat</p> <p>Bengal leopard cat</p> <p>Iriomote cat</p> <p>Flat-headed cat</p> <p>Rusty-spotted cat</p> <p>Costa Rican cougar</p>
Herpestidae			<p><i>Herpestes edwardsi</i> (III India/Pakistan)</p> <p><i>Herpestes fuscus</i> (III India)</p> <p><i>Herpestes javanicus</i> (III Pakistan)</p> <p><i>Herpestes javanicus auropunctatus</i> (III India)</p> <p><i>Herpestes smithii</i> (III India)</p> <p><i>Herpestes urva</i> (III India)</p> <p><i>Herpestes vitticollis</i> (III India)</p>	<p>Mongoose</p> <p>Indian grey mongoose</p> <p>Indian brown mongoose</p> <p>Small Asian mongoose</p> <p>Small Indian mongoose</p> <p>Ruddy mongoose</p> <p>Crab-eating mongoose</p> <p>Stripe-necked mongoose</p>
Hyaenidae			<p><i>Hyaena hyaena</i> (III Pakistan)</p> <p><i>Proteles cristata</i> (III Botswana)</p>	<p>Aardwolf, hyenas</p> <p>Striped hyena</p> <p>Aardwolf</p>

	Annex A	Annex B	Annex C	Common name
Mephitidae		<i>Conepatus humboldtii</i> (II)		Skunks Humboldt's hog-nosed skunk
Mustelidae Lutrinae	<i>Aonyx capensis microdon</i> (I) (Only the populations of Cameroon and Nigeria; all other populations are included in Annex B) <i>Aonyx cinerea</i> (I) <i>Enhydra lutris nereis</i> (I) <i>Lontra felina</i> (I) <i>Lontra longicaudis</i> (I) <i>Lontra provocax</i> (I) <i>Lutra lutra</i> (I) <i>Lutra nippon</i> (I) <i>Lutrogale perspicillata</i> (I) <i>Pteronura brasiliensis</i> (I)	Lutrinae spp. (II) (Except for the species included in Annex A)		Badgers, martens, weasels etc. Otters Otters Cameroon clawless otter Small-clawed otter Southern sea otter Marine otter Neotropical otter Southern river otter European otter Japanese otter Smooth-coated otter Giant otter
Mustelinae	<i>Mustela nigripes</i> (I)		<i>Eira barbara</i> (III Honduras) <i>Martes flavigula</i> (III India) <i>Martes foina intermedia</i> (III India) <i>Martes gwatkinsii</i> (III India) <i>Mellivora capensis</i> (III Botswana)	Grisons, martens, tayra, weasels Tayra Yellow-throated marten Stone marten Nilgiri marten Honey badger Black-footed ferret
Odobenidae		<i>Odobenus rosmarus</i> (III Canada)		Walrus Walrus

	Annex A	Annex B	Annex C	Common name
Otariidae	<i>Arctocephalus philippii</i> (II) <i>Arctocephalus townsendi</i> (I)	<i>Arctocephalus</i> spp. (II) (Except for the species included in Annex A)		Fur seals, sealions Fur seals Juan Fernández fur seal Guadalupe fur seal
Phocidae	<i>Monachus</i> spp. (I)	<i>Mirounga leonina</i> (II)		Seals Southern elephant seal Monk seals
Procyonidae			<i>Nasua narica</i> (III Honduras) <i>Nasua nasua solitaria</i> (III Uruguay) <i>Potos flavus</i> (III Honduras)	Coatis, olingos White-nosed coati South Brazilian coati Kinkajou
Ursidae	<i>Ailuropoda melanoleuca</i> (I) <i>Helarctos malayanus</i> (I) <i>Melursus ursinus</i> (I) <i>Tremarctos ornatus</i> (I) <i>Ursus arctos</i> (I/II) (Only the populations of Bhutan, China, Mexico and Mongolia and the subspecies <i>Ursus arctos isabellinus</i> are listed in Appendix I; all other populations and subspecies are listed in Appendix II) <i>Ursus thibetanus</i> (I)	Ursidae spp. (II) (Except for the species included in Annex A)		Bears Bears Giant panda Sun bear Sloth bear Spectacled bear Brown bear Asian black bear
Viverridae			<i>Arctictis binturong</i> (III India)	Binturong, civets, linsangs, otter-civet, palm civet Binturong

	Annex A	Annex B	Annex C	Common name
	<i>Prionodon pardicolor</i> (I)	<i>Cynogale bennettii</i> (II) <i>Hemigalus derbyanus</i> (II) <i>Prionodon linsang</i> (II)	<i>Civettictis civetta</i> (III Botswana) <i>Paguma larvata</i> (III India) <i>Paradoxurus hermaphroditus</i> (III India) <i>Paradoxurus jerdoni</i> (III India) <i>Viverra civettina</i> (III India) <i>Viverra zibetha</i> (III India) <i>Viverricula indica</i> (III India)	African civet Otter civet Banded palm civet Masked palm civet Asian palm civet Jerdon's palm civet Banded linsang Spotted linsang Malabar large-spotted civet Large Indian civet Small Indian civet
CETACEA	CETACEA spp. (I/II) (²)			Cetaceans (dolphins, porpoises, whales) Cetaceans
CHIROPTERA Phyllostomidae			<i>Platyrrhinus lineatus</i> (III Uruguay)	Broad-nosed bats White-lined bat
Pteropodidae	<i>Acerodon jubatus</i> (I) <i>Pteropus insularis</i> (I) <i>Pteropus livingstonii</i> (II) <i>Pteropus loochoensis</i> (I) <i>Pteropus mariannus</i> (I)	<i>Acerodon</i> spp. (II) (Except for the species included in Annex A) <i>Pteropus</i> spp. (II) (Except for the species included in Annex A and except for <i>Pteropus brunneus</i> .)		Fruit bats, flying foxes Flying foxes Golden-capped fruit bat Flying foxes Ruck flying fox Comoro flying fox Japanese flying fox Marianas flying fox

	Annex A	Annex B	Annex C	Common name
	<i>Pteropus molossinus</i> (I) <i>Pteropus pelewensis</i> (I) <i>Pteropus pilosus</i> (I) <i>Pteropus rodricensis</i> (II) <i>Pteropus samoensis</i> (I) <i>Pteropus tonganus</i> (I) <i>Pteropus ualanus</i> (I) <i>Pteropus voeltzkowi</i> (II) <i>Pteropus yapensis</i> (I)			Caroline flying fox Pelew flying fox Large Pelew flying fox Rodrigues flying fox Samoan flying fox Pacific flying fox Kosrae flying fox Pemba flying fox Yap flying fox
CINGULATA Dasypodidae	 <i>Priodontes maximus</i> (I)	 <i>Chaetophractus nationi</i> (II) (A zero annual export quota has been established. All specimens shall be deemed to be specimens of species included in Annex A and the trade in them shall be regulated accordingly)	 <i>Cabassous tatouay</i> (III Uruguay)	Armadillos Greater naked-tailed armadillo Andean hairy armadillo Giant armadillo
DASYUROMORPHIA Dasyuridae	 <i>Sminthopsis longicaudata</i> (I) <i>Sminthopsis psammophila</i> (I)			Dunnarts, marsupial mice, planigales Long-tailed dunnart Sandhill dunnart
DIPROTODONTIA Macropodidae	 <i>Lagorchestes hirsutus</i> (I)	 <i>Dendrolagus inustus</i> (II) <i>Dendrolagus ursinus</i> (II)		Kangaroos, wallabies Grizzled tree-kangaroo Ursine tree-kangaroo Rufous hare-wallaby

	Annex A	Annex B	Annex C	Common name
	<i>Lagostrophus fasciatus</i> (I) <i>Onychogalea fraenata</i> (I)			Banded hare-wallaby Bridled nail-tail wallaby
Phalangeridae		<i>Phalanger intercastellanus</i> (II) <i>Phalanger mimicus</i> (II) <i>Phalanger orientalis</i> (II) <i>Spilocuscus kraemeri</i> (II) <i>Spilocuscus maculatus</i> (II) <i>Spilocuscus papuensis</i> (II)		Cuscus Eastern common cuscus Southern common cuscus Northern common cuscus Admiralty Island cuscus Common spotted cuscus Waigeou cuscus
Potoroidae	<i>Bettongia</i> spp. (I)			Rat-kangaroos Bettongs
Vombatidae	<i>Lasiorhinus krefftii</i> (I)			Wombats Northern hairy-nosed wombat
LAGOMORPHA				
Leporidae	<i>Caprolagus hispidus</i> (I) <i>Romerolagus diazi</i> (I)			Hares, rabbits Hispid hare Volcano rabbit
MONOTREMATA				
Tachyglossidae		<i>Zaglossus</i> spp. (II)		Echidnas, spiny anteaters Long-beaked echidnas
PERAMELEMORPHIA				
Peramelidae	<i>Perameles bougainville</i> (I)			Western barred bandicoot
Thylacomyidae	<i>Macrotis lagotis</i> (I)			Greater bilby

	Annex A	Annex B	Annex C	Common name
PERISSODACTYLA Equidae	<p><i>Equus africanus</i> (I) (Excludes the domesticated form referenced as <i>Equus asinus</i>, which is not subject to this Regulation)</p> <p><i>Equus grevyi</i> (I)</p> <p><i>Equus hemionus</i> (I/II) (The species is listed in Appendix II but subspecies <i>Equus hemionus hemionus</i> and <i>Equus hemionus khur</i> are listed in Appendix I)</p> <p><i>Equus kiang</i> (II)</p> <p><i>Equus przewalskii</i> (I)</p>	<p><i>Equus zebra hartmannae</i> (II)</p> <p><i>Equus zebra zebra</i> (II)</p>		<p>Horses, wild asses, zebras</p> <p>African ass</p> <p>Grévy's zebra</p> <p>Asiatic wild ass</p> <p>Kiang</p> <p>Przewalski's horse</p> <p>Hartmann's mountain zebra</p> <p>Cape mountain zebra</p>
Rhinocerotidae	Rhinocerotidae spp. (I) (Except for the subspecies included in Annex B)	<p><i>Ceratotherium simum simum</i> (II) (Only the populations of Eswatini and South Africa; all other populations are included in Annex A. For the exclusive purpose of allowing international trade in live animals to appropriate and acceptable destinations and trade in hunting trophies. All other specimens shall be deemed to be specimens of species included in Annex A and trade in them shall be regulated accordingly)</p>		<p>Rhinoceroses</p> <p>Rhinoceroses</p> <p>Southern white rhinoceros</p>
Tapiridae	Tapiridae spp. (I) (Except for the species included in Annex B)	<p><i>Tapirus terrestris</i> (II)</p>		<p>Tapirs</p> <p>Tapirs</p> <p>South American tapir</p>

	Annex A	Annex B	Annex C	Common name
PHOLIDOTA Manidae	<i>Manis crassicaudata</i> (I) <i>Manis culionensis</i> (I) <i>Manis gigantea</i> (I) <i>Manis javanica</i> (I) <i>Manis pentadactyla</i> (I) <i>Manis temminckii</i> (I) <i>Manis tetradactyla</i> (I) <i>Manis tricuspis</i> (I)	<i>Manis</i> spp. (II) (Except for the species included in Annex A)		Pangolins Pangolins Indian pangolin Philippine pangolin Giant pangolin Sunda pangolin Chinese pangolin Ground pangolin Long-tailed pangolin Tree pangolin
PILOSA Bradypodidae		<i>Bradypus pygmaeus</i> (II) <i>Bradypus variegatus</i> (II)		Three-toed sloths Pygmy tree-toed sloth Brown-throated sloth
Myrmecophagidae		<i>Myrmecophaga tridactyla</i> (II)	<i>Tamandua mexicana</i> (III Guatemala)	American anteaters Giant anteater Northern tamandua
PRIMATES		PRIMATES spp. (II) (Except for the species included in Annex A)		Primates (apes and monkeys) Primates
Atelidae	<i>Alouatta coibensis</i> (I) <i>Alouatta palliata</i> (I)			Howlers, spider monkeys Coiba Island howler Mantled howler

	Annex A	Annex B	Annex C	Common name
	<i>Alouatta pigra</i> (I) <i>Ateles geoffroyi frontatus</i> (I) <i>Ateles geoffroyi ornatus</i> (I) <i>Brachyteles arachnoides</i> (I) <i>Brachyteles hypoxanthus</i> (I) <i>Oreonax flavicauda</i> (I)			Guatemalan black howler Black-browed spider monkey Red spider monkey Southern muriqui Northern muriqui Yellow-tailed woolly monkey
Cebidae	<i>Callimico goeldii</i> (I) <i>Callithrix aurita</i> (I) <i>Callithrix flaviceps</i> (I) <i>Leontopithecus</i> spp. (I) <i>Saguinus bicolor</i> (I) <i>Saguinus geoffroyi</i> (I) <i>Saguinus leucopus</i> (I) <i>Saguinus martinsi</i> (I) <i>Saguinus oedipus</i> (I) <i>Saimiri oerstedii</i> (I)			Marmosets, tamarins, New-world monkeys Goeldi's marmoset Buffy-tufted marmoset Buffy-headed marmoset Lion tamarins Pied tamarin Geoffroy's tamarin White-footed tamarin Martins' bare-face tamarin Cottontop tamarin Central American squirrel monkey
Cercopithecidae	<i>Cercocebus galeritus</i> (I) <i>Cercopithecus diana</i> (I) <i>Cercopithecus roloway</i> (I) <i>Cercopithecus solatus</i> (II) <i>Colobus satanas</i> (II) <i>Macaca silenus</i> (I) <i>Macaca sylvanus</i> (I)			Old-world monkeys Tana River mangabey Diana monkey Roloway monkey Sun-tailed monkey Black colobus Lion-tailed macaque Barbary macaque

	Annex A	Annex B	Annex C	Common name
	<i>Mandrillus leucophaeus</i> (I)			Drill
	<i>Mandrillus sphinx</i> (I)			Mandrill
	<i>Nasalis larvatus</i> (I)			Proboscis monkey
	<i>Ptilocolobus foai</i> (II)			Central African red colobus
	<i>Ptilocolobus gordonorum</i> (II)			Uzungwa red colobus
	<i>Ptilocolobus kirkii</i> (I)			Zanzibar red colobus
	<i>Ptilocolobus pennantii</i> (II)			Pennant's red colobus
	<i>Ptilocolobus preussi</i> (II)			Preuss's red colobus
	<i>Ptilocolobus rufomitratu</i> s (I)			Tana River red colobus
	<i>Ptilocolobus tephrosceles</i> (II)			Ugandan red colobus
	<i>Ptilocolobus tholloni</i> (II)			Thollon's red colobus
	<i>Presbytis potenziani</i> (I)			Mentawai langur
	<i>Pygathrix</i> spp. (I)			Douc langurs
	<i>Rhinopithecus</i> spp. (I)			Snub-nosed monkeys
	<i>Semnopithecus ajax</i> (I)			Kashmir grey langur
	<i>Semnopithecus dussumieri</i> (I)			Southern Plains grey langur
	<i>Semnopithecus entellus</i> (I)			Northern Plains grey langur
	<i>Semnopithecus hector</i> (I)			Tarai grey langur
	<i>Semnopithecus hypoleucos</i> (I)			Black-footed grey langur
	<i>Semnopithecus priam</i> (I)			Tufted grey langur
	<i>Semnopithecus schistaceus</i> (I)			Nepal grey langur
	<i>Simias concolor</i> (I)			Simakobou
	<i>Trachypithecus delacouri</i> (II)			Delacour's langur
	<i>Trachypithecus francoisi</i> (II)			François's langur
	<i>Trachypithecus geei</i> (I)			Gee's golden langur

	Annex A	Annex B	Annex C	Common name
	<i>Trachypithecus hatinhensis</i> (II) <i>Trachypithecus johnii</i> (II) <i>Trachypithecus laotum</i> (II) <i>Trachypithecus pileatus</i> (I) <i>Trachypithecus poliocephalus</i> (II) <i>Trachypithecus shortridgei</i> (I)			Hatinh langur Nilgiri langur Laotian langur Capped langur White-headed langur Shortridge's langur
Cheirogaleidae	Cheirogaleidae spp. (I)			Dwarf lemurs and mouse-lemurs Dwarf lemurs and mouse lemurs
Daubentoniidae	<i>Daubentonia madagascariensis</i> (I)			Aye-aye Aye-aye
Hominidae	<i>Gorilla beringei</i> (I) <i>Gorilla gorilla</i> (I) <i>Pan</i> spp. (I) <i>Pongo abelii</i> (I) <i>Pongo pygmaeus</i> (I)			Chimpanzees, gorillas, orang-utan Eastern gorilla Western gorilla Chimpanzee and bonobo Sumatran orangutan Bornean orangutan
Hylobatidae	Hylobatidae spp. (I)			Gibbons Gibbons
Indriidae	Indriidae spp. (I)			Indri, sifakas and woolly lemurs Indri, sifakas and woolly lemurs
Lemuridae	Lemuridae spp. (I)			Large lemurs Large lemurs
Lepilemuridae	Lepilemuridae spp. (I)			Sportive lemurs Sportive lemurs
Lorisidae	<i>Nycticebus</i> spp. (I)			Lorises Slow lorises

	Annex A	Annex B	Annex C	Common name
Pitheciidae	<i>Cacajao</i> spp. (I) <i>Callicebus barbarabrownae</i> (II) <i>Callicebus melanochir</i> (II) <i>Callicebus nigrifrons</i> (II) <i>Callicebus personatus</i> (II) <i>Chiropotes albinasus</i> (I)			Uacaris, titis, sakis Uacaris Barbara Brown's Titi Coastal Black-handed Titi Black-fronted Titi Atlantic titi White-nosed saki
Tarsiidae	<i>Tarsius</i> spp. (II)			Tarsiers Tarsiers
PROBOSCIDEA				
Elephantidae	<i>Elephas maximus</i> (I) <i>Loxodonta africana</i> (I) (Except for the populations of Botswana, Namibia, South Africa and Zimbabwe, which are included in Annex B)	<i>Loxodonta africana</i> (II) (Only the populations of Botswana, Namibia, South Africa and Zimbabwe (?); all other populations are included in Annex A)		Elephants Asian elephant African elephant
RODENTIA				
Chinchillidae	<i>Chinchilla</i> spp. (I) (Specimens of the domesticated form are not subject to this Regulation)			Chinchillas Chinchillas
Cuniculidae			<i>Cuniculus paca</i> (III Honduras)	Pacas Lowland paca

	Annex A	Annex B	Annex C	Common name
Dasyproctidae			<i>Dasyprocta punctata</i> (III Honduras)	Agoutis Central American agouti
Erethizontidae			<i>Sphiggurus mexicanus</i> (III Honduras) <i>Sphiggurus spinosus</i> (III Uruguay)	New-world porcupines Mexican hairy dwarf porcupine Paraguayan hairy dwarf porcupine
Hystricidae	<i>Hystrix cristata</i>			Old-world porcupines Crested porcupine
Muridae		<i>Leporillus conditor</i> (II) <i>Pseudomys fieldi</i> (II) <i>Xeromys myoides</i> (II) <i>Zyomys pedunculatus</i> (II)		Mice, rats Greater stick-nest rat Shark Bay mouse False water rat Central Australian rock rat
Sciuridae	<i>Cynomys mexicanus</i> (I)	<i>Ratufa</i> spp. (II)	<i>Marmota caudata</i> (III India) <i>Marmota himalayana</i> (III India)	Ground squirrels, tree squirrels Mexican prairie dog Long-tailed marmot Himalayan marmot Giant squirrels
SCANDENTIA		SCANDENTIA spp. (II)		Treeshrews
SIRENIA				
Dugongidae	<i>Dugong dugon</i> (I)			Dugong Dugong

	Annex A	Annex B	Annex C	Common name
	<i>Oxyura leucocephala</i> (II) <i>Rhodonessa caryophyllacea</i> (I) <i>Tadorna cristata</i>	<i>Sarkidiornis melanotos</i> (II)		White-headed duck Pink-headed duck Comb duck Crested shelduck
APODIFORMES Trochilidae	<i>Glaucis dohrnii</i> (I)	Trochilidae spp. (II) (Except for the species included in Annex A)		Hummingbirds Hummingbirds Hook-billed hermit
CHARADRIIFORMES Burhinidae			<i>Burhinus bistriatus</i> (III Guatemala)	Thick-knees Double-striped thick-knee
Laridae	<i>Larus relictus</i> (I)			Gulls, terns Relict gull
Scolopacidae	<i>Numenius borealis</i> (I) <i>Numenius tenuirostris</i> (I) <i>Tringa guttifer</i> (I)			Curlews, greenshanks Eskimo curlew Slender-billed curlew Nordmann's greenshank
CICONIIFORMES Ardeidae	<i>Ardea alba</i> <i>Bubulcus ibis</i> <i>Egretta garzetta</i>			Egrets, herons Great egret Cattle egret Little egret

	Annex A	Annex B	Annex C	Common name
Balaenicipitidae		<i>Balaeniceps rex</i> (II)		Shoebill, whale-headed stork Shoebill
Ciconiidae	<i>Ciconia boyciana</i> (I) Ciconia nigra (II) <i>Ciconia stormi</i> <i>Jabiru mycteria</i> (I) <i>Leptoptilos dubius</i> <i>Mycteria cinerea</i> (I)			Storks Oriental stork Black stork Storm's stork Jabiru Greater adjutant stork Milky stork
Phoenicopteridae	Phoenicopus ruber (II)	Phoenicopteridae spp. (II) (Except for the species included in Annex A)		Flamingos Flamingos Greater flamingo
Threskiornithidae	<i>Geronticus calvus</i> (II) <i>Geronticus eremita</i> (I) <i>Nipponia nippon</i> (I) Platalea leucorodia (II) <i>Pseudibis gigantea</i>	<i>Eudocimus ruber</i> (II)		Ibises, spoonbills Scarlet ibis Bald ibis Waldrapp Crested ibis Eurasian spoonbill Giant ibis
COLUMBIFORMES				
Columbidae	<i>Caloenas nicobarica</i> (I) <i>Claravis godefrida</i>			Doves, pigeons Nicobar pigeon Purple-winged ground-dove

	Annex A	Annex B	Annex C	Common name
	<p><i>Columba livia</i></p> <p><i>Ducula mindorensis</i> (I)</p> <p><i>Leptotila wellsi</i></p> <p><i>Streptopelia turtur</i></p>	<p><i>Gallicolumba luzonica</i> (II)</p> <p><i>Goura</i> spp. (II)</p>	<p><i>Nesoenas mayeri</i> (III Mauritius)</p>	<p>Rock pigeon</p> <p>Mindoro zone-tailed pigeon</p> <p>Luzon bleeding-heart</p> <p>Crowned-pigeons</p> <p>Grenada dove</p> <p>Pink pigeon</p> <p>European turtle-dove</p>
CORACIIFORMES				
Bucerotidae	<p><i>Aceros nipalensis</i> (I)</p> <p><i>Buceros bicornis</i> (I)</p> <p><i>Rhinoplax vigil</i> (I)</p> <p><i>Rhyticeros subruficollis</i> (I)</p>	<p><i>Aceros</i> spp. (II) (Except for the species included in Annex A)</p> <p><i>Anorrhinus</i> spp. (II)</p> <p><i>Anthracoceros</i> spp. (II)</p> <p><i>Berenicornis</i> spp. (II)</p> <p><i>Buceros</i> spp. (II) (Except for the species included in Annex A)</p> <p><i>Penelopides</i> spp. (II)</p> <p><i>Rhyticeros</i> spp. (II) (Except for the species included in Annex A)</p>		<p>Hornbills</p> <p>Hornbills</p> <p>Rufous-necked hornbill</p> <p>Hornbills</p> <p>Hornbills</p> <p>Hornbills</p> <p>Hornbills</p> <p>Great hornbill</p> <p>Hornbills</p> <p>Helmeted hornbill</p> <p>Hornbills</p> <p>Plain-pouched hornbill</p>
CUCULIFORMES				
Musophagidae	<p><i>Tauraco bannermani</i> (II)</p>	<p><i>Tauraco</i> spp. (II) (Except for the species included in Annex A)</p>		<p>Turacos</p> <p>Turacos</p> <p>Bannerman's turaco</p>

	Annex A	Annex B	Annex C	Common name
FALCONIFORMES		FALCONIFORMES spp. (II) (Except for the species included in Annex A; except for one species of the family Cathartidae included in Annex C; the other species of that family are not included in the Annexes to this Regulation; and except for <i>Caracara lutosa</i>)		Diurnal birds of prey (eagles, falcons, hawks, vultures) Diurnal birds of prey
Accipitridae				Hawks, eagles Levant sparrowhawk Northern goshawk Eurasian sparrowhawk Cinereous vulture Adalbert's eagle Golden eagle Greater spotted eagle Imperial eagle Lesser spotted eagle Common buzzard Rough-legged buzzard Long-legged buzzard Cuban hook-billed kite Short-toed snake-eagle Western marsh-harrier Northern harrier Pallid harrier Montagu's harrier Black-winged kite
	<i>Accipiter brevipes</i> (II)			
	<i>Accipiter gentilis</i> (II)			
	<i>Accipiter nisus</i> (II)			
	<i>Aegypius monachus</i> (II)			
	<i>Aquila adalberti</i> (I)			
	<i>Aquila chrysaetos</i> (II)			
	<i>Aquila clanga</i> (II)			
	<i>Aquila heliaca</i> (I)			
	<i>Aquila pomarina</i> (II)			
	<i>Buteo buteo</i> (II)			
	<i>Buteo lagopus</i> (II)			
	<i>Buteo rufinus</i> (II)			
	<i>Chondrohierax uncinatus wilsonii</i> (I)			
	<i>Circaetus gallicus</i> (II)			
	<i>Circus aeruginosus</i> (II)			
	<i>Circus cyaneus</i> (II)			
	<i>Circus macrourus</i> (II)			
	<i>Circus pygargus</i> (II)			
	<i>Elanus caeruleus</i> (II)			

	Annex A	Annex B	Annex C	Common name
	<p><i>Eutriorchis astur</i> (II)</p> <p><i>Gypaetus barbatus</i> (II)</p> <p><i>Gyps fulvus</i> (II)</p> <p><i>Haliaeetus</i> spp. (I/II) (<i>Haliaeetus albicilla</i> is listed in Appendix I; the other species are listed in Appendix II)</p> <p><i>Harpia harpyja</i> (I)</p> <p><i>Hieraaetus fasciatus</i> (II)</p> <p><i>Hieraaetus pennatus</i> (II)</p> <p><i>Leucopternis occidentalis</i> (II)</p> <p><i>Milvus migrans</i> (II) (Except for <i>Milvus migrans lineatus</i> which is included in Annex B)</p> <p><i>Milvus milvus</i> (II)</p> <p><i>Neophron percnopterus</i> (II)</p> <p><i>Pernis apivorus</i> (II)</p> <p><i>Pithecophaga jefferyi</i> (I)</p>			<p>Madagascar serpent-eagle</p> <p>Lammergeier</p> <p>Eurasian griffon</p> <p>Sea-eagles</p> <p>Harpy eagle</p> <p>Bonelli's eagle</p> <p>Booted eagle</p> <p>Grey-backed hawk</p> <p>Black kite</p> <p>Red kite</p> <p>Egyptian vulture</p> <p>European honey-buzzard</p> <p>Great Philippine eagle</p>
Cathartidae	<p><i>Gymnogyps californianus</i> (I)</p> <p><i>Vultur gryphus</i> (I)</p>		<p><i>Sarcoramphus papa</i> (III Honduras)</p>	<p>New world vultures</p> <p>California condor</p> <p>King vulture</p> <p>Andean condor</p>
Falconidae	<p><i>Falco araeus</i> (I)</p> <p><i>Falco biarmicus</i> (II)</p> <p><i>Falco cherrug</i> (II)</p> <p><i>Falco columbarius</i> (II)</p>			<p>Falcons</p> <p>Seychelles kestrel</p> <p>Lanner falcon</p> <p>Saker falcon</p> <p>Merlin</p>

	Annex A	Annex B	Annex C	Common name
	<p><i>Falco eleonora</i> (II)</p> <p><i>Falco jugger</i> (I)</p> <p><i>Falco naumanni</i> (II)</p> <p><i>Falco newtoni</i> (I) (Only the population of the Seychelles)</p> <p><i>Falco pelegrinoides</i> (I)</p> <p><i>Falco peregrinus</i> (I)</p> <p><i>Falco punctatus</i> (I)</p> <p><i>Falco rusticolus</i> (I)</p> <p><i>Falco subbuteo</i> (II)</p> <p><i>Falco tinnunculus</i> (II)</p> <p><i>Falco vespertinus</i> (II)</p>			<p>Eleonora's falcon</p> <p>Laggar falcon</p> <p>Lesser kestrel</p> <p>Newton's kestrel</p> <p>Barbary falcon</p> <p>Peregrine falcon</p> <p>Mauritius kestrel</p> <p>Gyrfalcon</p> <p>Eurasian hobby</p> <p>Common kestrel</p> <p>Red-footed falcon</p>
Pandionidae	<p><i>Pandion haliaetus</i> (II)</p>			<p>Ospreys</p> <p>Osprey</p>
GALLIFORMES				
Cracidae	<p><i>Crax alberti</i> (III Colombia)</p> <p><i>Crax blumenbachii</i> (I)</p> <p>Mitu mitu (I)</p> <p><i>Oreophasis derbianus</i> (I)</p>	<p><i>Crax fasciolata</i></p>	<p><i>Crax daubentoni</i> (III Colombia)</p> <p><i>Crax globulosa</i> (III Colombia)</p> <p><i>Crax rubra</i> (III Colombia/Guatemala/Honduras)</p>	<p>Blue-knobbed curassow</p> <p>Red-billed curassow</p> <p>Yellow-knobbed curassow</p> <p>Bare-faced Curassow</p> <p>Wattled curassow</p> <p>Great currasow</p> <p>Alagoas curassow</p> <p>Horned guan</p>

	Annex A	Annex B	Annex C	Common name
	<i>Penelope albipennis</i> (I)		<i>Ortalis vetula</i> (III Guatemala/Honduras)	Plain chachalaca
			<i>Pauxi pauxi</i> (III Colombia)	Helmeted curassow
			<i>Penelope purpurascens</i> (III Honduras)	White-winged guan
			<i>Penelopina nigra</i> (III Guatemala)	Crested guan
	<i>Pipile jacutinga</i> (I)			Highland guan
	<i>Pipile pipile</i> (I)			Black-fronted piping guan
				Trinidad piping guan
Megapodiidae	<i>Macrocephalon maleo</i> (I)			Megapodes, scrubfowl
				Maleo
Phasianidae		<i>Argusianus argus</i> (II)		Grouse, guineafowl, partridges, pheasants, tragopans
	<i>Catreus wallichii</i> (I)			Great argus
	<i>Colinus virginianus ridgwayi</i> (I)			Cheer pheasant
	<i>Crossoptilon crossoptilon</i> (I)			Masked bobwhite
	<i>Crossoptilon mantchuricum</i> (I)			White eared-pheasant
		<i>Gallus sonneratii</i> (II)		Brown eared-pheasant
		<i>Ithaginis cruentus</i> (II)		Grey junglefowl
	<i>Lophophorus impejanus</i> (I)			Blood pheasant
	<i>Lophophorus lhuysii</i> (I)			Himalayan monal
	<i>Lophophorus sclateri</i> (I)			Chinese monal
	<i>Lophura edwardsi</i> (I)			Sclater's monal
		<i>Lophura hatinhensis</i>		Edwards' pheasant
			<i>Lophura leucomelanos</i> (III Pakistan)	Vietnamese fireback
				Kalij pheasant

	Annex A	Annex B	Annex C	Common name
	<i>Lophura swinhoii</i> (I)			Swinhoe's pheasant
	<i>Odontophorus strophium</i>		<i>Meleagris ocellata</i> (III Guatemala)	Ocellated turkey
	<i>Ophrysia superciliosa</i>			Gorgeted wood-quail
				Himalayan quail
			<i>Pavo cristatus</i> (III Pakistan)	Indian peafowl
		<i>Pavo muticus</i> (II)		Green peafowl
		<i>Polyplectron bicalcaratum</i> (II)		Grey peacock-pheasant
		<i>Polyplectron germaini</i> (II)		Germain's peacock-pheasant
		<i>Polyplectron malacense</i> (II)		Malayan peacock-pheasant
	<i>Polyplectron napoleonis</i> (I)			Palawan peacock-pheasant
		<i>Polyplectron schleiermachersi</i> (II)		Bornean peacock-pheasant
	<i>Rheinardia ocellata</i> (I)		<i>Pucrasia macrolopha</i> (III Pakistan)	Koklass pheasant
	<i>Syrmaticus ellioti</i> (I)			Crested argus
	<i>Syrmaticus humiae</i> (I)			Elliot's pheasant
	<i>Syrmaticus mikado</i> (I)			Hume's pheasant
		<i>Syrmaticus reevesii</i> (II)		Mikado pheasant
	<i>Tetraogallus caspius</i> (I)			Reeves's pheasant
	<i>Tetraogallus tibetanus</i> (I)			Caspian snowcock
	<i>Tragopan blythii</i> (I)			Tibetan snowcock
	<i>Tragopan caboti</i> (I)			Blyth's tragopan
	<i>Tragopan melanocephalus</i> (I)			Cabot's tragopan
				Western tragopan

	Annex A	Annex B	Annex C	Common name
			<i>Tragopan satyra</i> (III Nepal)	Satyr tragopan
		<i>Tympanuchus cupido attwateri</i> (II)		Attwater's prairie-chicken
GRUIFORMES				
Gruidae	<p><i>Balearica pavonina</i> (I)</p> <p><i>Grus americana</i> (I)</p> <p><i>Grus canadensis</i> (I/II) (The species is listed in Appendix II but subspecies <i>Grus canadensis nesiotes</i> and <i>Grus canadensis pulla</i> are listed in Appendix I)</p> <p>Grus grus (II)</p> <p><i>Grus japonensis</i> (I)</p> <p><i>Grus leucogeranus</i> (I)</p> <p><i>Grus monacha</i> (I)</p> <p><i>Grus nigricollis</i> (I)</p> <p><i>Grus vipio</i> (I)</p>	Gruidae spp. (II) (Except for the species included in Annex A)		<p>Cranes</p> <p>Cranes</p> <p>Black crowned crane</p> <p>Whooping crane</p> <p>Sandhill crane</p> <p>Common crane</p> <p>Red-crowned crane</p> <p>Siberian crane</p> <p>Hooded crane</p> <p>Black-necked crane</p> <p>White-necked crane</p>
Otididae	<p><i>Ardeotis nigriceps</i> (I)</p> <p><i>Chlamydotis macqueenii</i> (I)</p> <p><i>Chlamydotis undulata</i> (I)</p> <p><i>Houbaropsis bengalensis</i> (I)</p> <p>Otis tarda (II)</p> <p><i>Sypheotides indicus</i> (II)</p> <p>Tetrax tetrax (II)</p>	Otididae spp. (II) (Except for the species included in Annex A)		<p>Bustards</p> <p>Bustards</p> <p>Indian bustard</p> <p>Macqueen's bustard</p> <p>Houbara bustard</p> <p>Bengal florican</p> <p>Great bustard</p> <p>Lesser florican</p> <p>Little bustard</p>

	Annex A	Annex B	Annex C	Common name
Rallidae	<i>Gallirallus sylvestris</i> (I)			Coots, rails Lord Howe rail
Rhynochetidae	<i>Rhynochetos jubatus</i> (I)			Kagu Kagu
PASSERIFORMES				
Atrichornithidae	<i>Atrichornis clamosus</i> (I)			Scrub-birds Noisy scrub-bird
Cotingidae	<i>Cotinga maculata</i> (I) <i>Xipholena atropurpurea</i> (I)	<i>Rupicola</i> spp. (II)	<i>Cephalopterus ornatus</i> (III Colombia) <i>Cephalopterus penduliger</i> (III Colombia)	Cotingas Amazonian umbrella bird Long-wattled umbrella bird Banded cotinga Cocks-of-the-rock White-winged cotinga
Emberizidae		<i>Gubernatrix cristata</i> (II) <i>Paroaria capitata</i> (II) <i>Paroaria coronata</i> (II) <i>Tangara fastuosa</i> (II)		Cardinals, tanagers Yellow cardinal Yellow-billed cardinal Red-crested cardinal Seven-coloured tanager
Estrildidae		<i>Amandava formosa</i> (II) <i>Lonchura fuscata</i> <i>Lonchura oryzivora</i> (II) <i>Poephila cincta cincta</i> (II)		Mannikins, waxbills Green avadavat Timor sparrow Java sparrow Southern black-throated finch

	Annex A	Annex B	Annex C	Common name
Fringillidae	<i>Carduelis cucullata</i> (I)	<i>Carduelis yarrellii</i> (II)		Finches Red siskin Yellow-faced siskin
Hirundinidae	<i>Pseudochelidon sirintarae</i> (I)			Martins White-eyed river-martin
Icteridae	<i>Xanthopsar flavus</i> (I)			New-world blackbirds Saffron-cowled blackbird
Meliphagidae		<i>Lichenostomus melanops cassidix</i> (II)		Honey-eaters Helmeted honeyeater
Muscicapidae	<i>Acrocephalus rodericanus</i> (III Mauritius) <i>Picathartes gymnocephalus</i> (I) <i>Picathartes oreas</i> (I)	<i>Cyornis ruckii</i> (II) <i>Dasyornis broadbenti litoralis</i> (II) <i>Dasyornis longirostris</i> (II) <i>Garrulax canorus</i> (II) <i>Garrulax taewanus</i> (II) <i>Leiothrix argentauris</i> (II) <i>Leiothrix lutea</i> (II) <i>Liocichla omeiensis</i> (II)	<i>Terpsiphone bourbonensis</i> (III Mauritius)	Old-world flycatchers, babblers, etc. Rodrigues brush-warbler Rueck's blue-flycatcher Western rufous bristlebird Western bristlebird Chinese Hwamei Taiwan Hwamei Silver-eared mesia Red-billed leiothrix Omei Shan liocichla White-necked rockfowl Grey-necked rockfowl Mascarene paradise-flycatcher

	Annex A	Annex B	Annex C	Common name
Paradisaeidae		Paradisaeidae spp. (II)		Birds of paradise Birds of paradise
Pittidae	<i>Pitta gurneyi</i> (I) <i>Pitta kochi</i> (I)	<i>Pitta guajana</i> (II) <i>Pitta nympha</i> (II)		Pittas Banded pitta Gurney's pitta Whiskered pitta Fairy pitta
Pycnonotidae		<i>Pycnonotus zeylanicus</i> (II)		Bulbuls Straw-headed bulbul
Sturnidae	<i>Leucopsar rothschildi</i> (I)	<i>Gracula religiosa</i> (II)		Mynas Hill myna Bali myna
Zosteropidae	<i>Zosterops albogularis</i> (I)			White-eyes White-chested white-eye
PELECANIFORMES				
Fregatidae	<i>Fregata andrewsi</i> (I)			Frigatebirds Christmas frigatebird
Pelecanidae	<i>Pelecanus crispus</i> (I)			Pelicans Dalmatian pelican
Sulidae	<i>Papasula abbotti</i> (I)			Boobies Abbott's booby

	Annex A	Annex B	Annex C	Common name
PICIFORMES				
Capitonidae			<i>Semnornis ramphastinus</i> (III Colombia)	Barbets Toucan barbet
Picidae	<i>Dryocopus javensis richardsi</i> (I)			Woodpeckers Tristram's woodpecker
Ramphastidae		<i>Pteroglossus aracari</i> (II) <i>Pteroglossus viridis</i> (II) <i>Ramphastos sulfuratus</i> (II) <i>Ramphastos toco</i> (II) <i>Ramphastos tucanus</i> (II) <i>Ramphastos vitellinus</i> (II)	<i>Bailloniuss bailloni</i> (III Argentina) <i>Pteroglossus castanotis</i> (III Argentina) <i>Ramphastos dicolorus</i> (III Argentina) <i>Selenidera maculirostris</i> (III Argentina)	Toucans Saffron toucanet Black-necked aracari Chestnut-eared aracari Green aracari Red-breasted toucan Keel-billed toucan Toco toucan Red-billed toucan Channel-billed toucan Spot-billed toucanet
PODICIPEDIFORMES				
Podicipedidae	<i>Podilymbus gigas</i> (I)			Grebes Atitlan Grebe
PROCELLARIIFORMES				
Diomedeidae	<i>Phoebastria albatrus</i> (I)			Albatrosses Short-tailed albatross

	Annex A	Annex B	Annex C	Common name
PSITTACIFORMES		PSITTACIFORMES spp. (II) (Except for the species included in Annex A and excluding <i>Agapornis roseicollis</i> , <i>Melopsittacus undulatus</i> , <i>Nymphicus hollandicus</i> and <i>Psittacula krameri</i> , which are not included in the Annexes to this Regulation)		Cockatoos, lories, macaws, parakeets, parrots etc. Parrots, etc.
Cacatuidae				Cockatoos
	<i>Cacatua goffiniana</i> (I) <i>Cacatua haematuropygia</i> (I) <i>Cacatua moluccensis</i> (I) <i>Cacatua sulphurea</i> (I) <i>Probosciger aterrimus</i> (I)			Tanimbar cockatoo Philippine cockatoo Salmon-crested cockatoo Yellow-crested cockatoo Palm cockatoo
Loriidae	<i>Eos histrio</i> (I) <i>Vini</i> spp. (I/II) (<i>Vini ultramarina</i> is listed in Appendix I, the other species are listed in Appendix II)			Lories, lorikeets Red and blue lory Blue lorikeets
Psittacidae	<i>Amazona arausiaca</i> (I) <i>Amazona auropalliata</i> (I) <i>Amazona barbadensis</i> (I) <i>Amazona brasiliensis</i> (I) <i>Amazona finschi</i> (I) <i>Amazona guildingii</i> (I) <i>Amazona imperialis</i> (I) <i>Amazona leucocephala</i> (I)			Amazons, macaws, parakeets, parrots Red-necked parrot Yellow-naped parrot Yellow-shouldered parrot Red-tailed parrot Lilac-crowned parrot St Vincent parrot Imperial parrot Cuban parrot

	Annex A	Annex B	Annex C	Common name
	<i>Amazona oratrix</i> (I)			Yellow-headed parrot
	<i>Amazona pretrei</i> (I)			Red-spectacled parrot
	<i>Amazona rhodocorytha</i> (I)			Red-browed parrot
	<i>Amazona tucumana</i> (I)			Tucuman parrot
	<i>Amazona versicolor</i> (I)			Saint Lucia parrot
	<i>Amazona vinacea</i> (I)			Vinaceous parrot
	<i>Amazona viridigenalis</i> (I)			Green-cheeked parrot
	<i>Amazona vittata</i> (I)			Puerto Rican parrot
	<i>Anodorhynchus</i> spp. (I)			Blue macaws
	<i>Ara ambiguus</i> (I)			Great green macaw
	<i>Ara glaucogularis</i> (I)			Blue-throated macaw
	<i>Ara macao</i> (I)			Scarlet macaw
	<i>Ara militaris</i> (I)			Military macaw
	<i>Ara rubrogenys</i> (I)			Red-fronted macaw
	<i>Cyanopsitta spixii</i> (I)			Spix's macaw
	<i>Cyanoramphus cookii</i> (I)			Norfolk Island parakeet
	<i>Cyanoramphus forbesi</i> (I)			Chatham Island yellow-fronted parakeet
	<i>Cyanoramphus novaezelandiae</i> (I)			Red-fronted parakeet
	<i>Cyanoramphus saisseti</i> (I)			Red-crowned parakeet
	<i>Cyclopsitta diophthalma coxeni</i> (I)			Coxen's double-eyed fig parrot
	<i>Eunymphicus cornutus</i> (I)			Horned parakeet
	<i>Guarouba guarouba</i> (I)			Golden parakeet
	<i>Neophema chrysogaster</i> (I)			Orange-bellied parrot
	<i>Ognorhynchus icterotis</i> (I)			Yellow-eared parrot
	<i>Pezoporus occidentalis</i> (I)			Night parrot

	Annex A	Annex B	Annex C	Common name
	<i>Pezoporus wallicus</i> (I) <i>Pionopsitta pileata</i> (I) <i>Primolius couloni</i> (I) <i>Primolius maracana</i> (I) <i>Psephotus chrysopterygius</i> (I) <i>Psephotus dissimilis</i> (I) <i>Psephotus pulcherrimus</i> (I) <i>Psittacula echo</i> (I) <i>Psittacus erithacus</i> (I) <i>Pyrrhura cruentata</i> (I) <i>Rhynchopsitta</i> spp. (I) <i>Strigops habroptilus</i> (I)			Ground parrot Pileated parrot Blue-headed macaw Blue-winged macaw Golden-shouldered parrot Hooded parrot Paradise parrot Mauritius parakeet African grey parrot Blue-throated parakeet Thick-billed parrots Kakapo
RHEIFORMES Rheidae	<i>Pterocnemia pennata</i> (I) (Except <i>Pterocnemia pennata pennata</i> which is included in Annex B)	<i>Pterocnemia pennata pennata</i> (II) <i>Rhea americana</i> (II)		Rheas Lesser rhea Lesser rhea Greater rhea
SPHENISCIFORMES Spheniscidae	<i>Spheniscus humboldti</i> (I)	<i>Spheniscus demersus</i> (II)		Penguins Jackass penguin Humboldt penguin
STRIGIFORMES		STRIGIFORMES spp. (II) (Except for the species included in Annex A and except for <i>Sceloglaux albifacies</i>)		Owls Owls

	Annex A	Annex B	Annex C	Common name
Strigidae	<p><i>Aegolius funereus</i> (II)</p> <p><i>Asio flammeus</i> (II)</p> <p><i>Asio otus</i> (II)</p> <p><i>Athene noctua</i> (II)</p> <p><i>Bubo bubo</i> (II) (Except for <i>Bubo bubo bengalensis</i> which is included in Annex B)</p> <p><i>Glaucidium passerinum</i> (II)</p> <p><i>Heteroglaux blewitti</i> (I)</p> <p><i>Mimizuku gurneyi</i> (I)</p> <p><i>Ninox natalis</i> (I)</p> <p><i>Nyctea scandiaca</i> (II)</p> <p><i>Otus ireneae</i> (II)</p> <p><i>Otus scops</i> (II)</p> <p><i>Strix aluco</i> (II)</p> <p><i>Strix nebulosa</i> (II)</p> <p><i>Strix uralensis</i> (II) (Except for <i>Strix uralensis davidi</i> which is included in Annex B)</p> <p><i>Surnia ulula</i> (II)</p>			<p>Owls</p> <p>Boreal owl</p> <p>Short-eared owl</p> <p>Long-eared owl</p> <p>Little owl</p> <p>Eurasian eagle-owl</p> <p>Eurasian pygmy-owl</p> <p>Forest owlet</p> <p>Lesser eagle-owl</p> <p>Christmas hawk-owl</p> <p>Snowy owl</p> <p>Sokoke scops-owl</p> <p>Eurasian scops-owl</p> <p>Tawny owl</p> <p>Great grey owl</p> <p>Ural owl</p> <p>Northern hawk owl</p>
Tytonidae	<p><i>Tyto alba</i> (II)</p> <p><i>Tyto soumagnei</i> (I)</p>			<p>Barn owls</p> <p>Barn owl</p> <p>Soumagne's owl</p>

	Annex A	Annex B	Annex C	Common name
STRUTHIONIFORMES Struthionidae	<i>Struthio camelus</i> (I) (Only the populations of Algeria, Burkina Faso, Cameroon, the Central African Republic, Chad, Mali, Mauritania, Morocco, the Niger, Nigeria, Senegal and the Sudan; all other populations are not included in the Annexes to this Regulation)			Ostrich Ostrich
TINAMIFORMES Tinamidae	<i>Tinamus solitarius</i> (I)			Tinamous Solitary tinamou
TROGONIFORMES Trogonidae	<i>Pharomachrus mocinno</i> (I)			Quetzals Resplendent quetzal
REPTILIA				Reptiles
CROCODYLIA		CROCODYLIA spp. (II) (Except for the species included in Annex A)		Alligators, caimans, crocodiles Alligators, caimans, crocodiles
Alligatoridae	<i>Alligator sinensis</i> (I) <i>Caiman crocodilus apaporiensis</i> (I) <i>Caiman latirostris</i> (I) (Except for the population of Argentina, which is included in Annex B) <i>Melanosuchus niger</i> (I) (Except for the population of Brazil, which is included in Annex B, and population of Ecuador, which is included in Annex B and is subject to a zero annual export quota until an annual export quota has been approved by the CITES Secretariat and the IUCN/SSC Crocodile Specialist Group)			Alligators, caimans Chinese alligator Rio Apaporis spectacled caiman Broad-nosed caiman Black caiman

	Annex A	Annex B	Annex C	Common name
Crocodylidae	<p><i>Crocodylus acutus</i> (I) (Except for the population of the Integrated Management District of Mangroves of the Bay of Cispata, Tinajones, La Balsa and Surrounding Areas, Department of Córdoba, Colombia, and the population of Cuba, which are included in Annex B, and the population of Mexico, which is included in Annex B and is subject to a zero export quota for wild specimens for commercial purposes)</p> <p><i>Crocodylus cataphractus</i> (I)</p> <p><i>Crocodylus intermedius</i> (I)</p> <p><i>Crocodylus mindorensis</i> (I)</p> <p><i>Crocodylus moreletii</i> (I) (Except for the population of Belize, which is included in Annex B with a zero quota for wild specimens traded for commercial purposes, and the population of Mexico, which is included in Annex B)</p> <p><i>Crocodylus niloticus</i> (I) (Except for the populations of Botswana, Egypt [subject to a zero quota for wild specimens traded for commercial purposes], Ethiopia, Kenya, Madagascar, Malawi, Mozambique, Namibia, South Africa, Uganda, the United Republic of Tanzania [subject to an annual export quota of no more than 1 600 wild specimens including hunting trophies, in addition to ranched specimens], Zambia and Zimbabwe; these populations are included in Annex B)</p>			<p>Crocodyles</p> <p>American crocodile</p> <p>African slender-snouted crocodile</p> <p>Orinoco crocodile</p> <p>Philippine crocodile</p> <p>Morelet's crocodile</p> <p>Nile crocodile</p>

	Annex A	Annex B	Annex C	Common name
	<p><i>Crocodylus palustris</i> (I)</p> <p><i>Crocodylus porosus</i> (I) (Except for the populations of Australia, Indonesia, Malaysia [wild harvest restricted to the State of Sarawak and a zero quota for wild specimens for the other States of Malaysia (Sabah and Peninsular Malaysia), with no change in the zero quota unless approved by the CITES Parties] and Papua New Guinea, which are included in Annex B)</p> <p><i>Crocodylus rhombifer</i> (I)</p> <p><i>Crocodylus siamensis</i> (I)</p> <p><i>Osteolaemus tetraspis</i> (I)</p> <p><i>Tomistoma schlegelii</i> (I)</p>			<p>Mugger crocodile</p> <p>Estuarine crocodile</p> <p>Cuban crocodile</p> <p>Siamese crocodile</p> <p>West African dwarf crocodile</p> <p>False gharial</p>
Gavialidae				Gavial or gharial
	<i>Gavialis gangeticus</i> (I)			Gharial
RHYNCHOCEPHALIA				
Sphenodontidae				Tuataras
	<i>Sphenodon</i> spp. (I)			Tuataras
SAURIA				
Agamidae				Spiny-tailed lizards (Agamas, mastigures)
	<i>Ceratophora erdeleni</i> (I)	<i>Ceratophora aspera</i> (II) (Zero quota for wild specimens for commercial purposes)		Rough-nosed horned lizard
	<i>Ceratophora karu</i> (I)			Erdelen's horned lizard
		<i>Ceratophora stoddartii</i> (II) (Zero quota for wild specimens for commercial purposes)		Karu's (horned) lizard
				Rhino — horned lizard

	Annex A	Annex B	Annex C	Common name
	<p><i>Ceratophora tennentii</i> (I)</p> <p><i>Cophotis ceylanica</i> (I)</p> <p><i>Cophotis dumbara</i> (I)</p>	<p><i>Lyriocephalus scutatus</i> (II) (Zero quota for wild specimens for commercial purposes)</p> <p><i>Saara</i> spp. (II)</p> <p><i>Uromastyx</i> spp. (II)</p>		<p>Tennent's leaf – nosed lizard</p> <p>Pygmy lizards</p> <p>Knuckles pygmy lizard</p> <p>Hump-nosed lizard</p> <p>Spiny-tailed lizards</p>
Anguidae	<p><i>Abronia anzuetoi</i> (I)</p> <p><i>Abronia campbelli</i> (I)</p> <p><i>Abronia fimbriata</i> (I)</p> <p><i>Abronia frosti</i> (I)</p> <p><i>Abronia meledona</i> (I)</p>	<p><i>Abronia</i> spp. (II) (except for the species included in Annex A. A zero export quota has been established for wild specimens for <i>Abronia aurita</i>, <i>A. gaiophantasma</i>, <i>A. montecristoi</i>, <i>A. salvadorensis</i> and <i>A. vasconcelosii</i>)</p>		<p>Alligator lizards</p> <p>Alligator lizards</p>
Chamaeleonidae	<p><i>Brookesia perarmata</i> (I)</p> <p><i>Chamaeleo chamaeleon</i> (II)</p>	<p><i>Archaius</i> spp. (II)</p> <p><i>Bradypodion</i> spp. (II)</p> <p><i>Brookesia</i> spp. (II) (Except for the species included in Annex A)</p> <p><i>Calumma</i> spp. (II)</p> <p><i>Chamaeleo</i> spp. (II) (Except for the species included in Annex A)</p>		<p>Chameleons</p> <p>Dwarf chameleons</p> <p>Dwarf chameleons</p> <p>Dwarf spiny chameleon</p> <p>Madagascar chameleons</p> <p>Chameleons</p> <p>European chameleon</p>

	Annex A	Annex B	Annex C	Common name
		<i>Furcifer</i> spp. (II) <i>Kinyongia</i> spp. (II) <i>Nadzikambia</i> spp. (II) <i>Palleon</i> spp. (II) <i>Rhampholeon</i> spp. (II) <i>Rieppeleon</i> spp. (II) <i>Trioceros</i> spp. (II)		Madagascar chameleons Dwarf chameleons Dwarf chameleons Pygmy chamaeleons Pygmy chamaeleons
Cordylidae		<i>Cordylus</i> spp. (II) <i>Hemicordylus</i> spp. (II) <i>Karusaurus</i> spp. (II) <i>Namazonurus</i> spp. (II) <i>Ninurta</i> spp. (II) <i>Ouroborus</i> spp. (II) <i>Pseudocordylus</i> spp. (II) <i>Smaug</i> spp. (II)		Spiny-tailed lizards Girdled lizards
Eublepharidae		<i>Goniurosaurus</i> spp. (II) (except the species native to Japan)		Eyelid geckos Tiger geckos
Gekkonidae	<i>Cnemaspis psychedelica</i> (I) <i>Gonatodes daudini</i> (I)	<i>Gekko gekko</i> (II)	<i>Dactylocnemis</i> spp. (III New Zealand) <i>Hoplodactylus</i> spp. (III New Zealand)	Geckos Psychedelic rock gecko Tokay gecko Grenadines clawed gecko Sticky-toed geckos

	Annex A	Annex B	Annex C	Common name
	<i>Lygodactylus williamsi</i> (I)		<i>Mokopirirakau</i> spp. (III New Zealand)	Turquoise dwarf gecko
		<i>Nactus serpensinsula</i> (II)		Serpent Island gecko
		<i>Naultinus</i> spp. (II)		New Zealand tree geckos
		<i>Paroedura androyensis</i> (II)		Grandidier's Madagascar ground gecko
		<i>Paroedura masobe</i> (II)		Masobe gecko
		<i>Phelsuma</i> spp. (II) (Except for the species included in Annex A)		Day geckos
	<i>Phelsuma guentheri</i> (II)			Round Island day gecko
		<i>Rhoptropella</i> spp. (II)		
			<i>Sphaerodactylus armasi</i> (III Cuba)	
			<i>Sphaerodactylus celicara</i> (III Cuba)	
			<i>Sphaerodactylus dimorphicus</i> (III Cuba)	
			<i>Sphaerodactylus intermedius</i> (III Cuba)	
			<i>Sphaerodactylus nigropunctatus alayoi</i> (III Cuba)	
			<i>Sphaerodactylus nigropunctatus granti</i> (III Cuba)	
			<i>Sphaerodactylus nigropunctatus lissodesmus</i> (III Cuba)	
			<i>Sphaerodactylus nigropunctatus ocujal</i> (III Cuba)	
			<i>Sphaerodactylus nigropunctatus strategus</i> (III Cuba)	
			<i>Sphaerodactylus notatus atactus</i> (III Cuba)	
			<i>Sphaerodactylus oliveri</i> (III Cuba)	
			<i>Sphaerodactylus pimienta</i> (III Cuba)	

	Annex A	Annex B	Annex C	Common name
		<i>Uroplatus</i> spp. (II)	<i>Sphaerodactylus ruibali</i> (III Cuba) <i>Sphaerodactylus siboney</i> (III Cuba) <i>Sphaerodactylus torrei</i> (III Cuba) <i>Toropuku</i> spp. (III New Zealand) <i>Tukutuku</i> spp. (III New Zealand) <i>Woodworthia</i> spp. (III New Zealand)	Flat-tailed geckos
Helodermatidae	<i>Heloderma horridum charlesbogerti</i> (I)	<i>Heloderma</i> spp. (II) (Except for the subspecies included in Annex A)		Gila monster and beaded lizard Gila monster and beaded lizard Guatemalan beaded lizard
Iguanidae	<i>Brachylophus</i> spp. (I) <i>Cyclura</i> spp. (I) <i>Sauromalus varius</i> (I)	<i>Amblyrhynchus cristatus</i> (II) <i>Conolophus</i> spp. (II) <i>Ctenosaura</i> spp. (II) <i>Iguana</i> spp. (II) <i>Phrynosoma blainvillii</i> (II) <i>Phrynosoma cerroense</i> (II) <i>Phrynosoma coronatum</i> (II) <i>Phrynosoma wigginsi</i> (II)		Iguanans Galapagos marine iguana Fiji iguanas Galapagos land iguanas Spiny-tailed iguanas Ground iguanas Iguanans Blaineville's horned lizard Cedros Island horned lizard Coast horned lizard Gulf coast horned lizard San Esteban Island chuckwalla

	Annex A	Annex B	Annex C	Common name
Lacertidae	<i>Gallotia simonyi</i> (I) <i>Podarcis lilfordi</i> (II) <i>Podarcis pityusensis</i> (II)			Lizards Hierro giant lizard Lilford's wall lizard Ibiza wall lizard
Lanthanotidae		Lanthanotidae spp. (II) (A zero export quota has been established for wild specimens for commercial trade)		Earless Monitor Lizard
Polychrotidae			<i>Anolis agueroi</i> (III Cuba) <i>Anolis baracoae</i> (III Cuba) <i>Anolis barbatus</i> (III Cuba) <i>Anolis chamaeleonides</i> (III Cuba) <i>Anolis equestris</i> (III Cuba) <i>Anolis guamuhaya</i> (III Cuba) <i>Anolis luteogularis</i> (III Cuba) <i>Anolis pigmaequestris</i> (III Cuba) <i>Anolis porcus</i> (III Cuba)	Anoles
Scincidae		<i>Corucia zebrata</i> (II)		Skinks Prehensile-tailed skink
Teiidae		<i>Crocodilurus amazonicus</i> (II) <i>Dracaena</i> spp. (II) <i>Salvator</i> spp. (II) <i>Tupinambis</i> spp.(II)		Caiman lizards, tegu lizards Dragon lizard Caiman lizards Tegus

	Annex A	Annex B	Annex C	Common name
Varanidae	<i>Varanus bengalensis</i> (I) <i>Varanus flavescens</i> (I) <i>Varanus griseus</i> (I) <i>Varanus komodoensis</i> (I) <i>Varanus nebulosus</i> (I) <i>Varanus olivaceus</i> (II)	<i>Varanus</i> spp. (II) (Except for the species included in Annex A)		Monitor lizards Monitor lizards Indian monitor Yellow monitor Desert monitor Komodo dragon Clouded monitor Gray's monitor
Xenosauridae	<i>Shinisaurus crocodilurus</i> (I)			Chinese crocodile lizard Chinese crocodile lizard
SERPENTES				Snakes
Boidae	<i>Acrantophis</i> spp. (I) <i>Boa constrictor occidentalis</i> (I) <i>Epicrates inornatus</i> (I) <i>Epicrates monensis</i> (I) <i>Epicrates subflavus</i> (I) <i>Eryx jaculus</i> (II) <i>Sanzinia madagascariensis</i> (I)	Boidae spp. (II) (Except for the species included in Annex A)		Boas Boas Madagascar ground boas Argentine boa constrictor Puerto Rican boa Virgin Island tree boa Jamaican boa Spotted sand boa Madagascar tree boa
Bolyeriidae	<i>Bolyeria multocarinata</i> (I) <i>Casarea dussumieri</i> (I)	Bolyeriidae spp. (II) (Except for the species included in Annex A)		Round Island boas Round Island boas Round Island boa Round Island keel-scaled boa

	Annex A	Annex B	Annex C	Common name
Colubridae		<i>Clelia clelia</i> (II) <i>Cyclagras gigas</i> (II) <i>Elachistodon westermanni</i> (II) <i>Ptyas mucosus</i> (II)	<i>Atretium schistosum</i> (III India) <i>Cerberus rynchops</i> (III India) <i>Xenochrophis piscator</i> (III India) <i>Xenochrophis schnurrenbergeri</i> (III India) <i>Xenochrophis tyleri</i> (III India)	Typical snakes, water snakes, whip snakes Olive keel-back Dog-faced water snake Mussurana False cobra Indian egg-eating snake Common rat snake Checkered keel-back
Elapidae		<i>Hoplocephalus bungaroides</i> (II) <i>Naja atra</i> (II) <i>Naja kaouthia</i> (II) <i>Naja mandalayensis</i> (II) <i>Naja naja</i> (II) <i>Naja oxiana</i> (II) <i>Naja philippinensis</i> (II) <i>Naja sagittifera</i> (II) <i>Naja samarensis</i> (II) <i>Naja siamensis</i> (II)	 <i>Micrurus diastema</i> (III Honduras) <i>Micrurus nigrocinctus</i> (III Honduras) <i>Micrurus ruatanus</i> (III Honduras)	Cobras, coral snakes Broad-headed snake Atlantic coral snake Central American coral snake Chinese spitting cobra Monocellate cobra Burmese spitting cobra Indian cobra Central Asian cobra North Philippine spitting cobra Andaman cobra South-east Philippine spitting cobra Indochinese spitting cobra

	Annex A	Annex B	Annex C	Common name
		<i>Naja sputatrix</i> (II) <i>Naja sumatrana</i> (II) <i>Ophiophagus hannah</i> (II)		South Indonesian spitting cobra Golden spitting cobra King cobra
Loxocemidae		Loxocemidae spp. (II)		Mexican dwarf boa Mexican dwarf boa
Pythonidae	<i>Python molurus molurus</i> (I)	Pythonidae spp. (II) (Except for the subspecies included in Annex A)		Pythons Pythons Indian python
Tropidophiidae		Tropidophiidae spp. (II)		Wood boas Wood boas
Viperidae	<i>Vipera latifii</i> <i>Vipera ursinii</i> (I) (Only the population of Europe, except the area which formerly constituted the USSR; these latter populations are not included in the Annexes to this Regulation)	<i>Atheris desaixi</i> (II) <i>Bitis worthingtoni</i> (II) <i>Crotalus durissus unicolor</i> <i>Pseudocerastes urarachnoides</i> (II) <i>Trimeresurus mangshanensis</i> (II) <i>Vipera wagneri</i> (II)	<i>Crotalus durissus</i> (III Honduras) <i>Daboia russelii</i> (III India)	Vipers Mt. Kenya bush viper Kenya horned viper Neotropical rattlesnake Aruba rattlesnake Russell's viper Spider-tailed horned viper Mangshan pit-viper Latifi's viper Orsini's viper Wagner's viper

	Annex A	Annex B	Annex C	Common name
TESTUDINES				
Carettochelyidae		<i>Carettochelys insculpta</i> (II)		Pig-nosed turtles Pig-nosed turtle
Chelidae	<i>Pseudemys umbrina</i> (I)	<i>Chelodina mccordi</i> (II) (A zero annual export quota has been established for specimens removed from the wild)		Austro-American sideneck turtles Roti snake-necked turtle Western swamp turtle
Cheloniidae	Cheloniidae spp. (I)			Sea turtles Sea turtles
Chelydridae			<i>Chelydra serpentina</i> (III United States of America) <i>Macrochelys temminckii</i> (III United States of America)	Snapping turtles Alligator snapping turtle
Dermatemydidae		<i>Dermatemys mawii</i> (II)		Central American river turtle Central American river turtle
Dermochelyidae	<i>Dermochelys coriacea</i> (I)			Leatherback turtle Leatherback turtle
Emydidae	<i>Glyptemys muhlenbergii</i> (I)	<i>Chrysemys picta</i> (Only live specimens) <i>Clemmys guttata</i> (II) <i>Emydoidea blandingii</i> (II) <i>Glyptemys insculpta</i> (II)		Box turtles, freshwater turtles Painted turtle Spotted turtle Blanding's turtle Wood turtle Bog turtle

	Annex A	Annex B	Annex C	Common name
	<i>Terrapene coahuila</i> (I)	<p><i>Malaclemys terrapin</i> (II)</p> <p><i>Terrapene</i> spp. (II) (Except for the species included in Annex A)</p>	<i>Graptemys</i> spp. (III United States of America)	<p>Map turtles</p> <p>Diamondback terrapin</p> <p>Box turtles</p> <p>Aquatic box turtle</p>
Geoemydidae	<p><i>Batagur affinis</i> (I)</p> <p><i>Batagur baska</i> (I)</p>	<p><i>Batagur borneoensis</i> (II) (A zero annual export quota has been established for specimens removed from the wild and traded for commercial purposes)</p> <p><i>Batagur dhongoka</i> (II)</p> <p><i>Batagur kachuga</i> (II)</p> <p><i>Batagur trivittata</i> (II) (A zero annual export quota has been established for specimens removed from the wild and traded for commercial purposes)</p> <p><i>Cuora</i> spp. (II) (Except the species included in Annex A, a zero annual export quota has been established for <i>Cuora aurocapitata</i>, <i>C. flavomarginata</i>, <i>C. galbinifrons</i>, <i>C. mccordi</i>, <i>C. mouhotii</i>, <i>C. pani</i>, <i>C. trifasciata</i>, <i>C. yunnanensis</i> and <i>C. zhoui</i> for specimens removed from the wild and traded for commercial purposes)</p>		<p>Southern river terrapin</p> <p>Batagur</p> <p>Asian box turtles</p>
	<i>Cuora bourreti</i> (I)			Bourret's box turtle

	Annex A	Annex B	Annex C	Common name
	<p><i>Cuora picturata</i> (I)</p> <p><i>Geoclemys hamiltonii</i> (I)</p> <p><i>Mauremys annamensis</i> (I)</p>	<p><i>Cycllemys</i> spp. (II)</p> <p><i>Geoemyda japonica</i> (II)</p> <p><i>Geoemyda spengleri</i> (II)</p> <p><i>Hardella thurjii</i> (II)</p> <p><i>Heosemys annandalii</i> (II) (A zero annual export quota has been established for specimens removed from the wild and traded for commercial purposes)</p> <p><i>Heosemys depressa</i> (II) (A zero annual export quota has been established for specimens removed from the wild and traded for commercial purposes)</p> <p><i>Heosemys grandis</i> (II)</p> <p><i>Heosemys spinosa</i> (II)</p> <p><i>Leucocephalon yuwonoi</i> (II)</p> <p><i>Malayemys macrocephala</i> (II)</p> <p><i>Malayemys subtrijuga</i> (II)</p> <p><i>Mauremys japonica</i> (II)</p> <p><i>Mauremys mutica</i> (II)</p> <p><i>Mauremys nigricans</i> (II)</p>	<p><i>Mauremys iversoni</i> (III China)</p> <p><i>Mauremys megalcephala</i> (III China)</p>	<p>Indochinese box turtle</p> <p>Asian leaf turtles</p> <p>Black pond turtle</p> <p>Ryukyu black-breasted leaf turtle</p> <p>Black-breasted leaf turtle</p> <p>Crowned river turtle</p> <p>Yellow-headed temple turtle</p> <p>Arakan forest turtle</p> <p>Giant Asian turtle</p> <p>Spiny turtle</p> <p>Sulawesi forest turtle</p> <p>Snail-eating turtle</p> <p>Ricefield turtle</p> <p>Annam pond turtle</p> <p>Fujian pond turtle</p> <p>Japanese pond turtle</p> <p>Big-headed pond turtle</p> <p>Yellow pond turtle</p> <p>Red-necked pond turtle</p>

	Annex A	Annex B	Annex C	Common name
			<i>Mauremys pritchardi</i> (III China)	Pritchard's pond turtle
			<i>Mauremys reevesii</i> (III China)	Reeves's turtle
			<i>Mauremys sinensis</i> (III China)	Chinese stripe-necked turtle
	<i>Melanochelys tricarinata</i> (I)			Three-keeled land tortoise
		<i>Melanochelys trijuga</i> (II)		Indian black turtle
	<i>Morenia ocellata</i> (I)			Burmese swamp turtle
		<i>Morenia petersi</i> (II)		Indian eyed turtle
		<i>Notochelys platynota</i> (II)		Malayan flat-shelled turtle
			<i>Ocadia glyphistoma</i> (III China)	Notch-mouthed stripe-necked turtle
			<i>Ocadia philippeni</i> (III China)	Philippen's stripe-necked turtle
		<i>Orlitia borneensis</i> (II) (A zero annual export quota has been established for specimens removed from the wild and traded for commercial purposes)		Malayan giant turtle
		<i>Pangshura</i> spp. (II) (Except for the species included in Annex A)		Roofed turtles
	<i>Pangshura tecta</i> (I)			Indian roofed turtle
		<i>Sacalia bealei</i> (II)		Beal's eyed turtle
			<i>Sacalia pseudocellata</i> (III China)	Chinese false-eyed turtle
		<i>Sacalia quadriocellata</i> (II)		Four-eyed turtle
		<i>Siebenrockiella crassicollis</i> (II)		Black marsh turtle
		<i>Siebenrockiella leytensis</i> (II)		Philippine pond turtle
		<i>Vijayachelys silvatica</i> (II)		Cochin forest cane turtle

	Annex A	Annex B	Annex C	Common name
Platysternidae	Platysternidae spp. (I)			Big-headed turtles Big-headed turtles
Podocnemididae		<i>Erymnochelys madagascariensis</i> (II) <i>Peltocephalus dumerilianus</i> (II) <i>Podocnemis</i> spp. (II)		Afro-American sideneck turtles Madagascar sideneck turtle Big-headed sideneck turtle Sideneck turtles
Testudinidae	<i>Astrochelys radiata</i> (I) <i>Astrochelys yniphora</i> (I) <i>Chelonoidis niger</i> (I) <i>Geochelone elegans</i> (I) <i>Geochelone platynota</i> (I) <i>Gopherus flavomarginatus</i> (I) <i>Malacochersus tornieri</i> (I) <i>Psammobates geometricus</i> (I) <i>Pyxis arachnoides</i> (I) <i>Pyxis planicauda</i> (I) <i>Testudo graeca</i> (II)	Testudinidae spp. (II) (Except for the species included in Annex A; a zero annual export quota has been established for <i>Centrochelys sulcata</i> for specimens removed from the wild and traded for primarily commercial purposes)		Tortoises Tortoises Radiated tortoise Angonoka Galapagos giant tortoise Star tortoise Burmese star tortoise Bolson tortoise Pancake tortoise Geometric tortoise Madagascar spider tortoise Madagascar flat-shelled tortoise Spur-thighed tortoise

	Annex A	Annex B	Annex C	Common name
	<i>Testudo hermanni</i> (II) <i>Testudo kleinmanni</i> (I) <i>Testudo marginata</i> (II)			Hermann's tortoise Egyptian tortoise Marginated tortoise
Trionychidae		<i>Amyda cartilaginea</i> (II) <i>Chitra</i> spp. (II) (Except for the species included in Annex A) <i>Cyclanorbis elegans</i> (II) <i>Cyclanorbis senegalensis</i> (II) <i>Cycloderma aubryi</i> (II) <i>Cycloderma frenatum</i> (II) <i>Dogania subplana</i> (II) <i>Lissemys ceylonensis</i> (II) <i>Lissemys punctata</i> (II) <i>Lissemys scutata</i> (II) <i>Nilssonina formosa</i> (II) <i>Nilssonina gangetica</i> (I)	<i>Apalone ferox</i> (III United States of America) <i>Apalone mutica</i> (III United States of America) <i>Apalone spinifera</i> (III United States of America) (except for the subspecies included in Annex A)	Softshell turtles, terrapins Southeast Asian soft-shelled turtle Cuatro Cienagas soft-shell turtle Narrow-headed softshell turtles Asian narrow-headed softshell Burmese narrow-headed softshell Nubian flapshell turtle Senegal flapshell turtle Aubry's flapshell turtle Zambezi flapshell turtle Malayan soft-shelled turtle Sri Lankan flapshell turtle Indo-Gangetic flapshell turtle Burmese flapshell turtle Burmese peacock softshell Indian soft-shell turtle

	Annex A	Annex B	Annex C	Common name
	<i>Nilssonina hurum</i> (I) <i>Nilssonina nigricans</i> (I)	<i>Nilssonina leithii</i> (II) <i>Palea steindachneri</i> (II) <i>Pelochelys</i> spp. (II) <i>Pelodiscus axenaria</i> (II) <i>Pelodiscus maackii</i> (II) <i>Pelodiscus parviformis</i> (II) <i>Rafetus euphraticus</i> (II) <i>Rafetus swinhoei</i> (II) <i>Trionyx triunguis</i> (II)		Peacock soft-shell turtle Leith's softshell turtle Black soft-shell turtle Wattle-necked softshell turtle Giant softshell turtles Hunan softshell turtle Amur softshell turtle Chinese softshell turtle Euphrates softshell turtle Yangtze softshell turtle Nile softshell turtle
AMPHIBIA ANURA				Amphibians Frogs and toads
Aromobatidae		<i>Allobates femoralis</i> (II) <i>Allobates hodli</i> (II) <i>Allobates myersi</i> (II) <i>Allobates zaparo</i> (II) <i>Anomaloglossus rufulus</i> (II)		Cryptic forest frogs Brilliant-thighed poison frog Myers' poison frog Sanguine poison frog Chimanta poison frog
Bufo	<i>Altiphrynoides</i> spp. (I) <i>Amietophrynus channingi</i> (I) <i>Amietophrynus superciliaris</i> (I) <i>Atelopus zeteki</i> (I) <i>Incilius periglenes</i> (I)			Toads Malcolm's Ethiopian toad Cameroon toad Golden frog Golden toad

	Annex A	Annex B	Annex C	Common name
	<i>Nectophrynoides</i> spp. (I) <i>Nimbaphrynoides</i> spp. (I)			African viviparous toads Nimba toads
Calyptocephalellidae			<i>Calyptocephalella gayi</i> (III Chile)	Chilean helmeted water toad
Conrauidae		<i>Conraua goliath</i>		Frogs Goliath frog
Dendrobatidae		<i>Adelphobates</i> spp. (II) <i>Ameerega</i> spp. (II) <i>Andinobates</i> spp. (II) <i>Dendrobates</i> spp. (II) <i>Epipedobates</i> spp. (II) <i>Excidobates</i> spp. (II) <i>Hyloxalus azureiventris</i> (II) <i>Minyobates</i> spp. (II) <i>Oophaga</i> spp. (II) <i>Phyllobates</i> spp. (II) <i>Ranitomeya</i> spp. (II)		Poison frogs Poison-arrow frogs Poison-arrow frogs Sky-blue poison frog Demonic poison frogs Poison-arrow frogs
Dicroglossidae		<i>Euphlyctis hexadactylus</i> (II) <i>Hoplobatrachus tigerinus</i> (II)		Frogs Six-fingered frog Tiger frog
Hylidae		<i>Agalychnis</i> spp. (II)		Tree frogs
Mantellidae		<i>Mantella</i> spp. (II)		Mantella frogs Mantella frogs

	Annex A	Annex B	Annex C	Common name
Microhylidae		<i>Dyscophus antongilii</i> (II) <i>Dyscophus guineti</i> (II) <i>Dyscophus insularis</i> (II) <i>Scaphiophryne boribory</i> (II) <i>Scaphiophryne gottlebei</i> (II) <i>Scaphiophryne marmorata</i> (II) <i>Scaphiophryne spinosa</i> (II)		Tomato frogs Tomato frog False tomato frog Antsouhy tomato frog Green marbled burrowing frog Red rain frog Green marbled burrowing frog Green marbled burrowing frog
Myobatrachidae		<i>Rheobatrachus</i> spp. (II) (Except for <i>Rheobatrachus silus</i> and <i>Rheobatrachus vitellinus</i>)		Gastric brooding frogs Gastric brooding frog
Telmatobiidae	<i>Telmatobius culeus</i> (I)			Water frogs Titicaca water frog
CAUDATA				
Ambystomatidae		<i>Ambystoma dumerilii</i> (II) <i>Ambystoma mexicanum</i> (II)		Axolotls Lake Patzcuaro salamander Axolotl
Cryptobranchidae	<i>Andrias</i> spp. (I)		<i>Cryptobranchus alleganiensis</i> (III United States of America)	Giant salamanders Giant salamanders Hellbender
Hynobiidae			<i>Hynobius amjiensis</i> (III China)	Asiatic salamanders

	Annex A	Annex B	Annex C	Common name
Salamandridae	<i>Neurergus kaiseri</i> (I)	<i>Echinotriton chinhaiensis</i> (II) <i>Echinotriton maxiquadratus</i> (II) <i>Paramesotriton</i> spp. (II) <i>Tylotriton</i> spp. (II)	<i>Salamandra algira</i> (III Algeria)	Salamanders and newts Chinhai spiny newt Mountain spiny newt Kaiser's spotted newt Asian warty newts Crocodile newts
ELASMOBRANCHII CARCHARHINIFORMES Carcharhinidae		<i>Carcharhinus falciformis</i> (II) <i>Carcharhinus longimanus</i> (II)		Sharks and rays Requiem sharks Silky shark Oceanic whitetip shark
Sphyrnidae		<i>Sphyrna lewini</i> (II) <i>Sphyrna mokarran</i> (II) <i>Sphyrna zygaena</i> (II)		Hammerhead sharks Scalloped hammerhead shark Great hammerhead shark Smooth hammerhead shark
LAMNIFORMES Alopiidae		<i>Alopias</i> spp. (II)		Thresher sharks Thresher sharks
Cetorhinidae		<i>Cetorhinus maximus</i> (II)		Basking sharks Basking shark
Lamnidae		<i>Carcharodon carcharias</i> (II) <i>Isurus oxyrinchus</i> (II) <i>Isurus paucus</i> (II) <i>Lamna nasus</i> (II)		Mackerel sharks Great white shark Shortfin mako Longfin mako Porbeagle

	Annex A	Annex B	Annex C	Common name
MYLIOBATIFORMES Myliobatidae		<i>Manta</i> spp. (II) <i>Mobula</i> spp. (II)		Manta rays Devil rays
Potamotrygonidae			<i>Paratrygon aiereba</i> (III Colombia) <i>Potamotrygon</i> spp. (III Brazil) (population of Brazil) <i>Potamotrygon constellata</i> (III Colombia) <i>Potamotrygon magdalenae</i> (III Colombia) <i>Potamotrygon motoro</i> (III Colombia) <i>Potamotrygon orbignyi</i> (III Colombia) <i>Potamotrygon schroederi</i> (III Colombia) <i>Potamotrygon scobina</i> (III Colombia) <i>Potamotrygon yepezi</i> (III Colombia)	Freshwater stingrays
ORECTOLOBIFORMES Rhincodontidae		<i>Rhincodon typus</i> (II)		Whale sharks Whale shark
PRISTIFORMES Pristidae	Pristidae spp. (I)			Sawfishes Sawfishes
RHINOPRISTIFORMES Glaucostegidae		<i>Glaucostegus</i> spp. (II)		Giant guitarfishes Giant guitarfish

	Annex A	Annex B	Annex C	Common name
Rhinidae		Rhinidae spp. (II)		Wedgefishes Wedgefishes
ACTINOPTERI ACIPENSERIFORMES		ACIPENSERIFORMES spp. (II) (Except for the species included in Annex A)		Fish Sturgeons and paddlefish
Acipenseridae	<i>Acipenser brevirostrum</i> (I) <i>Acipenser sturio</i> (I)			Sturgeons Shortnose sturgeon Common sturgeon
ANGUILLIFORMES Anguillidae		<i>Anguilla anguilla</i> (II)		Freshwater eels European eel
CYPRINIFORMES Catostomidae	<i>Chasmistes cujus</i> (I)			Cui-ui Cui-ui
Cyprinidae	<i>Probarbus jullieni</i> (I)	<i>Caecobarbus geertsii</i> (II)		Blind carps, plaesok African blind barb fish Ikan temoleh
OSTEOGLOSSIFORMES Arapaimidae		<i>Arapaima gigas</i> (II)		Arapaimas, bonytongues Arapaima
Osteoglossidae	<i>Scleropages formosus</i> (I) <i>Scleropages inscriptus</i>			Bonytongues Asian arowana

	Annex A	Annex B	Annex C	Common name
PERCIFORMES				
Labridae		<i>Cheilinus undulatus</i> (II)		Wrasses Humphead wrasse
Pomacanthidae		<i>Holacanthus clarionensis</i> (II)		Clarion angelfish
Sciaenidae	<i>Totoaba macdonaldi</i> (I)			Totoabas Totoaba
SILURIFORMES				
Pangasiidae	<i>Pangasianodon gigas</i> (I)			Pangasid catfish Giant catfish
Loricariidae			<i>Hypancistrus zebra</i> (III Brazil)	Armoured catfishes
SYNGNATHIFORMES				
Syngnathidae		<i>Hippocampus</i> spp. (II)		Pipefishes, seahorses Seahorses
DIPNEUSTI				
CERATODONTIFORMES				
Neoceratodontidae		<i>Neoceratodus forsteri</i> (II)		Australian lungfishes Australian lungfish
COELACANTHI				
COELACANTHIFORMES				
Latimeriidae	<i>Latimeria</i> spp. (I)			Coelacanths Coelacanths

	Annex A	Annex B	Annex C	Common name
ECHINODERMATA (STARFISH, BRITTLE STARS, SEA URCHINS AND SEA CUCUMBERS)				
HOLOTHUROIDEA ASPIDOCHIROTIDA Stichopodidae			<i>Isostichopus fuscus</i> (III Ecuador)	Sea cucumbers Sea cucumbers Brown sea cucumber
HOLOTHURIIDA Holothuriidae		<i>Holothuria fuscogilva</i> (II) (This inclusion will enter into effect on 28 August 2020) <i>Holothuria nobilis</i> (II) (This inclusion will enter into effect on 28 August 2020) <i>Holothuria whitmaei</i> (II) (This inclusion will enter into effect on 28 August 2020)		Teatfishes, sea cucumbers Teatfish
ARTHROPODA (ARTHROPODS)				
ARACHNIDA ARANEAE Theraphosidae		<i>Aphonopelma albiceps</i> (II) <i>Aphonopelma pallidum</i> (II) <i>Brachypelma</i> spp. (II) <i>Poecilotheria</i> spp. (II)		Spiders and scorpions Red-kneed tarantulas, tarantulas Chihuahua rose-grey tarantula Central American tarantulas Ornamental spiders
SCORPIONES Scorpionidae		<i>Pandinus camerounensis</i> (II) <i>Pandinus dictator</i> (II) <i>Pandinus gambiensis</i> (II)		Scorpions Giant Senegalese scorpion

	Annex A	Annex B	Annex C	Common name
		<i>Pandinus imperator</i> (II) <i>Pandinus roeseli</i> (II)		Emperor scorpion
INSECTA COLEOPTERA Lucanidae			<i>Colophon</i> spp. (III South Africa)	Insects Beetles Stag beetles Cape stag beetles
Scarabaeidae		<i>Dynastes satanas</i> (II)		Scarab beetles Satanas beetle
LEPIDOPTERA Nymphalidae			<i>Agrias amydon boliviensis</i> (III Bolivia) <i>Morpho godartii lachaumei</i> (III Bolivia) <i>Prepona praeneste buckleyana</i> (III Bolivia)	Butterflies
Papilionidae	<i>Achillides chikae chikae</i> (I) <i>Achillides chikae hermeli</i> (I) <i>Ornithoptera alexandrae</i> (I)	<i>Atrophaneura jophon</i> (II) <i>Atrophaneura palu</i> <i>Atrophaneura pandiyana</i> (II) <i>Bhutanitis</i> spp. (II) <i>Graphium sandawanum</i> <i>Graphium stresemanni</i> <i>Ornithoptera</i> spp. (II) (except for the species included in Annex A) <i>Papilio benguetanus</i>		Birdwing and swallowtail butterflies Luzon peacock swallowtail Mindoro peacock swallowtail Sri Lankan rose Palu swallowtail butterfly Malabar rose Swallowtail butterflies Apo swallowtail butterfly Seram swallowtail Birdwing butterflies Queen Alexandra's birdwing

	Annex A	Annex B	Annex C	Common name
	<i>Papilio homerus</i> (I) <i>Papilio hospiton</i> (II)	<i>Papilio esperanza</i> <i>Papilio morondavana</i> <i>Papilio neumogeni</i> <i>Parides ascanius</i> <i>Parides hahneli</i>		Homerus swallowtail Corsican swallowtail Madagascan emperor swallowtail Fluminense swallowtail butterfly Hahnel's amazonian swallowtail butterfly Riverside swallowtail Mountain apollo Kaiser-I-Hind butterflies Birdwing butterflies Birdwing butterflies
	<i>Parides burchellanus</i> (I) <i>Parnassius apollo</i> (II)	<i>Teinopalpus</i> spp. (II) <i>Trogonoptera</i> spp. (II) <i>Troides</i> spp. (II)		
ANNELIDA (SEGMENTED WORMS AND LEECHES)				
HIRUDINOIDEA ARHYNCHOBDELLIDA Hirudinidae		<i>Hirudo medicinalis</i> (II) <i>Hirudo verbana</i> (II)		Leeches Leeches Northern medicinal leech Southern medicinal leech
MOLLUSCA (MOLLUSCS)				
BIVALVIA MYTILOIDA Mytilidae		<i>Lithophaga lithophaga</i> (II)		Bivalve molluscs (clams, mussels etc.) Marine mussels European date mussel
UNIONOIDA Unionidae	<i>Conradilla caelata</i> (I)	<i>Cyprogenia aberti</i> (II)		Freshwater mussels, pearly mussels Birdwing pearly mussel Western fanshell mussel

	Annex A	Annex B	Annex C	Common name
	<i>Dromus dromas</i> (I)			Dromedary pearly mussel
	<i>Epioblasma curtisii</i> (I)			Curtis' pearly mussel
	<i>Epioblasma florentina</i> (I)			Yellow-blossom pearly mussel
	<i>Epioblasma sampsonii</i> (I)			Wabash riffleshell
	<i>Epioblasma sulcata perobliqua</i> (I)			White catspaw mussel
	<i>Epioblasma torulosa gubernaculum</i> (I)			Green-blossom pearly mussel
		<i>Epioblasma torulosa rangiana</i> (II)		Northern riffleshell
	<i>Epioblasma torulosa torulosa</i> (I)			Turbercled-blossom pearly mussel
	<i>Epioblasma turgidula</i> (I)			Turgid-blossom pearly mussel
	<i>Epioblasma walkeri</i> (I)			Tan riffleshell
	<i>Fusconaia cuneolus</i> (I)			Fine-rayed pigtoe pearly mussel
	<i>Fusconaia edgariana</i> (I)			Shiny pigtoe pearly mussel
	<i>Lampsilis higginsii</i> (I)			Higgins' eye pearly mussel
	<i>Lampsilis orbiculata orbiculata</i> (I)			Pink mucket pearly mussel
	<i>Lampsilis satur</i> (I)			Sandback pocketbook mussel
	<i>Lampsilis virescens</i> (I)			Alabama lamp pearly mussel
	<i>Plethobasus cicatricosus</i> (I)			White warty-back pearly mussel
	<i>Plethobasus cooperianus</i> (I)			Orange-footed pimpleback mussel
		<i>Pleurobema clava</i> (II)		Clubshell pearly mussel
	<i>Pleurobema plenum</i> (I)			Rough pigtoe pearly mussel
	<i>Potamilus capax</i> (I)			Fat pocketbook pearly mussel
	<i>Quadrula intermedia</i> (I)			Cumberland monkey-face pearly mussel
	<i>Quadrula sparsa</i> (I)			Appalachian monkey-face pearly mussel
	<i>Toxolasma cylindrella</i> (I)			Pale lilliput pearly mussel
	<i>Unio nickliniana</i> (I)			Nicklin's pearly mussel
	<i>Unio tampicoensis tecomatensis</i> (I)			Tampico pearly mussel
	<i>Villosa trabalis</i> (I)			Cumberland bean pearly mussel

	Annex A	Annex B	Annex C	Common name
VENEROIDA				
Tridacnidae		Tridacnidae spp. (II)		Giant clams Giant clams
CEPHALOPODA				
NAUTILIDA				
Nautilidae		Nautilidae spp. (II)		Nautilus Nautilus
GASTROPODA				
MESOGASTROPODA				
Strombidae		<i>Strombus gigas</i> (II)		Slugs, snails and conches Conches Queen conch
STYLOMMATOPHORA				
Achatinellidae	<i>Achatinella</i> spp. (I)			Agate snails, oahu tree snails Little agate shells
Camaenidae		<i>Papustyla pulcherrima</i> (II)		Green tree snail Manus green tree snail
Cepolidae	<i>Polymita</i> spp. (I)			Cuban landsnails
CNIDARIA (CORALS, FIRE CORALS, SEA ANEMONES)				
ANTHOZOA				Corals, sea anemones
ANTIPATHARIA		ANTIPATHARIA spp. (II)		Black corals

	Annex A	Annex B	Annex C	Common name
GORGONACEAE Coralliidae			<i>Corallium elatius</i> (III China) <i>Corallium japonicum</i> (III China) <i>Corallium konjoi</i> (III China) <i>Corallium secundum</i> (III China)	Red and pink corals
HELIOPORACEA Helioporidae		Helioporidae spp. (II) (Includes only the species <i>Heliopora coerulea</i>) (*)		Blue coral Blue coral
SCLERACTINIA		SCLERACTINIA spp. (II) (*)		Stony corals
STOLONIFERA Tubiporidae		Tubiporidae spp. (II) (*)		Organpipe corals Organpipe corals
HYDROZOA				Sea ferns, fire corals, stinging medusas
MILLEPORINA Milleporidae		Milleporidae spp. (II) (*)		Wello fire corals Wello fire corals
STYLASTERINA Stylasteridae		Stylasteridae spp. (II) (*)		Lace corals Lace corals
FLORA				
AGAVACEAE	<i>Agave parviflora</i> (I)	<i>Agave victoriae-reginae</i> (II) #4		Agaves Santa Cruz striped agave Queen Victoria agave

	Annex A	Annex B	Annex C	Common name
		<i>Nolina interrata</i> (II) <i>Yucca queretaroensis</i> (II)		Dehesa bear-grass Queretaro yucca
AMARYLLIDACEAE		<i>Galanthus</i> spp. (II) #4 <i>Sternbergia</i> spp. (II) #4		Amaryllids Snowdrops Sternbergias
ANACARDIACEAE		<i>Operculicarya decaryi</i> (II) <i>Operculicarya hyphaenoides</i> (II) <i>Operculicarya pachypus</i> (II)		Jabihy Jabihy Tabily
APOCYNACEAE	<i>Pachypodium ambongense</i> (I) <i>Pachypodium baronii</i> (I) <i>Pachypodium decaryi</i> (I)	<i>Hoodia</i> spp. (II) #9 <i>Pachypodium</i> spp. (II) (Except for the species included in Annex A) #4 <i>Rauwolfia serpentina</i> (II) #2		Hoodia Elephant trunks Snake-root devil-pepper
ARALIACEAE		<i>Panax ginseng</i> (II) (Only the population of the Russian Federation; no other population is included in the Annexes to this Regulation) #3 <i>Panax quinquefolius</i> (II) #3		Aralias Asian ginseng American ginseng
ARAUCARIACEAE	<i>Araucaria araucana</i> (I)			Araucarias Monkey-puzzle tree

	Annex A	Annex B	Annex C	Common name
ASPARAGACEAE		<i>Beaucarnea</i> spp. (II)		Ponytail palm
BERBERIDACEAE		<i>Podophyllum hexandrum</i> (II) #2		Barberries Himalayan may-apple
BROMELIACEAE		<i>Tillandsia harrisii</i> (II) #4 <i>Tillandsia kammii</i> (II) #4 <i>Tillandsia xerographica</i> (II) ⁽⁵⁾ #4		Air plants, bromelias Harris' tillandsia Kamm's tillandsia Xerographic tillandsia
CACTACEAE	<i>Ariocarpus</i> spp. (I) <i>Astrophytum asterias</i> (I) <i>Aztekium ritteri</i> (I) <i>Coryphantha werdermannii</i> (I) <i>Discocactus</i> spp. (I) <i>Echinocereus ferrerianus</i> ssp. <i>lindsayorum</i> (I) <i>Echinocereus schmollii</i> (I) <i>Escobaria minima</i> (I) <i>Escobaria sneedii</i> (I) <i>Mammillaria pectinifera</i> (I) (includes ssp. <i>solisioides</i>) <i>Melocactus conoideus</i> (I)	CACTACEAE spp. (II) (Except for the species included in Annex A and <i>Pereskia</i> spp., <i>Pereskopsis</i> spp. and <i>Quibentia</i> spp.) ⁽⁶⁾ #4		Cacti Cacti Living rock cacti Star cactus Aztec cactus Jobali pincushion cactus Discocacti Lindsay's hedgehog cacti Lamb's-tail cactus Nelle's cactus Sneed's pincushion cactus Conchilinqu Conelike Turk's-cap cactus

	Annex A	Annex B	Annex C	Common name
	<i>Melocactus deinacanthus</i> (I)			Wonderfully-bristled Turk's cap cactus
	<i>Melocactus glaucescens</i> (I)			Woolly waxy-stemmed Turk's-cap cactus
	<i>Melocactus paucispinus</i> (I)			Few-spined Turk's-cap cactus
	<i>Obregonia denegrii</i> (I)			Artichoke cactus
	<i>Pachycereus militaris</i> (I)			Grenadier's cap
	<i>Pediocactus bradyi</i> (I)			Brady's pincushion cactus
	<i>Pediocactus knowltonii</i> (I)			Knowlton's cactus
	<i>Pediocactus paradinei</i> (I)			Houserock valley cactus
	<i>Pediocactus peeblesianus</i> (I)			Peebles's Navajo cactus
	<i>Pediocactus sileri</i> (I)			Siler's pincushion cactus
	<i>Pelecyphora</i> spp. (I)			Pine cane cactus
	<i>Sclerocactus blainei</i> (I)			Blaine's fishhook cactus
	<i>Sclerocactus brevihamatus</i> ssp. <i>tobuschii</i> (I)			Tobusch fishhook cactus
	<i>Sclerocactus brevispinus</i> (I)			Pariette cactus
	<i>Sclerocactus cloverae</i> (I)			New Mexico fishhook cactus
	<i>Sclerocactus erectocentrus</i> (I)			Needle-spined pineapple cactus
	<i>Sclerocactus glaucus</i> (I)			Colorado hookless cactus
	<i>Sclerocactus mariposensis</i> (I)			Mariposa cactus
	<i>Sclerocactus mesae-verdae</i> (I)			Mesa Verde cactus
	<i>Sclerocactus nyensis</i> (I)			Tonopah fishhook cactus
	<i>Sclerocactus papyracanthus</i> (I)			Gramma-grass cactus
	<i>Sclerocactus pubispinus</i> (I)			Great-Basin fishhook cactus
	<i>Sclerocactus sileri</i> (I)			Siler's fishhook cactus
	<i>Sclerocactus wetlandicus</i> (I)			Unita Basin hookless cactus

	Annex A	Annex B	Annex C	Common name
	<i>Sclerocactus wrightiae</i> (I) <i>Strombocactus</i> spp. (I) <i>Turbincarpus</i> spp. (I) <i>Uebelmannia</i> spp. (I)			Wright's fishhook cactus Peyote Turbincarps Uebelmann cacti
CARYOCARACEAE		<i>Caryocar costaricense</i> (II) #4		Ajos Ajillo
COMPOSITAE (ASTERACEAE)	<i>Saussurea costus</i> (I) (also known as <i>S. lappa</i> , <i>Aucklandia lappa</i> or <i>A. costus</i>)			Asters, daisies, costus Costus
CUCURBITACEAE		<i>Zygosicyos pubescens</i> (II) (also known as <i>Xerosicyos pubescens</i>) <i>Zygosicyos tripartitus</i> (II)		Tobory Betoboky
CUPRESSACEAE	<i>Fitzroya cupressoides</i> (I) <i>Pilgerodendron wuiferum</i> (I)	<i>Widdringtonia whytei</i> (II)		Cypresses Alerce Pilgerodendron Mulanje cedar
CYATHEACEAE		<i>Cyathea</i> spp. (II) #4		Tree ferns Tree ferns
CYCADACEAE	<i>Cycas beddomei</i> (I)	CYCADACEAE spp. (II) (Except for the species included in Annex A) #4		Cycads Cycads Beddome's cycad

	Annex A	Annex B	Annex C	Common name
DICKSONIACEAE		<p><i>Cibotium barometz</i> (II) #4</p> <p><i>Dicksonia</i> spp. (II) (Only the populations of the Americas; no other populations are included in the Annexes to this Regulation. This includes the synonyms <i>Dicksonia berteriana</i>, <i>D. externa</i>, <i>D. sellowiana</i> and <i>D. stuebelii</i>) #4</p>		<p>Tree ferns</p> <p>Tree ferns</p>
DIDIEREACEAE		DIDIEREACEAE spp. (II) #4		<p>Didiereas</p> <p>Alluaudias, didiereas</p>
DIOSCOREACEAE		<i>Dioscorea deltoidea</i> (II) #4		<p>Yams</p> <p>Elephant's foot</p>
DROSERACEAE		<i>Dionaea muscipula</i> (II) #4		<p>Sundews</p> <p>Venus fly-trap</p>
EBENACEAE		<i>Diospyros</i> spp. (II) (Only the populations of Madagascar; no other population is included in the Annexes to this Regulation) #5		Ebonies
EUPHORBIACEAE		<p><i>Euphorbia</i> spp. (II) #4</p> <p>(Succulent species only except for:</p> <ol style="list-style-type: none"> (1) <i>Euphorbia misera</i>; (2) artificially propagated specimens of cultivars of <i>Euphorbia trigona</i>; (3) artificially propagated specimens of <i>Euphorbia lactea</i> grafted on artificially propagated root stock of <i>Euphorbia nerifolia</i>, when they are: <ul style="list-style-type: none"> — crested, or — fan-shaped, or — colour mutants; 		<p>Spurges</p> <p>Euphorbias</p>

	Annex A	Annex B	Annex C	Common name
	<p><i>Euphorbia ambovombensis</i> (I)</p> <p><i>Euphorbia capsaintemariensis</i> (I)</p> <p><i>Euphorbia cremersii</i> (I) (Includes the forma <i>viridifolia</i> and the var. <i>rakotozafyi</i>)</p> <p><i>Euphorbia cylindrifolia</i> (I) (Includes the ssp. <i>tuberifera</i>)</p> <p><i>Euphorbia decaryi</i> (I) (Includes the vars. <i>ampanihyensis</i>, <i>robinsonii</i> and <i>sprirosticha</i>)</p> <p><i>Euphorbia francoisii</i> (I)</p> <p><i>Euphorbia handiensis</i> (II)</p> <p><i>Euphorbia lambii</i> (II)</p> <p><i>Euphorbia moratii</i> (I) (Includes the vars. <i>antsingiensis</i>, <i>bemarahensis</i> and <i>multiflora</i>)</p> <p><i>Euphorbia parvicyathophora</i> (I)</p> <p><i>Euphorbia quartziticola</i> (I)</p> <p><i>Euphorbia stygiana</i> (II)</p> <p><i>Euphorbia tulearensis</i> (I)</p>	<p>(4) artificially propagated specimens of cultivars of <i>Euphorbia 'Mili'</i> when they are:</p> <ul style="list-style-type: none"> — readily recognisable as artificially propagated specimens, and — introduced into or (re-)exported from the Union in shipments of 100 or more plants; which are not subject to this Regulation, and <p>(5) the species included in Annex A)</p>		

	Annex A	Annex B	Annex C	Common name
FAGACEAE			<i>Quercus mongolica</i> (III Russian Federation) #5	Beeches, oaks Mongolian oak
FOUQUIERIACEAE	<i>Fouquieria fasciculata</i> (I) <i>Fouquieria purpusii</i> (I)	<i>Fouquieria columnaris</i> (II) #4		Ocotillos, boojums Boojum tree Arbol del barril
GNETACEAE			<i>Gnetum montanum</i> (III Nepal) #1	Joint firs
JUGLANDACEAE		<i>Oreomunnea pterocarpa</i> (II) #4		Walnuts, gavilan Gavilàn
LAURACEAE		<i>Aniba rosaeodora</i> (II) (also known as <i>A. duckei</i>) #12		Brazilian rosewood
LEGUMINOSAE (FABACEAE)	<i>Dalbergia nigra</i> (I)	<i>Dalbergia</i> spp. (II) (Except for the species included in Annex A) #15 <i>Guibourtia demeusei</i> (II) #15 <i>Guibourtia pellegriniana</i> (II) #15 <i>Guibourtia tessmannii</i> (II) #15 <i>Paubrasilia echinata</i> (II) #10 <i>Pericopsis elata</i> (II) #17 <i>Platymiscium parviflorum</i> (II) #4	<i>Dipteryx panamensis</i> (III Costa Rica/Nicaragua)	Legumes Brazilian rosewood Almendro Red bubinga Rose bubinga, kevazingo Rose bubinga, kevazingo Brazil wood Afromosia Quira macawood

	Annex A	Annex B	Annex C	Common name
		<i>Pterocarpus erinaceus</i> (II) <i>Pterocarpus santalinus</i> (II) #7 <i>Pterocarpus tinctorius</i> (II) #6 <i>Senna meridionalis</i> (II)		African rosewood, Senegalese rosewood, kosso Red sandalwood African padauk Taraby
LILIACEAE		<i>Aloe</i> spp. (II) (Except for the species included in Annex A and <i>Aloe vera</i> , also known as <i>Aloe barbadensis</i> , which is not included in the Annexes) #4 <i>Aloe albida</i> (I) <i>Aloe albiflora</i> (I) <i>Aloe alfredii</i> (I) <i>Aloe bakeri</i> (I) <i>Aloe bellatula</i> (I) <i>Aloe calcairophila</i> (I) <i>Aloe compressa</i> (I) (Includes the vars. <i>paucituberculata</i> , <i>rugosquamosa</i> and <i>schistophila</i>) <i>Aloe delphinensis</i> (I) <i>Aloe descoingsii</i> (I) <i>Aloe fragilis</i> (I) <i>Aloe haworthioides</i> (I) (Includes the var. <i>aurantiaca</i>) <i>Aloe helenae</i> (I) <i>Aloe laeta</i> (I) (Includes the var. <i>man-iaensis</i>) <i>Aloe parallelifolia</i> (I)		Lilies Aloes

	Annex A	Annex B	Annex C	Common name
	<i>Aloe parvula</i> (I) <i>Aloe pillansii</i> (I) <i>Aloe polyphylla</i> (I) <i>Aloe rauhii</i> (I) <i>Aloe suzannae</i> (I) <i>Aloe versicolor</i> (I) <i>Aloe vossii</i> (I)			
MAGNOLIACEAE			<i>Magnolia liliifera</i> var. <i>obovata</i> (III Nepal) #1	Magnolias Safan
MALVACEAE		<i>Adansonia grandidieri</i> (II) #16		Grandidier's baobab
MELIACEAE		<i>Cedrela</i> spp. #6 (Populations of the Neotropics, this inclusion will enter into effect on 28 August 2020) <i>Swietenia humilis</i> (II) #4 <i>Swietenia macrophylla</i> (II) (Population of the Neotropics — includes Central and South America and the Caribbean) #6	<i>Cedrela fissilis</i> (III Bolivia, Brazil) #5 (until 27 August 2020) <i>Cedrela lilloi</i> (III Bolivia, Brazil) #5 (until 27 August 2020) <i>Cedrela odorata</i> (III Bolivia/Brazil. In addition, the following countries have listed their national populations: Colombia, Guatemala and Peru) #5 (until 27 August 2020)	Mahoganies, cedars Spanish cedar Honduras mahogany Big-leaf mahogany

	Annex A	Annex B	Annex C	Common name
	<p><i>Goodyera macrophylla</i> (II)</p> <p><i>Liparis loeselii</i> (II)</p> <p><i>Mexipedium xerophyticum</i> (I)</p> <p><i>Ophrys argolica</i> (II)</p> <p><i>Ophrys lunulata</i> (II)</p> <p><i>Orchis scopulorum</i> (II)</p> <p><i>Paphiopedilum</i> spp. (I)</p> <p><i>Peristeria elata</i> (I)</p> <p><i>Phragmipedium</i> spp. (I)</p> <p><i>Renanthera imschootiana</i> (I)</p> <p><i>Spiranthes aestivalis</i> (II)</p>			<p>Madeiran lady's-tresses</p> <p>Fen orchid</p> <p>Eyed bee orchid</p> <p>Crescent ophrys</p> <p>Madeiran orchid</p> <p>Asian slipper orchids</p> <p>Holy ghost orchid</p> <p>South American slipper orchids</p> <p>Red vanda</p> <p>Summer lady's-tresses</p>
OROBANCHACEAE		<i>Cistanche deserticola</i> (II) #4		<p>Broomrapes</p> <p>Desert cistanche</p>
PALMAE (ARECACEAE)	<i>Dypsis decipiens</i> (I)	<p><i>Beccariophoenix madagascariensis</i> (II) #4</p> <p><i>Dypsis decaryi</i> (II) #4</p> <p><i>Lemurophoenix halleuxii</i> (II)</p> <p><i>Marojejya darianii</i> (II)</p> <p><i>Ravenea louvelii</i> (II)</p> <p><i>Ravenea rivularis</i> (II)</p> <p><i>Satranala decussilvae</i> (II)</p> <p><i>Voanioala gerardii</i> (II)</p>	<i>Lodoicea maldivica</i> (III Seychelles) #13	<p>Palms</p> <p>Manarano</p> <p>Triangle palm</p> <p>Butterfly palm</p> <p>Hovitra varimena</p> <p>Coco de Mer</p> <p>Ravimbe</p> <p>Lakamarefo</p> <p>Gora</p> <p>Satranabe</p> <p>Voanioala</p>

	Annex A	Annex B	Annex C	Common name
PAPAVERACEAE			<i>Meconopsis regia</i> (III Nepal) #1	Poppies Himalayan poppy
PASSIFLORACEAE		<i>Adenia firingalavensis</i> (II) <i>Adenia olaboensis</i> (II) <i>Adenia subsessilifolia</i> (II)		Bottle liana Vahisasety Katakata
PEDALIACEAE		<i>Uncarina grandidieri</i> (II) <i>Uncarina stellulifera</i> (II)		Pedaliium family Uncarina Uncarina
PINACEAE	<i>Abies guatemalensis</i> (I)		<i>Pinus koraiensis</i> (III Russian Federation) #5	Pine family Guatemalan fir
PODOCARPACEAE	<i>Podocarpus parlatorei</i> (I)		<i>Podocarpus neriifolius</i> (III Nepal) #1	Podocarps Yellow wood Parlatore's podocarp
PORTULACACEAE		<i>Anacampseros</i> spp. (II) #4 <i>Avonia</i> spp. (II) #4 <i>Lewisia serrata</i> (II) #4		Portulacas, purslanes Purslanes Saw-toothed lewisia
PRIMULACEAE		<i>Cyclamen</i> spp. (II) (*) #4		Primulas, cyclamens Cyclamens
RANUNCULACEAE		<i>Adonis vernalis</i> (II) #2 <i>Hydrastis canadensis</i> (II) #8		Buttercups Yellow adonis Golden seal

	Annex A	Annex B	Annex C	Common name
ROSACEAE		<i>Prunus africana</i> (II) #4		Roses, cherries African cherry
RUBIACEAE	<i>Balmea stormiae</i> (I)			Ayugue Ayugue
SANTALACEAE		<i>Osyris lanceolata</i> (II) (Only the populations of Burundi, Ethiopia, Kenya, Rwanda, Uganda and the United Republic of Tanzania; no other population is included in the Annexes) #2		East African sandalwood
SARRACENIACEAE	<i>Sarracenia oreophila</i> (I) <i>Sarracenia rubra</i> ssp. <i>alabamensis</i> (I) <i>Sarracenia rubra</i> ssp. <i>jonesii</i> (I)	<i>Sarracenia</i> spp. (II) (Except for the species included in Annex A) #4		Pitcher plants (new world) Pitcher plants Green pitcher plant Alabama canebrake pitcher plant Mountain sweet pitcher plant
SCROPHULARIACEAE		<i>Picrorhiza kurrooa</i> (II) (excludes <i>Picrorhiza scrophulariiflora</i>) #2		Figworts Indian gentian
STANGERIACEAE	<i>Stangeria eriopus</i> (I)	<i>Bowenia</i> spp. (II) #4		Stangerias (cycads) Cycads Stangeria
TAXACEAE		<i>Taxus chinensis</i> and infraspecific taxa of this species (II) #2 <i>Taxus cuspidata</i> and infraspecific taxa of this species (II) ^(1°) #2		Yews Chinese yew Japanese yew

	Annex A	Annex B	Annex C	Common name
		<i>Taxus fuana</i> and infraspecific taxa of this species (II) #2 <i>Taxus sumatrana</i> and infraspecific taxa of this species (II) #2 <i>Taxus wallichiana</i> (II) #2		Tibetan yew Sumatran yew Himalayan yew
THYMELAEACEAE (AQUILARIACEAE)		<i>Aquilaria</i> spp. (II) #14 <i>Gonystylus</i> spp. (II) #4 <i>Gyrinops</i> spp. (II) #14		Agarwood, ramin Agarwood Ramin Agarwood
TROCHODENDRACEAE (TETRACENTRACEAE)			<i>Tetracentron sinense</i> (III Nepal) #1	Tetracentrons
VALERIANACEAE		<i>Nardostachys grandiflora</i> (II) #2		Valerians
VITACEAE		<i>Cyphostemma elephantopus</i> (II) <i>Cyphostemma laza</i> (II) <i>Cyphostemma montagnacii</i> (II)		Lazampasika Laza Lazambohitra
WELWITSCHIACEAE		<i>Welwitschia mirabilis</i> (II) #4		Welwitschias Welwitschia
ZAMIACEAE	<i>Ceratozamia</i> spp. (I) <i>Encephalartos</i> spp. (I)	ZAMIACEAE spp. (II) (Except for the species included in Annex A) #4		Cycads Cycads Horncones Bread palms

	Annex A	Annex B	Annex C	Common name
	<i>Microcycas calocoma</i> (I) <i>Zamia restrepoi</i> (I)			Palm corcho
ZINGIBERACEAE		<i>Hedychium philippinense</i> (II) #4 <i>Siphonochilus aethiopicus</i> (II) (Populations of Mozambique, Eswatini, South Africa and Zimbabwe)		Ginger lilies Philippine garland-flower Natal ginger
ZYGOPHYLLACEAE		<i>Bulnesia sarmientoi</i> (II) #11 <i>Guaiacum</i> spp. (II) #2		Lignum-vitae Holy wood Lignum-vitae

(*) This taxon is referred to as *Ovis ammon* in Annex XIII to Commission Regulation (EC) No 865/2006.

(1) For the exclusive purpose of allowing international trade in fibre from vicuñas (*Vicugna vicugna*) and their derivative products, only if the fibre comes from the shearing of live vicuñas. Trade in products derived from the fibre may only take place in accordance with the following provisions:

(a) Any person or entity processing vicuña fibre to manufacture cloth and garments must request authorization from the relevant authorities of the country of origin [Countries of origin: The countries where the species occurs, that is, Argentina, Bolivia, Chile, Ecuador and Peru] to use the “vicuña country of origin” wording, mark or logo adopted by the range States of the species that are signatories to the Convention for the Conservation and Management of the Vicuña.

(b) Marketed cloth or garments must be marked or identified in accordance with the following provisions:

(i) For international trade in cloth made from live-sheared vicuña fibre, whether the cloth was produced within or outside of the range States of the species, the wording, mark or logo must be used so that the country of origin can be identified. The VICUÑA [COUNTRY OF ORIGIN] wording, mark or logo has the format as detailed below:



This wording, mark or logo must appear on the reverse side of the cloth. In addition, the selvages of the cloth must bear the words VICUÑA [COUNTRY OF ORIGIN].

(ii) For international trade in garments made from live-sheared vicuña fibre, whether the garments were produced within or outside of the range States of the species, the wording, mark or logo indicated in paragraph b) i) must be used. This wording, mark or logo must appear on a label in the garment itself. If the garments are produced outside of the country of origin, the name of the country where the garment was produced should also be indicated, in addition to the wording, mark or logo referred to in paragraph b) i).

(c) For international trade in handicraft products made from live-sheared vicuña fibre produced within the range States of the species, the VICUÑA [COUNTRY OF ORIGIN] - ARTESANÍA wording, mark or logo must be used as detailed below:



(d) If live-sheared vicuña fibre from various countries of origin is used for the production of cloth and garments, the wording, mark or logo of each of the countries of origin of the fibre must be indicated, as detailed in paragraphs b) i) and ii).

(e) All other specimens shall be deemed to be specimens of species listed in Appendix I and the trade in them shall be regulated accordingly.

(²) All species are listed in Appendix II to the Convention except *Balaena mysticetus*, *Eubalaena* spp., *Balaenoptera acutorostrata* (except population of West Greenland), *Balaenoptera bonaerensis*, *Balaenoptera borealis*, *Balaenoptera edeni*, *Balaenoptera musculus*, *Balaenoptera omurai*, *Balaenoptera physalus*, *Megaptera novaeangliae*, *Orcaella brevirostris*, *Orcaella heinsohni*, *Sotalia* spp., *Sousa* spp., *Eschrichtius robustus*, *Lipotes vexillifer*, *Caperea marginata*, *Neophocaena asiaorientalis*, *Neophocaena phocaenoides*, *Phocoena sinus*, *Physeter macrocephalus*, *Platanista* spp., *Berardius* spp., *Hyperoodon* spp., which are listed in Appendix I. Specimens of the species listed in Appendix II to the Convention, including products and derivatives other than meat products for commercial purposes, taken by the people of Greenland under licence granted by the competent authority concerned, shall be treated as belonging to Annex B. A zero annual export quota is established for live specimens from the Black Sea population of *Tursiops truncatus* removed from the wild and traded for primarily commercial purposes.

(³) Populations of Botswana, Namibia, South Africa and Zimbabwe (listed in Annex B):

For the exclusive purpose of allowing: (a) trade in hunting trophies for non-commercial purposes; (b) trade in live animals to appropriate and acceptable destinations as defined in Resolution Conf. 11.20 (Rev. CoP18) for Botswana and Zimbabwe and for *in situ* conservation programmes for Namibia and South Africa; (c) trade in hides; (d) trade in hair; (e) trade in leather goods for commercial or non-commercial purposes for Botswana, Namibia and South Africa and for non-commercial purposes for Zimbabwe; (f) trade in individually marked and certified Ekipas incorporated in finished jewellery for non-commercial purposes for Namibia and ivory carvings for non-commercial purposes for Zimbabwe; (g) trade in registered raw ivory (for Botswana, Namibia, South Africa and Zimbabwe whole tusks and pieces) subject to the following: (i) only registered government-owned stocks, originating in the State (excluding seized ivory and ivory of unknown origin); (ii) only to trading partners that have been verified by the Secretariat, in consultation with the Standing Committee, to have sufficient national legislation and domestic trade controls to ensure that the imported ivory will not be re-exported and will be managed in accordance with all requirements of Resolution Conf. 10.10 (Rev. CoP18) concerning domestic manufacturing and trade; (iii) not before the Secretariat has verified the prospective importing countries and the registered government-owned stocks; (iv) raw ivory pursuant to the conditional sale of registered government-owned ivory stocks agreed at CoP12 which are 20,000 kg (Botswana), 10,000 kg (Namibia) and 30,000 kg (South Africa); (v) in addition to the quantities agreed at CoP12, government-owned ivory from Botswana, Namibia, South Africa and Zimbabwe registered by 31 January 2007 and verified by the Secretariat may be traded and despatched, with the ivory in paragraph (g)(iv) above in a single sale per destination under strict supervision of the Secretariat; (vi) the proceeds of the trade are used exclusively for elephant conservation and community conservation and development programmes within or adjacent to the elephant range; and (vii) the additional quantities specified in paragraph (g)(v) above shall be traded only after the Standing Committee has agreed that the above conditions have been met; (h) no further proposals to allow trade in elephant ivory from populations already in Annex B shall be submitted to the Conference of the Parties for the period from CoP14 and ending nine years from the date of the single sale of ivory that is to take place in accordance with provisions in paragraphs (g)(i), (g)(ii), (g)(iii), (g)(vi), and (g)(vii). In addition, such further proposals shall be dealt with in accordance with Decisions 14.77 and 14.78 (Rev. CoP15). On a proposal from the Secretariat, the Standing Committee can decide to cause this trade to cease partially or completely in the event of non-compliance by exporting or importing countries, or in the case of proven detrimental impacts of the trade on other elephant populations. All other specimens shall be deemed to be specimens of species included in Annex A and the trade in them shall be regulated accordingly.

(⁴) The following are not subject to the provisions of this Regulation:

Fossils;

Coral sand, that is to say, material consisting entirely or in part of finely crushed fragments of dead coral no larger than 2 mm in diameter, not identifiable to the level of genus, and which may also contain, amongst other things, the remains of Foraminifera, mollusc and crustacean shell, and coralline algae;

Coral fragments (including gravel and rubble), that is to say, unconsolidated fragments of broken finger-like dead coral and other material between 2 and 30 mm measured in any direction, not identifiable to the level of genus.

(⁵) Trade of specimens with source code A is allowed only if specimens traded possess cataphylls.

(⁶) Artificially propagated specimens of the following hybrids and/or cultivars are not subject to the provisions of this Regulation:

Hatiora x graeseri

Schlumbergera x buckleyi

Schlumbergera russelliana x Schlumbergera truncata

Schlumbergera orsichiana x Schlumbergera truncata

Schlumbergera opuntioides x Schlumbergera truncata

Schlumbergera truncata (cultivars)

Cactaceae spp. colour mutants grafted on the following grafting stocks: *Harrisia 'Jusbertii'*, *Hylocereus trigonus* or *Hylocereus undatus*

Opuntia microdasys (cultivars)

(⁷) Artificially propagated hybrids of *Cymbidium*, *Dendrobium*, *Phalaenopsis* and *Vanda* are not subject to the provisions of this Regulation, when specimens are readily recognizable as artificially propagated and do not show any signs of having been collected in the wild such as mechanical damage or strong dehydration resulting from collection, irregular growth and heterogeneous size and shape within a taxon and shipment, algae or other epiphyllous organisms adhering to leaves, or damage by insects or other pests; and

(a) when shipped in non flowering state, the specimens must be traded in shipments consisting of individual containers (such as cartons, boxes, crates or individual shelves of CC-containers) each containing 20 or more plants of the same hybrid; the plants within each container must exhibit a high degree of uniformity and healthiness; and the shipment must be accompanied by documentation, such as an invoice, which clearly states the number of plants of each hybrid; or

(b) when shipped in flowering state, with at least one fully open flower per specimen, no minimum number of specimens per shipment is required but specimens must be professionally processed for commercial retail sale, e.g. labelled with printed labels or packaged with printed packages indicating the name of the hybrid and the country of final processing. This should be clearly visible and allow easy verification.

Plants not clearly qualifying for the exemption must be accompanied by appropriate CITES documents.

⁽⁸⁾ Commission Regulation (EC) No 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein (OJ L 166, 19.6.2006, p. 1).

⁽⁹⁾ Artificially propagated specimens of cultivars of *Cyclamen persicum* are not subject to the provisions of this Regulation. However, the exemption does not apply to such specimens traded as dormant tubers.

⁽¹⁰⁾ Artificially propagated hybrids and cultivars of *Taxus cuspidata*, live, in pots or other small containers, each consignment being accompanied by a label or document stating the name of the taxon or taxa and the text 'artificially propagated', are not subject to the provisions of this Regulation.

	Annex D	Common name
FAUNA		
CHORDATA (CHORDATES)		
MAMMALIA		Mammals
CARNIVORA		
Canidae		Dogs, foxes, wolves
	<i>Vulpes vulpes griffithi</i> (III India) §1	Red fox
	<i>Vulpes vulpes montana</i> (III India) §1	Red fox
	<i>Vulpes vulpes pusilla</i> (III India) §1	Red fox
Mustelidae		Badgers, martens, weasels etc.
	<i>Mustela altaica</i> (III India) §1	Mountain weasel
	<i>Mustela erminea ferghanae</i> (III India) §1	Stoat
	<i>Mustela kathiah</i> (III India) §1	Yellow-bellied weasel
	<i>Mustela sibirica</i> (III India) §1	Siberian weasel
DIPROTODONTIA		
Macropodidae		Kangaroos, wallabies
	<i>Dendrolagus dorianus</i>	Doria's tree-kangaroo
	<i>Dendrolagus goodfellowi</i>	Goodfellow's tree-kangaroo
	<i>Dendrolagus matschiei</i>	Huon tree-kangaroo
	<i>Dendrolagus pulcherrimus</i>	Golden-mantled tree-kangaroo
	<i>Dendrolagus stellarum</i>	Seri's tree-kangaroo
AVES		Birds
ANSERIFORMES		
Anatidae		Ducks, geese, swans
	<i>Anas melleri</i>	Meller's duck

	Annex D	Common name
COLUMBIFORMES		
Columbidae		Doves, pigeons
	<i>Columba oenops</i>	Peruvian pigeon
	<i>Didunculus strigirostris</i>	Tooth-billed pigeon
	<i>Ducula pickeringii</i>	Grey imperial-pigeon
	<i>Gallicolumba crinigera</i>	Mindanao bleeding-heart
	<i>Ptilinopus marchei</i>	Flame-breasted fruit-dove
	<i>Turacoena modesta</i>	Black cuckoo-dove
GALLIFORMES		
Cracidae		Chachalacas, curassows, guans
	<i>Crax alector</i>	Black curassow
	<i>Pauxi unicornis</i>	Horned curassow
	<i>Penelope pileata</i>	White-crested guan
Megapodiidae		Megapodes, scrubfowl
	<i>Eulipoa wallacei</i>	Moluccan scrubfowl
Phasianidae		Grouse, guineafowl, partridges, pheasants, tragopans
	<i>Arborophila gingica</i>	White-necklaced partridge
	<i>Lophura bulweri</i>	Bulwer's pheasant
	<i>Lophura diardi</i>	Siamese fireback
	<i>Lophura inornata</i>	Salvadori's pheasant
PASSERIFORMES		
Bombycillidae		Waxwings
	<i>Bombycilla japonica</i>	Japanese waxwing
Corvidae		Crows, magpies, jays
	<i>Cyanocorax caeruleus</i>	Azure jay
	<i>Cyanocorax dickeyi</i>	Tufted jay

	Annex D	Common name
Cotingidae	<i>Procnias nudicollis</i>	Cotingas Bare-throated bellbird
Emberizidae	<i>Dacnis nigripes</i> <i>Sporophila falcirostris</i> <i>Sporophila frontalis</i> <i>Sporophila hypochroma</i> <i>Sporophila palustris</i>	Cardinals, seedeaters, tanagers Black-legged dacnis Temminck's seedeater Buffy-throated seedeater Grey-and-chestnut seedeater Marsh seedeater
Estrildidae	<i>Amandava amandava</i> <i>Cryptospiza reichenovii</i> <i>Erythrura coloria</i> <i>Erythrura viridifacies</i> <i>Estrilda quartinia</i> (Frequently traded as <i>Estrilda melanotis</i>) <i>Hypargos niveoguttatus</i> <i>Lonchura griseicapilla</i> <i>Lonchura punctulata</i> <i>Lonchura stygia</i>	Mannikins, waxbills Red avadavat Red-faced crimson-wing Red-eared parrotfinch Green-faced parrotfinch Yellow-bellied waxbill Peters's twinspace Grey-headed silverbill Scaly-breasted munia Black munia
Fringillidae	<i>Carduelis ambigua</i> <i>Carduelis atrata</i> <i>Kozlowia roborowskii</i> <i>Pyrrhula erythaca</i> <i>Serinus canicollis</i> <i>Serinus citrinelloides hypostictus</i> (Frequently traded as <i>Serinus citrinelloides</i>)	Finches Black-headed greenfinch Black siskin Tibetan rosefinch Grey-headed bullfinch Cape canary East African citril

	Annex D	Common name
Icteridae	<i>Sturnella militaris</i>	New-world blackbirds Pampas meadowlark
Muscicapidae	<i>Cochoa azurea</i> <i>Cochoa purpurea</i> <i>Garrulax formosus</i> <i>Garrulax galbanus</i> <i>Garrulax milnei</i> <i>Niltava davidi</i> <i>Stachyris whiteheadi</i> <i>Swynnertonia swynnertoni</i> (Also referenced as <i>Pogonicichla swynnertoni</i>) <i>Turdus dissimilis</i>	Old-world flycatchers, thrushes Javan cochoa Purple cochoa Red-winged laughingthrush Yellow-throated laughingthrush Red-tailed laughing thrush Fujian niltava Chestnut-faced babbler Swynnerton's robin Black-breasted thrush
Pittidae	<i>Pitta nipalensis</i> <i>Pitta steerii</i>	Pittas Blue-naped pitta Azure-breasted pitta
Sittidae	<i>Sitta magna</i> <i>Sitta yunnanensis</i>	Nuthatches Giant nuthatch Yunnan nuthatch
Sturnidae	<i>Lamprotornis regius</i> <i>Mino dumontii</i> <i>Sturnus erythropygius</i>	Mynas, starlings Golden-breasted starling Yellow-faced myna White-headed starling

	Annex D	Common name
REPTILIA		Reptiles
SAURIA		
Agamidae	<i>Physignathus cocincinus</i>	Chinese water dragon
Gekkonidae	<i>Rhacodactylus auriculatus</i> <i>Rhacodactylus ciliatus</i> <i>Rhacodactylus leachianus</i> <i>Teratoscincus microlepis</i> <i>Teratoscincus scincus</i>	Geckos New Caledonia bumpy gecko Guichenot's giant gecko New Caledonia giant gecko Small-scaled wonder gecko Common wonder gecko
Gerrhosauridae	<i>Zonosaurus karsteni</i> <i>Zonosaurus quadrilineatus</i>	Spiny-tailed lizards Karsten's girdled lizard Four-lined girdled lizard
Scincidae	<i>Tribolonotus gracilis</i> <i>Tribolonotus novaeguineae</i>	Skinks Crocodile skink New Guinea helmet skink
SERPENTES		
Colubridae	<i>Elaphe carinata</i> §1 <i>Elaphe radiata</i> §1 <i>Elaphe taeniura</i> §1 <i>Enhydris bocourti</i> §1 <i>Homalopsis buccata</i> §1 <i>Langaha nasuta</i> <i>Leioheterodon madagascariensis</i> <i>Ptyas korros</i> §1 <i>Rhabdophis subminiatus</i> §1	Typical snakes, water snakes, whip snakes Taiwan stink snake Radiated rat snake Taiwan beauty snake Bocourt's water snake Masked water snake Northern leafnose snake Madagascar menarana snake Indochinese rat snake Redneck keelback

	Annex D	Common name
Hydrophiidae	<i>Lapemis curtus</i> (Includes <i>Lapemis hardwickii</i>) §1	Sea snakes Shaw's sea snake
Viperidae	<i>Calloselasma rhodostoma</i> §1	Vipers Malayan pit viper
AMPHIBIA		
ANURA		Frogs and toads
Dicroglossidae	<i>Limnonectes macrodon</i>	Frogs Fanged River Frog or Javan Giant Frog
Hylidae	<i>Phyllomedusa sauvagii</i>	Tree frogs Waxy monkey tree frog
Leptodactylidae	<i>Leptodactylus laticeps</i>	Neotropical frogs Red spotted burrow frog
Ranidae	<i>Pelophylax shqiperica</i>	Frogs Albanian pool frog
CAUDATA		
Hynobiidae	<i>Ranodon sibiricus</i>	Asiatic salamanders Semirechensk salamander/Central Asian salamander/Siberian salamander
Plethodontidae	<i>Bolitoglossa dofleini</i>	Lungless salamanders Giant palm salamander
Salamandridae	<i>Cynops ensicauda</i> <i>Echinotriton andersoni</i> <i>Laotriton laoensis</i> <i>Liangshantriton taliangensis</i>	Newts and salamanders Sword-tailed newt Anderson's salamander Paddletail newt

	Annex D	Common name
ACTINOPTERYGII		Fish
PERCIFORMES		
Apogonidae	<i>Pterapogon kauderni</i>	Banggai cardinalfish
ARTHROPODA (ARTHROPODS)		
INSECTA		Insects
LEPIDOPTERA		Butterflies
Papilionidae	<i>Baronia brevicornis</i>	Birdwing and swallow-tail butterflies
	<i>Papilio grosesmithi</i>	Short-horned baronia
	<i>Papilio maraho</i>	Broad-tailed swallowtail
MOLLUSCA (MOLLUSCS)		
GASTROPODA		
Haliotidae	<i>Haliotis midae</i>	Midas ear abalone
FLORA		
AGAVACEAE	<i>Calibanus hookeri</i>	Agaves
	<i>Dasyllirion longissimum</i>	Beargrass
ARACEAE	<i>Arisaema dracontium</i>	Arums
	<i>Arisaema erubescens</i>	Green dragon
	<i>Arisaema galeatum</i>	
	<i>Arisaema nepenthoides</i>	
	<i>Arisaema sikokianum</i>	
	<i>Arisaema thunbergii</i> var. <i>urashima</i>	

	Annex D	Common name
	<i>Arisaema tortuosum</i> <i>Biarum davisii</i> ssp. <i>marmarisense</i> <i>Biarum ditschianum</i>	
COMPOSITAE (ASTERACEAE)	<i>Arnica montana</i> §3 <i>Othonna cacalioides</i> <i>Othonna clavifolia</i> <i>Othonna hallii</i> <i>Othonna herrei</i> <i>Othonna lepidocaulis</i> <i>Othonna retrorsa</i>	Asters, daisies, costus Mountain tobacco
ERICACEAE	<i>Arctostaphylos uva-ursi</i> §3	Heathers, rhododendrons Bearberry
GENTIANACEAE	<i>Gentiana lutea</i> §3	Gentians Great yellow gentian
LILIACEAE	<i>Trillium pusillum</i> <i>Trillium rugelii</i> <i>Trillium sessile</i>	Wakerobins Dwarf wakerobin Ill-scented wakerobin Sessile-flowered wakerobin wood-lily
LYCOPODIACEAE	<i>Lycopodium clavatum</i> §3	Clubmosses Stagshorn clubmoss
MELIACEAE	<i>Cedrela montana</i> §4 (until 27 August 2020) <i>Cedrela oaxacensis</i> §4 (until 27 August 2020) <i>Cedrela salvadorensis</i> §4 (until 27 August 2020) <i>Cedrela tonduzii</i> §4 (until 27 August 2020)	Mahoganies, cedars

	Annex D	Common name
MENYANTHACEAE	<i>Menyanthes trifoliata</i> §3	Bogbeans Bogbean
PARMELIACEAE	<i>Cetraria islandica</i> §3	Parmelioid lichens Icelandic moss
PASSIFLORACEAE	<i>Adenia glauca</i> <i>Adenia pechuelli</i>	Desert roses Desert rose Desert rose
PEDALIACEAE	<i>Harpagophytum</i> spp. §3	Sesame, devil's claw Devil's claw
PORTULACACEAE	<i>Ceraria carrissoana</i> <i>Ceraria fruticulosa</i>	Portulas, purslanes
SELAGINELLACEAE	<i>Selaginella lepidophylla</i>	Clubmosses, spikemosses Rose of Jericho

COMMISSION IMPLEMENTING REGULATION (EU) 2019/2118

of 10 December 2019

amending Implementing Regulation (EU) 2019/1693 imposing a provisional anti-dumping duty on imports of steel road wheels originating in the People's Republic of China

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾, and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

- (1) Commission Implementing Regulation (EU) 2019/1693 ⁽²⁾ imposing a provisional anti-dumping duty on imports of steel road wheels originating in the People's Republic of China was published on 10 October 2019,
- (2) In Annex I to the Regulation published, the TARIC additional codes were missing. Therefore, Annex I should be amended in order to add the missing TARIC additional codes,

HAS ADOPTED THIS REGULATION:

Article 1

The table in Annex I should be replaced as follows:

Name	TARIC additional code
Dongfeng Automobile Chassis System Co., Ltd (also called 'Dongfeng Automotive Wheel Co., Ltd')	C511
Hangzhou Forlong Impex Co., Ltd	C512
Hangzhou Xingjie Auto Parts Manufacturing Co., Ltd	C513
Jiaxing Henko Auto Spare Parts Co., Ltd	C514
Jining Junda Machinery Manufacturing Co., Ltd	C515
Nantong Tuenz Corporate Co., Ltd	C516
Ningbo Luxiang Autoparts Manufacturing Co., Ltd	C517
Shandong Zhengshang Wheel Technology Co., Ltd	C518
Shandong Zhengyu Wheel Group Co., Ltd	C519
Xiamen Sunrise Group Co., Ltd	C520
Yantai Leeway Electromechanical Equipment Co., Ltd	C521
Yongkang Yuefei Wheel Co., Ltd	C522
Zhejiang Jingu Co., Ltd	C523
Zhejiang Fengchi Mechanical Co., Ltd	C524
Zhengxing Wheel Group Co., Ltd	C525
Zhenjiang R&D Auto Parts Co., Ltd	C526'

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ L 259, 10.10.2019, p. 15.

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, 10 December 2019.

For the Commission
The President
Ursula VON DER LEYEN

DECISIONS

COUNCIL DECISION (EU) 2019/2119

of 21 November 2019

on the position to be taken, on behalf of the European Union, at the third meeting of the Conference of the Parties to the Minamata Convention on Mercury, as regards the adoption of a Decision establishing thresholds for mercury waste, as referred to in Article 11(2) of that Convention

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Minamata Convention on Mercury ⁽¹⁾ ('the Convention') was concluded by the Union by means of Council Decision (EU) 2017/939 ⁽²⁾ and entered into force on 16 August 2017.
- (2) Pursuant to Decision MC-1/1 on Rules of Procedures adopted by the Conference of the Parties to the Convention at its first meeting, the Parties are to make every effort to reach agreement on all matters of substance by consensus.
- (3) The Conference of the Parties to the Convention, during its third meeting on 25-29 November 2019 (COP3), is expected to adopt a Decision ('the proposed Decision') on thresholds for mercury waste, as referred to in Article 11(2) of the Convention, which would, as a result, define the scope of application of Article 11 (mercury wastes) of the Convention. Mercury waste that would fall under Article 11(2) of the Convention is to be subject to environmentally sound management by virtue of Article 11(3) of the Convention. Any threshold set pursuant to Article 11(2) of the Convention, including for waste contaminated with mercury or mercury compounds, should therefore be established at a level ensuring that all such waste displaying hazards for human health or to the environment is subject to environmentally sound management.
- (4) It is appropriate to establish the position to be taken, on behalf of the Union, at COP3, as the proposed Decision, if adopted, will have legal effects since the Parties to the Convention will have to take measures to implement it at national or regional levels, or both.
- (5) The Union contributed significantly to the development of the waste provisions of the Convention and to the intersessional expert work launched by Decision MC-2/2 adopted by the Conference of the Parties to the Convention at its second meeting, which has led to the proposed Decision.
- (6) The Union *acquis* already requires that all mercury waste that is referred to in Article 11(2) of the Convention be managed without endangering human health and without harming the environment irrespective of the mercury content of such waste.
- (7) The Union should only support the adoption of a Decision at COP3 that is consistent with the Union *acquis*,

⁽¹⁾ OJ L 142, 2.6.2017, p. 6.

⁽²⁾ Council Decision (EU) 2017/939 of 11 May 2017 on the conclusion on behalf of the European Union of the Minamata Convention on Mercury (OJ L 142, 2.6.2017, p. 4).

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken, on behalf of the Union, in the third meeting of the Conference of the Parties to the Minamata Convention on Mercury (COP3) shall be to support the adoption of a Decision on thresholds for mercury waste that is consistent with the Union *acquis*.

Article 2

Refinement of the position referred to in Article 1, to the extent it is consistent with the Union *acquis*, may be agreed to, in the light of developments at COP3, by the representatives of the Union, in consultation with Member States during on-the-spot coordination meetings, without a further decision of the Council.

Article 3

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

Done at Brussels, 21 November 2019.

For the Council
The President
H. KOSONEN

COMMISSION DECISION (EU) 2019/2120**of 24 June 2019****on State aid granted by Belgium to JCDecaux Belgium Publicité (SA.33078 (2015/C) (ex 2015/NN))***(notified under document C(2019) 4466)***(Only the French and Dutch versions are authentic)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union and in particular the first subparagraph of Article 108 (2) thereof,

Having regard to the Agreement on the European Economic Area and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽¹⁾ and having regard to their comments,

Whereas:

1. PROCEDURE

- (1) By letter of 19 April 2011, recorded as incoming mail on 26 April 2011, the Commission received a complaint lodged by Clear Channel Belgium ('CCB') against the Belgian State concerning the alleged granting of unlawful aid incompatible with the internal market to its competitor, JCDecaux Street Furniture Belgium ('JCD'), formerly JCDecaux Belgium Publicité SA.
- (2) On 29 May 2013, the Commission received a second complaint concerning the alleged granting of unlawful aid incompatible with the internal market to JCD. The complainant ('the second complainant') wished its identity to remain confidential.
- (3) By letter of 24 March 2015 the Commission notified Belgium of its decision to initiate the procedure provided for in Article 108(2) of the Treaty on the Functioning of the European Union ('TFEU') in regard to the alleged aid measures.
- (4) The decision by the Commission to initiate the procedure ('the opening decision') was published in the *Official Journal of the European Union* on 19 June 2015 ⁽²⁾. The Commission invited the interested parties to submit their comments on the alleged aid measures in question.
- (5) Belgium submitted its comments on 21 July 2015. The Commission received written comments from CCB on 16 July 2015, and from the second complainant which has asked for its identity to remain confidential and from JCD on 17 July 2015. The Commission forwarded the interested parties' comments on the opening decision to Belgium by letters of 24 July and 13 August 2015. It received Belgium's comments on these by letter of 2 October 2015.
- (6) Additional discussions and exchanges also took place with the Belgian authorities, JCD and CCB. In that connection, the Commission sent a request for information to Belgium and to the interested parties on 15 April 2016. Belgium replied to the request for information on 20 June 2016 and sent subsequent comments on 26 January 2017, 20 February 2017, 20 March 2017 and 23 January 2019.
- (7) CCB sent further comments on 1 December 2015, 23 May 2016, 20 September 2016 and 24 March 2017. JCD sent further comments on 12 October 2015, 29 March 2016, 15 July 2016 and 16 May 2017.

⁽¹⁾ OJ C 203, 19.6.2015, p. 12.

⁽²⁾ Ibid.

- (8) The comments submitted by CCB on 16 July 2015 on the Commission decision to initiate the procedure contained an additional complaint against JCD.

2. DESCRIPTION OF COMPLAINTS

2.1. The complainant CCB and the alleged beneficiary of the aid, JCD

- (9) CCB and JCD are two of the main players in the outdoor advertising sector in Belgium. The two companies belong to international groups operating in the large and small format outdoor advertising sector.
- (10) CCB is a subsidiary of the international group CC Media Holding, which owns Clear Channel Communication Inc., a multinational corporation with its head office in the United States and branches in 28 countries in Europe, the Asia-Pacific Region and Latin America. In Belgium, CCB markets thousands of large and small format advertising displays. It also supplies and manages street furniture and self-service cycle hire schemes.
- (11) JCD is the Belgian subsidiary of the French company JCDecaux SA, a global actor in the outdoor advertising sector and the supply, installation and maintenance of street furniture, as well as the supply and management of self-service cycle hire schemes.
- (12) The complaint by CCB to which this decision relates concerns the following two aspects ⁽ⁱ⁾. The complaint by the second complainant concerns only the second aspect.

2.2. Advertising displays governed by the 1984 contract

2.2.1. Context

- (13) The City of Brussels ⁽⁴⁾ and JCD signed two contracts for the installation of advertising displays in the City of Brussels, one in 1984 and one in 1999. The two contracts were for the installation of street furniture paid for by advertising displays measuring approximately 2 m², constituting a medium that could be used for advertising (one or two advertising screens and even six screens for displays with a scrolling system on each side). Small format advertising displays in Belgium are distinctive in that small format panels are usually integrated into street furniture.
- (14) The two contracts that are the subject of the complaint have different characteristics, which are described below.
- (15) The contract of 16 July 1984 ('the 1984 contract'), for a period of 15 years, provided that JCD would install and could use bus shelter advertisements and street furniture known as 'MUPIs' (with two screens, one reserved for the City of Brussels and the other usable by JCD for advertising) on the following conditions:
- the contract did not provide for JCD to make any payment to the City of Brussels for rent, right of occupancy or charges for the panels belonging to JCD, but JCD was to offer the City of Brussels a number of benefits in kind: free provision of waste-paper bins, public toilets and electronic newspapers, display of a general map, a tourist and hotel map and a map of pedestrianised streets in the City of Brussels;
 - each display could be used for a period of 15 years, running from its installation at any time throughout the period of the 1984 contract, which was also for 15 years (1984-1999). Accordingly, at the end of the 1984 contract in 1999 a large number of advertising displays governed by the 1984 contract could still be used until the end of their 15-year operating period.

⁽ⁱ⁾ This decision does not concern the additional complaint by CCB referred to in recital 8; that relates to displays under the 1999 contract, which was outside the scope of the formal investigation procedure (see also recital 69).

⁽⁴⁾ The City of Brussels is the official name of the municipality in the centre of the Brussels Capital Region. The City of Brussels is surrounded by 18 closely integrated municipalities forming a single large administrative entity constituting the Brussels Capital Region. The Brussels Capital Region has a government and a parliament. It is an urban area with a population of about 1 200 000, the parts of which comprise a single unit commonly known as Brussels.

- (16) The contract of 14 October 1999 ('the 1999 contract') replaced the 1984 contract following a call for tenders by the City of Brussels for the purchase and installation and the maintenance and management of information, bus shelter and display panel street furniture, part of which could be used for advertising. This was won by JCD.
- (17) Although it related to similar furniture to the 1984 contract, the 1999 contract (for a period of 15 years) provided that:
- (i) the new street furniture covered by the contract would be owned by the City of Brussels ⁽⁵⁾ and JCD would pay monthly rent to use it for advertising;
 - (ii) JCD was to remove all the old street furniture installed under previous contracts between the City of Brussels and JCD. To take account of the furniture governed by the 1984 contract for which the 15-year period was still ongoing, a timetable attached to the 1999 contract ('annex 10') specified the exact dates on which the panels were to be removed (between 1999 and 2010). Annex 10 listed 282 bus shelters and 198 displays that remained subject to the 1984 contract, indicating their positions and removal dates.

2.2.2. *Subject of the complaint*

- (18) CCB considers that JCD benefited from incompatible State aid by continuing to use certain displays governed by the 1984 contract after the dismantling date specified in the 1999 contract without paying rent or taxes to the City of Brussels.

2.3. **Villo**

2.3.1. *Context*

- (19) In order to provide a form of soft mobility in its area, the Brussels Capital Region decided to set up an automated self-service cycle hire scheme on public property.
- (20) For that purpose, the Region issued a call for tenders on 15 March 2008, which was won by JCD on 13 November 2008. On 5 December 2008 the Brussels Capital Region signed a public service concession for operation of the Villo automated cycle hire scheme in the Region ('the Villo agreement') for a total of 15 years (extended by two years in 2011 due to delays in the implementation of the agreement). The agreement provided for:
- (i) the installation and management of an automated cycle hire scheme (2 500 bicycles at 200 stations in the initial phase starting on 16 November 2009, to be extended to 5 000 bicycles in a second phase from 2011), for a total period of 15 years (until 2026);
 - (ii) the management and use of advertising displays to finance the cycle hire scheme in addition to client payments; in that connection, JCD uses advertising displays integrated into bicycle stations as well as separate displays away from those stations (mainly 2 m² and also 8 m² advertising spaces).
- (21) The estimated total turnover from the concession over the whole period is approximately EUR [100-150] million. About [30-40] % of the revenue comes from users and the rest from advertising.
- (22) In addition, in the negotiation of the Villo agreement the Region granted JCD certain financial benefits not mentioned in the call for tenders ⁽⁶⁾:
- (i) exemption from the charge for occupancy of public property in the Brussels Capital Region on 8 m² advertising displays; the maximum amount exempted is set at EUR [50 000-150 000] per year ⁽⁷⁾;

⁽⁵⁾ On payment of a net fixed price per product supplied, fully equipped, installed and operational.

⁽⁶⁾ Those points were included in an amendment to the Villo agreement signed on 9 June 2011.

⁽⁷⁾ The charge is EUR [...] per display per year. The maximum JCD should have paid without the exemption is [...] 8 m² displays × EUR [...] per display = EUR [50 000-150 000].

- (ii) a hardship clause for regional taxes (neutralisation of changes to regional taxes), on the principle that, if regional taxes increase, JCD can be compensated for the increase; however, that clause has never been applied;
- (iii) a price revision clause for municipal taxes (neutralisation of municipal tax increases), on the principle that, if municipal taxes rise above EUR 75/m², JCD is to be compensated for the increase; the Belgian authorities originally considered that the compensation provided for by that clause would not exceed EUR [250 000-350 000] per year ⁽⁸⁾.

2.3.2. Subject of the complaint

- (23) CCB and the second complainant consider that JCD has benefited from State aid through the financing of the Villo concession.
- (24) According to the complainants, all the financing measures (use of advertising displays and additional benefits granted to JCD) constitute State aid.
- (25) Furthermore, they argue, the State aid cannot be considered compatible with the internal market on the basis of Union rules on compensation for public service and in particular Commission Decision 2012/21/EU ⁽⁹⁾ (the '2012 SGEI decision'), in so far as JCD has been very substantially overcompensated (particularly since JCD was allocated too large a number of advertising displays).

3. ASSESSMENT OF THE PART OF THE COMPLAINT CONCERNING ADVERTISING DISPLAYS GOVERNED BY THE 1984 CONTRACT

3.1. Grounds for initiation of procedure

- (26) The Commission took the view that, as regards the use of certain advertising displays by JCD in the City of Brussels governed by the 1984 contract, kept in place after their scheduled removal dates (as indicated in annex 10 to the 1999 contract), all the criteria for State aid were met and that the measure accordingly constituted State aid within the meaning of Article 107(1) of the TFEU.
- (27) Since none of the conditions required to declare the aid compatible appeared to apply, the Commission decided to initiate the procedure provided for in Article 108(2) of the TFEU.

3.2. Comments submitted by interested parties on the opening decision

- (28) The Commission received comments from CCB and JCD, which are summarised below. st

3.2.1. Comments submitted by CCB

- (29) In reply to the opening decision, CCB states that it agrees with the Commission's view that the use by JCD of advertising displays installed in the City of Brussels under the 1984 contract, and kept in place after their scheduled removal dates without payment of any rent or tax, constitutes State aid within the meaning of Article 107(1) of the TFEU and is incompatible with the internal market.
- (30) CCB also states that it agrees with the Commission that there are serious doubts as to the reality and relevance of the compensation mechanism relied on by the Belgian authorities to justify keeping the contested displays in place after their scheduled removal dates. In CCB's opinion, the Belgian authorities have not provided any evidence that that compensation mechanism was formally established before the contested displays were unlawfully kept in place.

⁽⁸⁾ See recital 82 in the opening decision.

⁽⁹⁾ Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ L 7, 11.1.2012, p. 3).

- (31) CCB stresses that the advantage JCD enjoyed through the use of the 1984 displays after their scheduled removal dates is in excess of EUR 2 150 000, not including interest. CCB bases that on two bailiffs' reports obtained at its request on 3 December 2007 and 21 December 2009, recording the furniture installed under the 1984 contract which was still in place on those dates. CCB also states that the fact that the Belgian authorities themselves are taking as their basis the bailiffs' reports requested by CCB (see section 3.3.2) shows that there was no detailed monitoring of the displays kept in place after the dates initially scheduled and that, in the absence of proof to the contrary from the Belgian authorities, the number of displays to be considered in calculating the advantage conferred on JCD is 86, or 119 advertising screens.
- (32) Finally, CCB agrees with the Commission's assessment that from 2002 taxes were payable on the advertising displays irrespective of the original contract. The early removal of a display governed by the 1984 contract did not deprive JCD of any tax saving, because the taxes would in any case have been payable on the displays if they had been kept in place. That renders the argument of an offset between early and late removals inoperative as far as those taxes are concerned. CCB also reiterates its claim that those tax exemptions create major distortions of competition in the Belgian outdoor advertising market and result in a competitive disadvantage, since JCD's competitors, including CCB, have had to pay advertising taxes on the displays they operate in the City of Brussels.
- (33) CCB points out that, in a judgment of 29 April 2016, the Brussels Court of Appeal found that JCD had failed to adhere to the removal dates provided for in annex 10 to the special conditions for the 1999 contract and had operated a number of advertising displays on public property in the City of Brussels for several years without right or title ⁽¹⁰⁾. CCB also points out that the Court rejected the argument put forward by JCD that there was an offset between early and late removals.
- (34) CCB considers that the advertising revenue from the commercial operation of the advertising displays kept in place after the removal date specified in annex 10 might also constitute State resources, since the State could have operated those displays itself.
- (35) In the comments submitted on 16 July 2015 on the Commission decision to initiate the procedure, CCB lodged an additional complaint against JCD in regard to the taxes JCD had not paid the Belgian State on the displays covered by the 1999 contract.

3.2.2. Comments submitted by JCD

- (36) In its comments on the opening decision, dated 17 July 2015, JCD points out that the public authority (the City of Brussels) was under an obligation to maintain the economic balance of contracts to which it was party. In order to compensate for the losses of advertising revenue as a result of the early removal of the displays concerned and maintain the economic balance of the 1984 contract, according to JCD, it was logical for the City of Brussels to allow the retention and operation of a number of other displays governed by the 1984 contract after their scheduled removal date. JCD states that the existence of that offset is indisputable and is established by various items of evidence, including many submissions and communications from the City of Brussels in the course of the preliminary investigation.
- (37) JCD maintains that the operation of the advertising displays in question was never governed by the 1999 contract and some street furniture had been kept in place in performance of the 1984 contract without any transfer of public resources. Retention of that furniture was neutral from the point of view of State resources, since it compensated for the early removal of other furniture governed by the same contract.
- (38) In JCD's view, it follows from the very principle of an offset that the use for advertising of furniture kept in place after its expiry date should be subject to the same rules as had been applicable to displays withdrawn early, i.e. to the 1984 contract.

⁽¹⁰⁾ Judgment of 29 April 2016 by the Brussels Court of Appeal (9th chamber) in Case 2011/AR/140. The Court of Appeal rejected the argument that there had been a change in the basis (*interversio*) of the entitlement to operate the displays: it found that the change had not been provided for or authorised by the 1984 or 1999 contracts, nor had it been approved by the city after the signature of the 1999 contract.

- (39) JCD therefore contests the claim that it enjoyed a selective advantage as a result of a transfer of public resources under contracts lawfully signed with the City of Brussels. JCD considers that it did not save any rent and taxes under the 1999 contract and that the services provided were a public service.
- (40) In particular, according to JCD, the exemption from paying rent is due to the compensation mechanism governed by the 1984 contract.
- (41) As regards the exemption from taxes, the position of the City of Brussels in not charging taxes for street furniture contracts only — in contrast to advertising displays — is entirely consistent with the need to maintain the economic balance of the contracts, since neither the displays governed by the 1984 contract nor those governed by the 1999 contract were taxable, irrespective of the adoption of a tax regulation by the City of Brussels in 2002.
- (42) According to JCD, the City of Brussels adopted an initial tax regulation for temporary advertising in and on public property only for the 2002 financial year (the tax regulation of 17 October 2001), whereas the 1984 contract expired in 1999. Consequently that tax would not have applied to the use of displays under the 1984 contract for advertising even if extended in the 2002 financial year and thereafter. JCD contends that the non-taxation of those displays cannot constitute a selective advantage for the contractor, because it reflects a general principle that has not resulted in more favourable treatment for JCD compared with any undertaking in a similar situation, and cannot therefore be considered State aid.
- (43) Furthermore, on the theoretical assumption that the contract did become taxable the conditions of the 1984 contract should have been revised, as the contract provided.
- (44) In JCD's view the use of the displays under the 1999 contract for advertising was not subject to payment of an advertising tax either. The advertising tax regulation adopted by the City of Brussels in 2002 did not apply, since JCD was already paying a monthly rent to use them as an advertising medium, which was the only charge on the use of the displays for advertising under the 1999 contract. Furthermore, the tax regulation expressly exempts City of Brussels advertising displays and hence the displays under the 1999 contract.
- (45) In support of those arguments, JCD submits to the Commission two judgments of 4 November 2016, in which the French-speaking Court of First Instance in Brussels found that JCD was not liable for municipal advertising tax for the advertising displays installed in the City and owned by the City of Brussels under the contract awarded to JCD on 14 October 1999. The judgments then ordered repayment of the sums paid for the financial years 2009 to 2012.
- (46) JCD contends that, if the compensation mechanism described above created a potential imbalance in JCD's favour, that hypothetical imbalance could not have strengthened JCD's competitive position compared with its competitors on the relevant markets, since it was minimal.
- (47) In particular the hypothetical imbalance could not, in JCD's view, have made it more difficult for undertakings established in other Member States to penetrate those markets. JCD also points out that the Commission has already expressed the view that certain measures had effects only at local level and therefore did not affect trade between Member States.

3.3. Comments submitted by Belgium

3.3.1. *Comments by Belgium on the opening decision*

- (48) The Belgian authorities recognise that JCD continued to use certain panels governed by the 1984 contract after the dismantling date specified in the 1999 contract, as laid down in annex 10. JCD did not pay rent or tax to the City of Brussels for those advertising displays, unlike the panels governed by the 1999 contract, for which rent was paid from the start of the contract and taxes were also charged, but only from 2009 ⁽¹¹⁾. That situation lasted until August 2011, when the last displays were dismantled.

⁽¹¹⁾ The City of Brussels adopted its first regulation on private occupancy of public property for commercial purposes in October 2001; that regulation entered into force in January 2002 (the tax regulation of 17 October 2001, tax on temporary advertising in and on public property), but the Belgian authorities charged tax on the 1999 displays only from the 2009 tax year.

- (49) The Belgian authorities do not dispute that the measures are imputable to them and more particularly to the City of Brussels. They explain that they agreed to the displays governed by the 1984 contract being kept in place after the date stipulated in annex 10 in order to maintain the balance of the contract with JCD, because other displays had been removed early at the request of the City of Brussels with a view to the installation of other types of furniture preferred for mainly aesthetic reasons and more specifically new art nouveau type street furniture.
- (50) The Belgian authorities take the view that that early removal resulted in a loss for JCD, which had given up displays for which no rent or tax was payable until the date specified in annex 10 for their removal, and that, to offset that loss, it was acceptable for other displays to be kept in place for longer than scheduled and for no rent or tax to be charged on those displays.
- (51) The Belgian authorities acknowledge that JCD enjoyed an economic advantage overall, but only because of an imbalance between the number of displays removed early (before their scheduled removal date) and the number kept in place after the removal date stipulated in annex 10. Article 4.5 of the agreement signed between the City of Brussels and JCD in 1984 provided that the display and bus shelter media were to be exempt from rent, right of occupancy and charges. According to the Belgian authorities, the exemption has to be assessed in light of the fact that, at the time the agreement was signed, the City of Brussels had not adopted any regulations taxing advertising media.
- (52) The Belgian authorities maintain that JCD has, firstly, waived a saving on rent and taxes by agreeing to remove displays early and, secondly, saved rent and taxes by keeping displays in place after the scheduled removal dates. When the difference is calculated between the savings lost by JCD as a result of the early removals and the additional savings made by keeping displays in place longer than specified in annex 10, according to the Belgian authorities, JCD enjoyed an overall financial advantage of not more than EUR [100 000-150 000] between December 1999 and 2011.
- (53) In that connection, the Belgian authorities argue that the measure easily fell within Commission Regulation (EC) No 1998/2006 ⁽¹²⁾ (‘the 2006 *de minimis* regulation’), which establishes that certain small amounts of aid (less than EUR 200 000 over a period of three tax years) are deemed not to affect trade between Member States and therefore not to meet all the criteria of Article 107(1) TFEU.
- (54) The Belgian authorities also provide clarification on certain claims by CCB mentioned in the opening decision. Firstly, the basic estimate of 86 displays given by CCB is incorrect, since CCB’s bailiff’s reports (see recital 31) show 80 displays. Furthermore, CCB incorrectly described certain displays as bus shelters when they were information panels for the city. Secondly, CCB indexes the estimated amount of rent incorrectly, since according to the City of Brussels the rent should be indexed to the contract anniversary date ⁽¹³⁾. Thirdly, there are errors in the estimated amount of taxes payable by JCD as indicated by CCB.

3.3.2. Comments by Belgium on the comments of the interested parties

- (55) In their written comments of 2 October 2015, the Belgian authorities state that the non-recovery by the City of Brussels of taxes payable by JCD under the 1999 contract when legal proceedings were under way is not an advantage conferred by the City of Brussels but results from the application of Belgian law and judgments by Belgian courts, according to which a municipal authority is prevented from distraint or recovery of the part of a tax exceeding what is indisputably payable. When an action such as that brought by JCD relates to the whole of the tax, distraint or recovery are impossible. That situation does not mean that a party liable for tax which brings legal

⁽¹²⁾ Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid (OJ L 379, 28.12.2006, p. 5), applicable when the aid was granted.

⁽¹³⁾ Clause 12 of the 1999 contract lays down the formula for the adjustment of rent and states that the contracting authority accepts the adjustment formula (indexation to anniversary date). The clause sets out the basic data for calculation of monthly rent.

proceedings is exempt from the tax, as CCB contends. Furthermore, from an accounting point of view the taxes, even if disputed, must be included as an operating charge. Therefore no State aid can arise out of the non-recovery by the City of Brussels of taxes charged to JCD which are the subject of legal proceedings.

- (56) In their written comments of 20 June 2016, in reply to the questions from the Commission in its letter of 15 April 2016, the Belgian authorities confirm that the City of Brussels started to tax the advertising displays installed under the contract awarded on 14 October 1999 only from the 2009 tax year. However, in the tax regulation of 17 October 2001 on temporary advertising in and on public property, the City of Brussels had introduced a tax on temporary advertising in and on public property and had provided for tax exemption only for its own notices ⁽¹⁴⁾. The Belgian authorities state that the tax regulations on advertising displays entered into force for the first time on 1 January 2002, so that no tax was payable for 2001, and that those tax regulations applied to the displays under the 1999 contract.
- (57) They also explain that the City of Brussels did not charge the amounts of those taxes for the 2002 to 2008 tax years because the City initially considered that the displays installed under the 1999 contract, which belonged to it and were operated by JCD, were not taxable in accordance with the tax exemption provided for in Article 5 of the tax regulation of 17 October 2001, which related exclusively to the City of Brussels's own notices. Furthermore, an exemption specifically for advertising displays of the City of Brussels or bodies set up by, subordinate to or financed by the City had been introduced in the tax regulation of 18 December 2006 and successive tax regulations.
- (58) The first charges were made on 29 July 2011, for the 2009 tax year. According to Article 6 of the law of 24 December 1996, since repealed by an order of 3 April 2014, tax could not be made retroactive for more than three years from 1 January of the tax year.
- (59) The Belgian authorities state that the City of Brussels has decided no longer to apply the exemption, taking the view that to exempt advertising displays solely on the grounds that they belonged to the City of Brussels when it was not the operator was unfair to operators of other advertising displays. In the opinion of the City of Brussels, although it could actually be justified in exempting advertising displays used for its own purposes or those of bodies which it had set up or which were subordinate to it, exemption was not justified when they were operated by a third party and in particular a commercial undertaking active in the outdoor advertising sector.
- (60) The exemption provided for in the tax regulation was designed to avoid the City having to tax itself, which would not have earned it any extra revenue and would have added to the administrative work of its finance department, when the aim of any tax regulation is for the taxing authority to obtain extra financial resources. However, as stated in the comments from the Belgian authorities on 20 February 2017 in answer to the Commission's supplementary questions of 14 February 2017, the City of Brussels never operated the advertising displays itself. They were always operated through third parties. The only advertising displays belonging to the City of Brussels were those under the public contract awarded to JCD on 14 October 1999. When the 1999 contract expired, a new call for tenders was issued and was won by CCB, which is now the successful tenderer. Under the present contract CCB pays rent for the advertising displays as well as the applicable taxes.

⁽¹⁴⁾ More precisely, Article 5 of the tax regulation of 17 October 2001 provided for exemption from tax for, in particular, 'notices by the City or bodies set up by, subordinate to or financed by the City'.

- (61) The Belgian authorities state that operators who use their own displays pay only the taxes due and that the rent for use of the advertising displays is added to the taxes when the displays belong to the City of Brussels. That rent in no way replaces the taxes levied on such displays. The rent is a consideration for the right to operate the displays belonging to the City of Brussels. If no rent were paid, operators would be able to use City of Brussels displays free of charge when the City had had to pay the cost of acquiring them. It is therefore logical that they should have to pay rent. On the other hand, operators not using City of Brussels displays have to pay the whole cost of the investment in manufacturing or purchasing advertising displays.
- (62) The Belgian authorities explain that, in two judgments on 4 November 2016, the French-speaking Court of First Instance in Brussels found that, according to Article 9 of the tax regulations for 2009-2012, JCD was not liable for municipal advertising tax for the advertising displays installed in the City of Brussels that belonged to the City of Brussels under the contract awarded to JCD on 14 October 1999. The judgments then ordered repayment of the sums paid for the financial years 2009 to 2012.
- (63) The Belgian authorities also confirm that the City of Brussels appealed against the two judgments of 4 November 2016, relating respectively to the tax years 2009-2010 and the tax years 2011-2012. In the appeal proceedings, the City of Brussels argued that the Court's interpretation of Article 9 of the tax regulation as allowing JCD's exemption raised the question of its compatibility with Articles 106 and 107 TFEU.
- (64) On the other hand, the City of Brussels did not charge the taxes payable on the advertising displays governed by the 1984 contract which had been kept in place after the scheduled removal date.
- (65) The Belgian authorities state that they are unable to indicate the amount of unpaid rent and taxes on the displays kept in place after the removal date specified in annex 10 for the period 1 January 2002 to 21 August 2010.

3.4. Assessment of measures

3.4.1. *Displays governed by the 1984 contract: subject of this decision*

- (66) The Commission's assessment relates only to the retention of the 1984 displays after the expiry of their period of operation and does not concern the 1984 contract itself. That is justified particularly by the fact that, according to Article 17 of Council Regulation (EU) 2015/1589 ⁽¹⁵⁾, the Commission may not recover aid after a limitation period of 10 years.
- (67) The displays installed under the 1984 contract could be installed up to the end of the period of validity of the 1984 contract (i.e. until 1999) and could be used for 15 years (i.e. possibly until 2014). Any aid provided via those displays by the 1984 contract, assuming that all the conditions of Article 107(1) were fulfilled, could therefore have been granted only at the time when JCD was authorised by the Brussels authorities to install the display in question and hence before 1999, the year the contract expired. Thus any aid to JCD would have been granted more than 10 years before the Commission's first request to the Belgian authorities for information, which was on 15 September 2011.
- (68) On the other hand, as regards the displays governed by the 1984 contract kept in place without payment of rent and taxes after the date specified in annex 10 to the 1999 contract, any aid to JCD under those circumstances would have been granted at the time the Brussels authorities (tacitly) authorised non-compliance with the schedule specified in that annex. The Commission's assessment below relates only to the extent to which keeping the displays governed by the 1984 contract in place after the date specified in annex 10 may have involved State aid to JCD obtained after 15 September 2001 (i.e. within the limitation period referred to in Article 17 of Regulation (EU) 2015/1589).
- (69) Nor does the decision concern an assessment of the classification as State aid of the exemption from taxes payable to the Belgian State by JCD on displays under the 1999 contract, which was outside the scope of the opening decision.

⁽¹⁵⁾ Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p. 9).

3.4.2. State aid within the meaning of Article 107(1) TFEU

- (70) According to Article 107(1) of the TFEU, aid granted by States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is incompatible with the internal market in so far as it affects trade between Member States.
- (71) According to settled case-law, classification as aid within the meaning of Article 107(1) TFEU requires that all the conditions referred to by that provision be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must give a selective economic advantage to its beneficiary; (iii) it must distort or threaten to distort competition; and (iv) it must be likely to affect trade between Member States ⁽¹⁶⁾.

3.4.2.1. Imputability and State resources

- (72) In order for a measure to constitute State aid within the meaning of Article 107(1) TFEU, it must be granted by the State or through State resources. State resources comprise all public sector resources ⁽¹⁷⁾, including the resources of intra-State bodies (decentralised, federal, regional or other) ⁽¹⁸⁾.
- (73) Advantages conferred directly or indirectly through State resources may be considered aid within the meaning of Article 107(1) TFEU. The presence of a State resource may take a negative form, where there is a loss of revenue for the public authorities. According to settled case-law, waiving resources that should in principle have been paid to the State budget constitutes a transfer of State resources. Similarly, measures which mitigate the charges which are normally included in the budget of an undertaking may constitute State resources ⁽¹⁹⁾.

Imputability

- (74) The Belgian authorities do not dispute that the measure is imputable to them and more particularly to the City of Brussels. They explain that they agreed to the displays governed by the 1984 contract being kept in place after the date stipulated in annex 10 in order to maintain the balance of the contract with JCD, because other displays had been removed early at the request of the City of Brussels with a view to the installation of other types of furniture preferred for mainly aesthetic reasons (see recital 49).

State resources

- (75) The Belgian authorities also recognise that keeping the displays in place after the date specified in annex 10 caused a loss of revenue to the City of Brussels in terms of the rent and taxes not charged on the displays that would otherwise have been replaced by displays under the 1992 contract, for which rent and taxes would have been payable.
- (76) It is therefore not disputed that JCD's retention of the 1984 displays after the dates specified in annex 10 is imputable to the Belgian State, and that State resources were forfeited as a result. However, the Commission and the Belgian State take a different view of the classification of those State resources, i.e. the amount of rent and taxes waived by the City of Brussels (see section 3.4.5).

⁽¹⁶⁾ Judgment of the Court of Justice of 2 September 2010 in Case C-399/08 P, *Commission v Deutsche Post*, ECLI:EU:C:2010:481, paragraph 39, and the case-law cited therein; judgment of the Court of Justice of 21 December 2016 in Case C-524/14 P, *Commission v Hansestadt Lübeck*, ECLI:EU:C:2016:971, paragraph 40; judgment of the Court of Justice of 21 December 2016 in Joined Cases C-20/15 P and C-21/15 P, *Commission v World Duty Free Group SA and others*, ECLI:EU:C:2016:981, paragraph 53; judgment of the Court of Justice of 20 September 2017 in Case C-300/16 P, *Commission v Frucona Kosice*, ECLI:EU:C:2017:706, paragraph 19.

⁽¹⁷⁾ Judgment of the General Court of 12 December 1996 in Case T-358/94, *Compagnie nationale Air France v Commission of the European Communities*, ECLI:EU:T:1996:194, paragraph 56.

⁽¹⁸⁾ Judgment of the Court of Justice of 14 October 1987 in Case C-248/84, *Federal Republic of Germany v Commission of the European Communities*, ECLI:EU:C:1987:437, paragraph 17; judgment of 6 March 2002 in Joined Cases T-92/00 and T-103/00, *Territorio Histórico de Álava — Diputación Foral de Álava and Ramondín, SA and Ramondín Cápsulas SA v Commission of the European Communities*, ECLI:EU:T:2002:61, paragraph 57.

⁽¹⁹⁾ Judgment of the Court of Justice of 16 May 2000 in Case C-83/98 P, *France v Ladbroke Racing and Commission*, ECLI:EU:C:2000:248, paragraphs 48 to 51; judgment of the Court of Justice of 14 January 2015 in Case C-518/13, *Eventech*, ECLI:EU:C:2015:9, paragraph 33.

- (77) Accordingly, the Commission considers that this measure constitutes a transfer of State resources within the scope of Article 107(1) TFEU.
- (78) As indicated in recital 34, in its written comments CCB expresses the view that advertising revenue from the commercial operation of advertising displays kept in place after the removal date stipulated in annex 10 might also constitute State resources, since the State could operate those displays itself.
- (79) The Commission considers, firstly, that the advertising revenue received by JCD clearly does not constitute State resources, because the advertising revenue comes from private contracts between JCD and its clients in which the State is in no way involved.
- (80) Moreover, the City of Brussels cannot be held to be waiving State resources simply because it is not itself engaging in a particular economic activity. Such an approach to State resources would be extremely broad and would prevent the State from authorising activities in its territory without first verifying that it could not perform the activity itself.
- (81) Furthermore, even if it were theoretically possible for a public authority to engage in a particular economic activity, that is clearly not its main function and in it does not in principle have the necessary know-how, skills or technical resources. It might, for example, be remarked in the present case that advertising contracts are generally countrywide. The City of Brussels would not have the means to negotiate such contracts since it has authority only over the panels it owns in the City of Brussels. Any ability to generate revenue from those panels would therefore bear no comparison to that of JCD.

3.4.2.2. Existence of an economic advantage

- (82) An advantage caught by Article 107(1) TFEU is any economic advantage that an undertaking would not have obtained in normal market conditions, i.e. without State intervention ⁽²⁰⁾. Only the effect of the measure on the undertaking is relevant, not the reason for the State intervention or its purpose ⁽²¹⁾.
- (83) According to the Court of Justice, an advantage exists when the financial situation of an undertaking is improved by the intervention of the State. Hence not only a positive benefit but also all State intervention that, in various forms, mitigates the charges normally included in the budget of an undertaking constitutes an advantage ⁽²²⁾.
- (84) In the present instance, from 1999 onward and as the authorisations based on the 1984 contract expired, JCD continued to use advertising displays in the City of Brussels without paying rent or taxes for their operation, when according to the 1999 contract the displays should have been removed and, likewise under the 1999 contract, rent and taxes would have been payable for the operation of new advertising displays replacing them.
- (85) The Belgian authorities acknowledge that JCD enjoyed an economic advantage overall, but only because of an imbalance between the number of displays removed early, before their scheduled removal date, and the number kept in place after the removal date stipulated in annex 10. Even if the Commission were to share that view, which it does not, the presence of an advantage would in any event be clear.
- (86) The Commission notes, firstly, that the Belgian authorities accept in principle that an advantage exists: they merely contest the scale of the advantage.

⁽²⁰⁾ Judgment of the Court of Justice of 11 July 1996 in Case C-39/94, *Syndicat français de l'Express international (SFEI) and others v La Poste and others*, ECLI:EU:C:1996:285, paragraph 60; judgment of the Court of Justice of 29 April 1999 in Case C-342/96, *Kingdom of Spain v Commission of the European Communities*, ECLI:EU:C:1999:210, paragraph 41.

⁽²¹⁾ Judgment of the Court of Justice of 2 July 1974, in Case C-173/73, *Italian Republic v Commission*, ECLI:EU:C:1974:71, paragraph 13.

⁽²²⁾ Judgment of the Court of Justice of 8 November 2001 in Case C-143/99, *Adria-Wien Pipeline*, ECLI:EU:C:2001:598; also judgment of the Court of Justice of 14 February 1990 in Case C-301/87, *French Republic v Commission*, ECLI:EU:C:1990:67, paragraph 41.

- (87) Furthermore, the Belgian authorities consider the measure to be compensation awarded to JCD to offset the disadvantage resulting from the early withdrawal of a number of displays. On that point, the Commission refers to the judgment in *Orange v Commission* ⁽²³⁾, in which the Court of Justice upheld the opinion of the General Court ⁽²⁴⁾ and the Advocate General ⁽²⁵⁾ that even a reduction in charges granted to an undertaking, with the cancellation of additional charges as a result of a derogation that did not apply to competing undertakings, constituted State aid ⁽²⁶⁾. The only compensation involving a transfer of public resources which is not classified as State aid is compensation for a public service awarded in accordance with the *Altmark* case-law ⁽²⁷⁾.
- (88) The 1984 and the 1999 contracts are purely commercial contracts and their provisions do not entrust JCD with a public service responsibility. Thus the *Altmark* case-law regarding payment for the supply of a public service is not applicable.
- (89) It therefore seems that, on that basis, the compensation referred to by the Belgian authorities, even assuming it is actually designed to offset the disadvantage related to a potential obligation to withdraw certain displays ahead of schedule, necessarily confers an advantage on JCD. The conclusion is all the more sound in the present case in that it is hard to believe that JCD suffered from a structural disadvantage, since it agreed to remove the displays on its own initiative, and, furthermore, the Belgian authorities themselves recognise that the compensation in question went beyond what was required by the alleged disadvantage.
- (90) That argument is also consistent with paragraph 69 of the Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union ('Notice on the notion of State aid') ⁽²⁸⁾, which emphasises that 'Costs arising from regulatory obligations imposed by the State ⁽²⁹⁾ can in principle be considered to relate to the inherent costs of the economic activity, so that any compensation for these costs confers an advantage on the undertaking ⁽³⁰⁾. This means that the existence of an advantage is in principle not excluded by the fact that the benefit does not go beyond compensation for a cost stemming from the imposition of a regulatory obligation. The same applies to relief for costs that the undertaking would not have incurred had there been no incentive stemming from the State measure because without this incentive it would have structured its activities differently ⁽³¹⁾. The existence of an advantage is also not excluded if a measure compensates charges of a different nature that are unconnected with that measure ⁽³²⁾.'
- (91) In the present case it is not actually possible to equate the early replacement of the 1984 displays to a regulatory obligation, since JCD agreed to remove them on its own initiative, but it follows from paragraph 69 of the Notice on the notion of State aid that, if the removal of the displays had resulted from a regulatory obligation, the compensation of that early replacement would have conferred an advantage.

⁽²³⁾ Judgment of the Court of Justice of 26 October 2016 in Case C-211/15 P, *Orange v Commission*, ECLI:EU:C:2016:798.

⁽²⁴⁾ Judgment of the General Court of 26 February 2015 in Case T-385/12, *Orange v Commission*, ECLI:EU:T:2015:117.

⁽²⁵⁾ Opinion of Advocate General Wahl in Case C-211/15 P, 4 February 2016, *Orange v Commission*, ECLI:EU:C:2016:78.

⁽²⁶⁾ Judgment of the Court of Justice of 26 October 2016 in Case C-211/15 P, *Orange v Commission*, ECLI:EU:C:2016:798, paragraphs 41 to 44.

⁽²⁷⁾ Judgment of the Court of Justice of 26 October 2016 in Case C-211/15 P, *Orange v Commission*, ECLI:EU:C:2016:798, paragraph 44.

⁽²⁸⁾ Commission Notice of 19 July 2016 on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (OJ C 262, 19.7.2016, p. 1).

⁽²⁹⁾ In the agricultural sector, examples of an imposition of a regulatory obligation would be veterinary or food-safety checks and tests that are imposed on agricultural producers. In contrast, checks and tests carried out and financed by public bodies and not required by law to be carried out or financed by the agricultural producers are not considered regulatory obligations imposed on the undertakings. See Commission Decisions of 18 September 2015 on State aid SA.35484, milk quality tests pursuant to the Milk and Fat Law and of 4 April 2016 on State aid SA.35484, general healthcare control activities pursuant to the Milk and Fat Law.

⁽³⁰⁾ Judgment of the General Court of 25 March 2015 in Case T-538/11, *Belgium v Commission*, ECLI:EU:T:2015:188, paragraphs 74 to 78.

⁽³¹⁾ For example, if an undertaking receives a subsidy for investment in an assisted area, it cannot be argued that such a subsidy does not mitigate the costs normally included in the budget of the undertaking, since the undertaking would not have made the investment without the subsidy.

⁽³²⁾ Judgment of the Court of Justice of 8 December 2011 in Case C-81/10 P, *France Télécom v Commission*, ECLI:EU:C:2011:811, paragraphs 43 to 50. That logically applies to the mitigation of costs incurred by an undertaking in replacing the status of its public servants by employee status comparable to that of its competitors, which creates an advantage for the undertaking concerned (there was some uncertainty on that point after the judgment of the General Court of 16 March 2004 in Case T-157/01, *Danske Busvognmænd v Commission*, ECLI:EU:T:2004:76, paragraph 57). On stranded costs, see also the judgment of the General Court of 11 February 2009 in Case T-25/07, *Iride and Iride Energia v Commission*, ECLI:EU:T:2009:33, paragraphs 46 to 56.

- (92) It should also be noted that paragraph 71 of the Notice on the notion of State aid states that ‘The existence of an advantage is excluded in the case of a reimbursement of illegally levied taxes ⁽³³⁾, an obligation for the national authorities to compensate for damage they have caused to certain undertakings ⁽³⁴⁾ or the payment of compensation for an expropriation ⁽³⁵⁾’.
- (93) However, neither of those two situations applies in this case. There is no indication that the Belgian authorities caused JCD a loss for which they would have been obliged to compensate. JCD agreed to remove some of the 1984 displays on its own initiative, and it is reasonable to assume that it agreed because overall that gave it an advantage.
- (94) Finally, the Commission will examine whether such compensation can be deemed normal behaviour on the part of a market operator, which might exclude the possibility of an advantage. However, the City of Brussels cannot be considered to have acted as a market operator in this instance. It has been established that the alleged compensation agreement was not formalised or monitored (which, moreover, explains why, according to the Belgian authorities themselves, there is a discrepancy between the number of displays removed and those replaced early). The Commission has not been presented with evidence of any kind of negotiation between the City of Brussels and JCD on that point. There is no evidence of an evaluation by the City of Brussels of the actual loss incurred by JCD as a result of the early replacement of certain displays governed by the 1984 contract compared with the profit earned from keeping in place other displays, which were, moreover, completely amortised under the same contract (the cost of those panels, including JCD’s margin, can be reasonably supposed to have been met in full from their operation during the legal duration of the 1984 contract). In view of the complete absence of an evaluation, a contract or monitoring, the behaviour of the City of Brussels cannot be considered to comply with the principle of a private market economy operator.
- (95) The Commission’s argument regarding the presence of an advantage was confirmed by the judgment of the Brussels Court of Appeal of 29 April 2016 ⁽³⁶⁾, in which the Court rejected JCD’s appeal and upheld the judgment of the Brussels Court of First Instance of 13 December 2010.. More precisely, the Court confirmed that JCD had failed to adhere to the removal dates specified in annex 10 to the 1999 contract and that it had therefore used a number of advertising displays on public property in the City of Brussels without right or title. JCD had thus objectively acted unlawfully, contrary to honest market practice, since the use in its network of advertising displays that should not or should no longer be there gave JCD an unlawful competitive advantage that could divert advertisers from its competitor, CCB. The Court ordered the cessation of those unlawful practices and held that the dismantling of the advertising displays operated without right or title was necessary for the cessation of the unlawful practice.
- (96) Accordingly, the Commission is of the opinion that the retention and operation of a number of advertising displays governed by the 1984 contract by JCD in the City of Brussels between 1999 and 2011, after the removal date specified in annex 10 to the 1999 contract, without paying any rent or tax, had the effect of reducing the costs that JCD would normally have incurred in the pursuit of its business and constitutes an economic advantage.

3.4.2.3. Selectivity

- (97) In order to be considered State aid a measure must be selective, in other words it must favour certain undertakings or certain products within the meaning of Article 107(1) TFEU ⁽³⁷⁾. Accordingly, only measures selectively favouring undertakings are covered by the concept of aid.
- (98) Firstly, it may be noted that the Belgian authorities do not dispute that the measure (the retention of the 1984 displays without paying rent or taxes after the expiry of the operating period specified for them in annex 10) is selective.

⁽³³⁾ Judgment of the Court of Justice of 27 March 1980 in Case C-61/79, *Amministrazione delle Finanze dello Stato*, ECLI:EU:C:1980:100, paragraphs 29 to 32.

⁽³⁴⁾ Judgment of the Court of Justice of 27 September 1988 in Joined Cases C-106/87 to C-120/87, *Asteris AE and others v Greece*, ECLI:EU:C:1988:457, paragraphs 23 and 24.

⁽³⁵⁾ Judgment of the General Court of 1 July 2010 in Case T-64/08, *Nuova Terni Industrie Chimiche v Commission*, ECLI:EU:T:2010:270, paragraphs 59 to 63, 140 and 141, finding that while the payment of compensation in the event of expropriation does not confer an advantage, an *ex post* extension of the compensation may constitute State aid.

⁽³⁶⁾ Judgment of Brussels Court of Appeal of 29 April 2016 (9th chamber) in Case 2011/AR/140.

⁽³⁷⁾ Judgment of the Court of Justice of 15 December 2005 in Case C-66/02, *Italy v Commission*, ECLI:EU:C:2005:768, paragraph 94.

- (99) The Belgian authorities have explained that the measure is compensation awarded to JCD to offset the early removal of some displays; such a measure is by its nature an individual measure, and in that context selectivity can normally be presumed once there is an economic advantage (see section 3.4.2.2). In the absence of any indication to the contrary, that presumption applies in this case and is enough for the measure to be considered selective.
- (100) It is also worth noting that it cannot be considered that the measure was not selective purely because JCD was in a unique legal and factual situation given that, as the only undertaking that had displays governed by the 1994 contract at its disposal, it was the only undertaking able to benefit from the measure.
- (101) In the *Orange* judgment cited above, the Court of Justice upheld the view of the General Court that ‘the test requiring a comparison of the beneficiary with other operators in a comparable factual and legal situation in the light of the aim pursued by the measure in question is based on, and justified by, the assessment of whether measures of potentially general application are selective and that test is therefore irrelevant where, as in the present case, it would amount to assessing the selective nature of an ad hoc measure which concerns just one undertaking’⁽³⁸⁾.
- (102) It is clear in the present case that the retention of the displays was an ad hoc measure with no general application, and therefore it is clearly selective.

3.4.2.4. Distortion of competition and effects on trade between Member States

- (103) Public aid to undertakings constitutes State aid within the meaning of Article 107(1) TFEU only if it ‘distorts or threatens to distort competition’ and only ‘in so far as it affects trade between Member States’.

Distortion of competition

- (104) An aid measure granted by a State is considered to distort or threaten to distort competition when it is likely to strengthen the competitive position of its beneficiary by comparison with its competitors⁽³⁹⁾.
- (105) For intervention by the State or through State resources to be capable of affecting trade between Member States and distorting or threatening to distort competition, it is sufficient that there should be effective competition in the market concerned at the time the aid measure is put into effect⁽⁴⁰⁾. Competition is therefore presumed to have been distorted when the State grants a financial advantage to an undertaking in a liberalised sector in which competition exists or could exist.
- (106) Since JCD operates in a market, the small format advertising display market, in which various undertakings compete, the grant or benefit of an aid measure favouring one of the players present has effects that could potentially distort competition.

Effects on trade between Member States

- (107) According to the case-law of the Union courts, any aid granted to an undertaking operating in the internal market is capable of affecting trade between Member States⁽⁴¹⁾.

⁽³⁸⁾ Judgment of the General Court of 6 February 2016 in Case T-385/12, *Orange v Commission*, ECLI:EU:T:2015:117.

⁽³⁹⁾ Judgment of the Court of Justice of 17 September 1980 in Case C-730/79, *Philip Morris Holland BV v Commission of the European Communities*, ECLI:EU:C:1980:209, paragraph 11, and judgment of the General Court of 15 June 2000 in Joined Cases T-298/97, T-312/97, T-313/97, T-315/97, T-600/97 to 607/97, T-1/98, T-3/98 to T-6/98 and T-23/98, *Alzetta Mauro and others v Commission of the European Communities*, ECLI:EU:T:2000:151, paragraph 80.

⁽⁴⁰⁾ Judgment of the Court of Justice of 23 January 2019 in Case C-387/17, *Fallimento Traghetti del Mediterraneo*, ECLI:EU:C:2019:51, paragraph 40.

⁽⁴¹⁾ Judgment of the General Court of 4 April 2001 in Case T-288/97, *Regione autonoma Friuli-Venezia Giulia v Commission*, ECLI:EU:T:1999:125, paragraph 41.

- (108) It is settled case-law that the Commission is not required to carry out an economic assessment of the markets concerned, the market share of the beneficiaries of the aid, the position of competing undertakings or trade between Member States ⁽⁴²⁾. In the case of State aid granted unlawfully, the Commission is not required to demonstrate the real effect it has had on competition and trade.
- (109) The measure in question favouring JCD (the retention of advertising displays without payment of rent or taxes after the dates specified in annex 10) strengthens its position on the advertising displays market in the Brussels Capital Region and makes it more difficult for undertakings established in other Member States to penetrate that market ⁽⁴³⁾. Furthermore, both JCD and CCB operate in other European Union Member States ⁽⁴⁴⁾. It is also important to stress that advertisers are often international groups operating in a number of countries and that in some cases advertising campaigns themselves have an international dimension.
- (110) Hence the measure is capable of affecting trade between Member States.
- (111) However, it should be noted that, whilst recognising the existence of an advantage to JCD, the Belgian authorities consider that it is possible to rely on the 2006 *de minimis* regulation.
- (112) Their argument is based on a calculation of the value of the advantage taking account of the arrangement to offset displays removed late against displays removed early.
- (113) The Belgian authorities consider (see recitals 51 and 52) that JCD did enjoy an economic advantage overall, but only because of an imbalance between the number of displays removed early, before their scheduled removal date, and the number kept in place after the removal dates specified in annex 10. From their point of view, on the basis of an offsetting mechanism agreed between the parties, JCD on the one hand waived a saving on rent and taxes by agreeing to withdraw displays early and on the other hand saved on rent and taxes through the retention of displays after the scheduled removal date.
- (114) When the difference is calculated between the savings lost by JCD due to the early removals and the additional savings made by keeping the displays in place for longer than specified in annex 10, according to the Belgian authorities, JCD enjoyed an overall financial advantage of not more than EUR [100 000-150 000] between December 1999 and 2011.
- (115) Since they believe that the advantage conferred on JCD cannot exceed EUR [100 000-150 000], the Belgian authorities argue that the measure easily falls within the scope of the 2006 *de minimis* regulation.
- (116) It is important to note at this stage that in fact two *de minimis* regulations are relevant to the period in question:
- (a) Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid (the 2001 *de minimis* regulation), valid from February 2001 to 31 December 2006, provides that certain small amounts of aid are deemed not to have an effect on trade between Member States and therefore not to meet all the criteria of Article 107(1) TFEU; the threshold is EUR 100 000 over three tax years;
 - (b) the 2006 *de minimis* regulation, valid from 1 January 2007 to 31 December 2013, likewise provides that certain small amounts of aid are deemed not to have an effect on trade between Member States and therefore not to meet all the criteria of Article 107(1) TFEU; here the threshold is EUR 200 000 over three tax years.

⁽⁴²⁾ Judgment of the Court of Justice of 8 September 2011 in Case C-279/08 P, *Commission v Netherlands*, ECLI:EU:C:2011:551, paragraph 131.

⁽⁴³⁾ See, to that effect, the judgment of the Court of Justice of 8 May 2013 in Joined Cases C-197/11 and C-203/11, *Eric Libert and others v Gouvernement flamand and All Projects & Developments NV and others v Vlaamse regering*, ECLI:EU:C:2013:288.

⁽⁴⁴⁾ For example, the call for tenders issued by the Brussels Capital Region on 15 March 2008 for the Villo concession was published in the *Official Journal of the European Union*.

- (117) Firstly, as explained in section 3.4.2.2, the Commission takes the view that the advantage exceeds that considered by the Belgian authorities, since the calculation of the advantage needs to take account of all rent and taxes not paid by JCD on the advertising displays kept in place after the scheduled removal date. The Commission does not have a precise valuation of the entire advantage conferred on JCD, since the Belgian authorities have refused to provide that information, but in any event the amount of aid granted to JCD exceeds EUR 200 000. Therefore the *de minimis* regulations are not applicable and the Commission cannot accept the Belgian authorities' argument.
- (118) Even if one of the *de minimis* regulations were to be applicable (*quod non*), the monitoring requirements laid down in Article 3 of the 2001 *de minimis* regulation and Article 3 of the 2006 *de minimis* regulation are in any event not met. Initially the Belgian authorities did not consider the arrangement to be *de minimis* aid, and therefore they did not take any of the steps provided for by the regulations.
- (119) Nor does the measure comply with the transparency requirements laid down in Article 2(4) of the 2006 *de minimis* regulation, which provides: 'This Regulation shall apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid *ex ante* without need to undertake a risk assessment ('transparent aid')'. In the present case, the Belgian authorities have produced no document that might indicate the existence of a calculation made before the aid was granted, or even of specific monitoring of the balance between early and late removals on the basis of which they arrived at an aid amount of EUR [100 000-150 000].
- (120) Accordingly, the aid in question cannot fall within the scope of the *de minimis* regulation.
- (121) In conclusion, the Commission considers that the measure is capable of affecting trade between Member States.

3.4.2.5. Conclusion

- (122) In view of the foregoing, the Commission concludes that the retention of the displays governed by the 1984 contract after their scheduled removal date meant that JCD was granted State aid consisting of two components, rent and taxes.

3.4.3. Lawfulness of the aid

- (123) The Commission notes that the measure referred to in this part of the complaint, which constitutes State aid within the meaning of Article 107(1) TFEU, was not notified in accordance with Article 108(3) TFEU.
- (124) Since the Belgian authorities provided no grounds for exemption from notification, the measure is therefore unlawful.

3.4.4. Compatibility with the internal market

- (125) In so far as the operation by JCD of certain advertising displays in the City of Brussels governed by the 1984 contract after their scheduled removal date (indicated in annex 10 to the 1999 contract) involves the existence of State aid within the meaning of Article 107(1) TFEU, it has to be determined whether the aid can be considered compatible with the internal market.
- (126) State aid measures can be considered compatible with the internal market on the basis of the derogations provided for in Article 106(2) and Article 107(2) and (3) TFEU. However, the Belgian authorities have adduced no arguments that those derogations apply in the present case.
- (127) The Commission points out, firstly, that it is for the Member State to show that aid is compatible with the internal market. However, the Belgian authorities have not put forward any argument to show that the measures in question are compatible. The derogations provided for in Article 107(2) TFEU and Article 107(3)(a) to (d) TFEU do not apply in this instance, since the measure in question is not justified by any objectives specified by those provisions.
- (128) Finally, the 1984 and 1999 contracts are purely commercial contracts and their provisions do not entrust JCD with any public service responsibility. Therefore the derogation provided for in Article 107(2) TFEU, which relates to payments for the provision of a public service, is not applicable.

- (129) The Commission is therefore of the opinion that the retention of the displays governed by the 1984 contract after the removal date specified in annex 10 to the 1999 contract, without payment of rent or tax, had the effect of reducing the costs JCD would normally have incurred in the conduct of its business and that it must therefore be considered operating aid that is incompatible with the internal market.
- (130) In view of the foregoing, the Commission considers that JCD has received unlawful aid that is incompatible with the internal market within the meaning of Article 107(1) TFEU through the retention of the displays governed by the 1984 contract after the removal date specified in annex 10 to the 1999 contract without payment of rent or tax. That aid is to be recovered in so far as its recovery is not time-barred under Article 17 of Regulation (EU) 2015/1589.

3.4.5. Amount of the incompatible aid

- (131) The general principle that will be applied to calculate the amount of the incompatible aid is to estimate the amount of rent and taxes the City should have collected without the measure.
- (132) The Commission considers that the amount of the incompatible aid should be calculated for each display governed by the 1984 contract kept in place after 15 September 2001 ⁽⁴⁵⁾, taking as the reference the rent due under the 1999 contract and the taxes generally applicable to advertising displays ⁽⁴⁶⁾ between the original date specified for removal ⁽⁴⁷⁾ (if the original date was after 15 September 2001) or 15 September 2001 (if the original date was before 15 September 2001) and the date on which removal actually took place.
- (133) As indicated in recitals 111 to 114, the Belgian authorities have come to the conclusion that the amount of any aid awarded to JCD is EUR [100 000-150 000], by offsetting displays governed by the 1984 contract kept in place until later against displays removed early. The calculation by the Belgian authorities is based on bailiff's reports obtained by CCB on 3 December 2007 and 21 December 2009. The Belgian authorities consider that those bailiff's reports showed that in 2007 the number of advertising screens corresponding to the displays that had been dismantled before the removal date specified in annex 10 exceeded the number of screens corresponding to the displays kept in place after the removal date specified in annex 10. They argue that only the bailiff's report obtained by CCB on 21 December 2009 showed that the balance had shifted in favour of JCD. The Belgian authorities consider, therefore, that even if some advantage may have been conferred on JCD in the performance of the contract, the quantification of that advantage can be limited to the financial years 2007 to 2011 without risk of favouring JCD.
- (134) As explained in section 3.4.2.2, the Commission is of the opinion that the argument put forward by the Belgian authorities on the basis of an offsetting mechanism is unfounded and that the advantage conferred on JCD corresponds to all the savings made by the undertaking by continuing to use the displays governed by the 1984 contract instead of replacing them with displays complying with the 1999 contract.
- (135) The Commission's argument on that point was also confirmed by the judgment of the Brussels Court of Appeal of 29 April 2016 ⁽⁴⁸⁾, in which the Court held that JCD had failed to adhere to the removal dates specified in annex 10 to the 1999 contract and that it had therefore used a number of advertising displays on public property in the City of Brussels without right or title. The Court ordered the cessation of those unlawful practices and held that the dismantling of the advertising displays operated without right or title was necessary for the cessation of the unlawful practice.
- (136) More specifically, the Court of Appeal rejected the idea of an offsetting mechanism as relied on by the Belgian authorities, according to which street furniture was retained after its scheduled removal date in exchange for the early replacement of other furniture, since such a mechanism was not provided for or authorised by the 1984 contract. The Court of Appeal confirmed that there was no evidence to indicate that after the signature of the 1999 contract JCD was expressly authorised to make a change in the basis (*interversio*) of the advertising displays. The Court rejected the appeal before it and upheld the judgment given on 13 December 2010 by the French-speaking

⁽⁴⁵⁾ The 10-year limitation period prohibits any recovery before 15 September 2001.

⁽⁴⁶⁾ The amount of incompatible aid in regard to tax is to be calculated on the basis of Articles 3, 4 and 5 of the regulation of 17 October 2001, Articles 4 to 7 of the regulation of 18 December 2006 and Articles 4, 5 and 6 of the tax regulations of 17 December 2007, 15 December 2008, 9 November 2009, 20 December 2010 and 5 December 2011.

⁽⁴⁷⁾ Those dates are indicated in annex 10.

⁽⁴⁸⁾ Judgment of Brussels Court of Appeal of 29 April 2016 (9th chamber) in Case 2011/AR/140.

Court of First Instance in Brussels. It confirmed that JCD, as the operator of advertising displays on public property in the City of Brussels without right or title, had objectively acted unlawfully, contrary to honest market practice, since the use in its network of advertising displays that should not or should no longer be there gave JCD an unlawful competitive advantage that could divert advertisers from its competitor, CCB.

- (137) Accordingly, the Commission considers that the incompatible amount of aid should be calculated solely on the basis of the rent and taxes not collected on the displays kept in place until later, without any offsetting mechanism. To that end, the Belgian authorities must take into consideration, for each of the displays in question and each relevant period, the rent and taxes arising from the tax regulations for 2001 and after for a display of the same size.
- (138) The tax regulation of 17 October 2001 on temporary advertising in and on public property introduced a tax on temporary advertisements in and on public property for the financial years 2002 to 2006. The City of Brussels has also adopted the tax regulation of 18 December 2006, which imposed the same tax for the 2007 financial year. From the 2008 tax year the City of Brussels introduced a specific tax on advertising displays ⁽⁴⁹⁾.
- (139) The Commission considers that the tax regulations for advertising displays should have applied automatically to displays governed by the 1984 contract kept in place until later, and that the tax exemption provided for by those tax regulations for the 1984 displays kept in place until later derogates from the reference system.
- (140) It should be noted that the City of Brussels initially considered, pursuant to a tax exemption for City of Brussels advertisements ⁽⁵⁰⁾ provided for by the tax regulation of 17 October 2001, that the displays that were installed

⁽⁴⁹⁾ Tax regulations of 17 December 2007, 15 December 2008, 9 November 2009, 20 December 2010 and 5 December 2011. Article 2 of those regulations provided that 'the advertising displays referred to in this regulation are advertising displays, temporary advertising displays, advertising vehicles and advertising stands'. The calculation of the tax was regulated in Articles 4 to 6. More precisely, according to Article 4, 'Tax on advertising displays':

(a) 'the rate of tax on advertising displays shall be EUR 150 per financial year per m².

(b) §1. The rate of tax on advertising displays designed exclusively for advertising for cultural, social and sporting purposes and similar advertising including advertising for films, artistic creations and announcements of fairs, conferences, exhibitions and circuses shall be EUR 50 per financial year per m².

§2. However, when over 1/7 of the visible advertising area is used for commercial information, names or logos, advertising displays designed exclusively for advertising for cultural, social and sporting purposes and similar advertising including advertising for films, artistic creations and announcements of fairs, conferences and exhibitions shall be taxed at the rate specified in paragraph (a) of this article.

(c) The tax shall be payable for the whole financial year, irrespective of the date of installation or dismantling of the advertising display in question.'

According to Article 5, Tax on temporary advertising displays ...

According to Article 6, Provisions common to Articles 4 and 5:

(a) 'the tax shall be payable for each advertising display.

(b) §1. For the tax calculation, any fraction of a m² shall be counted as a full m².

§2. Notwithstanding §1, for advertising displays of less than 4 m², taxation shall be by tranche or fraction of 0,25 m² at the fixed rate divided by 4.

(c) For advertising displays with several screens the tax rate shall be multiplied by the number of screens.

a. For advertising displays with a system allowing the succession or scrolling of several advertisements on the same screen, the tax rate shall be doubled.

(d) When the size of the advertising displays differs from the visible advertising area, the tax shall be calculated on the basis of the visible advertising area.'

⁽⁵⁰⁾ Article 5 provided that, inter alia, 'notices by the City or bodies set up by, subordinate to or financed by the City' were exempt from the tax laid down in that regulation. As stated in the comments by the Belgian authorities of 20 February 2017, in answer to the supplementary questions from the Commission of 14 February 2017, the City of Brussels never operated the advertising displays itself. They were always operated by third parties. The only displays belonging to the City of Brussels are those governed by the public contract awarded on 14 October 1999, which was renewed on expiry. The present successful tenderer, CCB, pays rent for the advertising displays as well as the applicable taxes.

under the 1999 contract and belonged to it were not taxable, which might appear to contradict the view expressed by the Commission in recital 139. An exemption provision relating specifically to advertising displays in the City of Brussels was in fact introduced subsequently in Article 9 of the tax regulation of 17 December 2007, and successively in the tax regulations of 15 December 2008, 9 November 2009, 20 December 2010 and 5 December 2011 ⁽⁵¹⁾.

- (141) However, the Belgian authorities also indicated that the City of Brussels ultimately concluded that to exempt advertising displays from tax solely because they belonged to the City of Brussels, when it did not operate them, was unfair to operators of other advertising displays. It therefore decided to tax the displays governed by the 1999 contract, and the first charges were made on 29 July 2011, relating to the 2009 tax year. The Belgian authorities explain that, pursuant to Article 6 of the law of 24 December 1996, since repealed by an order of 3 April 2014, tax could not be made retroactive for more than three years from 1 January of the tax year.
- (142) In light of the argument put forward by the Belgian authorities, the Commission considers that taxes on advertising displays would normally apply to the displays governed by the 1999 contract and that there was therefore no conflict with its view that the 1984 displays kept in place until later should also be taxed.
- (143) The Commission notes, on that point, that the two judgments delivered on 4 November 2016 by the French-speaking Court of First Instance in Brussels, which found that JCD was not liable for municipal advertising tax on advertising displays belonging to the City under the contract awarded to JCD on 14 October 1999, did not consider the question of compliance with the State aid rules.
- (144) The calculation of the amount of rent and taxes saved by JCD does not present any particular difficulties, and the Belgian authorities made a partial calculation in their *de minimis* argument (see recitals 52 and 53). However, the Belgian authorities have not given the Commission an estimate of the total amount of aid despite the Commission's repeated requests. CCB, on the other hand, has provided an estimate of the amount of aid to be recovered, which totals approximately EUR 2 million.

4. ASSESSMENT OF THE PART OF THE COMPLAINT CONCERNING VILLO

4.1. Grounds for initiation of the procedure

- (145) In the opening decision, the Commission expressed the view that the additional measures relating to the operation by JCD of the Villo public service concession in the Brussels Capital Region (exemption from certain fees or neutralisation of certain municipal and regional taxes, see recital 22) met all the criteria for State aid and accordingly constituted State aid within the meaning of Article 107(1) TFEU.
- (146) In particular, the argument put forward by the Belgian authorities that the measures could escape such classification on the basis of the *Altmark* judgment, since JCD had been selected through a transparent call for tenders, did not appear to apply in this instance, given that the additional measures were not part of the call for tenders but were granted after the call for tenders, when the Villo agreement was negotiated. According to the Belgian authorities, the additional measures total a maximum of about EUR [400 000-500 000] per year (see recital 22).
- (147) Furthermore, the Commission expressed serious doubts as to the compatibility of the additional measures with Commission Decision 2005/842/EC ('the 2005 SGEI decision') ⁽⁵²⁾ and the 2012 SGEI decision relied on by the Belgian authorities. In particular, the Commission doubted that the monitoring of the concession carried out by the Belgian authorities (which monitored the costs of the operation but not the revenue in detail) were sufficient to avoid any overcompensation. The Commission also had doubts as to the precise arrangements for allocating advertising revenue from contracts negotiated nationally by JCD to the Villo concession as applied in JCD's cost accounting.

⁽⁵¹⁾ Article 9 of the tax regulation of 17 December 2007 expressly exempts 'advertising displays of the City or bodies set up by or subordinate to the City'.

⁽⁵²⁾ Commission Decision 2005/842/EC of 28 November 2005 on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ L 312, 29.11.2005, p. 67).

- (148) For all the above reasons, the Commission decided to initiate the procedure provided for in Article 108(2) TFEU in respect of the measure concerned, and called upon the Belgian authorities and any interested parties to submit any relevant information and comments on the measure.

4.2. Comments submitted by interested parties on the opening decision

- (149) The Commission has received comments from several interested parties (CCB, JCD and a third interested party wishing to remain anonymous), which are summarised below.

4.2.1. Comments submitted by CCB

- (150) The Commission received comments from CCB by letter of 16 July 2015.

- (151) CCB takes the view that JCD received State aid to operate the Viljo concession and puts forward arguments especially regarding the criteria of State resources and advantage conferred.

4.2.1.1. State resources

- (152) By granting JCD the right to occupy and use public property for advertising purposes without payment (see recitals 19 to 22), the Belgian authorities have waived public revenue and conferred an economic advantage on JCD that constitutes State aid ⁽⁵³⁾.

4.2.1.2. Advantage

- (153) CCB contends that the compensation awarded to JCD does not satisfy any of the tests established by the *Altmark* judgment.

First *Altmark* test

- (154) CCB is of the opinion that the operation of the Viljo service does not constitute a public service task involving the supply of services which, if it were considering its own commercial interest, an undertaking would not assume or would not assume to the same extent or under the same conditions ⁽⁵⁴⁾; CCB refers to a number of other European cities in which automated cycle hire services are already satisfactorily provided on commercial terms ⁽⁵⁵⁾.

Second *Altmark* test

- (155) It is apparent from the specifications that essential aspects such as the length of the concession, the financial arrangements for the service and the contribution to the financing of the service by the contracting authority were defined very vaguely ⁽⁵⁶⁾ and that the specifications did not therefore establish the main parameters of the system for financing the service clearly and transparently.

Third *Altmark* test

- (156) CCB takes the view that there was no scrutiny, either *ex ante* or *ex post*, of the extent of the advantages conferred on JCD for the Viljo concession and that the precise financial impact of the tax exemptions allowed to JCD remain unknown. Hence it cannot be guaranteed that there was no overcompensation.

⁽⁵³⁾ See paragraph 33 of the Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest (OJ C 8, 11.1.2012, p. 4).

⁽⁵⁴⁾ *Ibid.*, paragraph 47.

⁽⁵⁵⁾ Barcelona and Antwerp are cited as examples.

⁽⁵⁶⁾ For example, as regards financing the specifications state that the contracting authority is 'open to different financial approaches'.

Fourth Altmark test

- (157) CCB notes that JCD was awarded the Villo concession after a negotiated procedure with prior publication, which can be considered sufficient to satisfy the fourth *Altmark* test only in exceptional cases. In CCB's opinion, since additional measures relating to essential aspects of the concession (such as exemption from municipal taxes) were decided on after the call for tenders, it cannot be concluded that such a call for tenders allows selection of the operator providing the service of general economic interest at the lowest cost.

4.2.1.3. Compatibility

- (158) CCB contests the Commission's conclusion in the opening decision that the compatibility of the measures should be assessed in light of the 2012 SGEI decision.

Applicability of the 2012 SGEI decision

- (159) CCB argues that the compensation awarded to JCD for operation of the Villo concession is in the order of several tens of millions of euros per year, hence above the annual EUR 15 million threshold determining the applicability of the 2012 SGEI decision⁽⁵⁷⁾. In particular, CCB considers that, in addition to the advertising revenue, the prices paid by users and the exemptions from taxes and charges, account also has to be taken of the advantages enjoyed by JCD due to the exemption from paying for the occupancy and use of public property for advertising purposes.

Compliance with the conditions of the 2012 SGEI decision

- (160) In addition, CCB contends that several conditions laid down in the 2012 SGEI decision have not been met in this instance.
- (161) Entrustment: CCB disputes that the entrustment requirements set out in Article 4 of the 2012 SGEI have been fulfilled. Firstly, the order of 25 November 2010 governing the operation of the public Villo service was issued approximately two years after the Villo concession was awarded⁽⁵⁸⁾. Secondly, the Villo agreement was extended to 17 years 4 months, even though in the agreement the duration was set at 15 years. CCB disputes that that duration was justified by the scale of investment required, as stated in recital 99 of the opening decision. CCB notes that, according to JCD's annual accounts, the costs for the bicycles provided under the Villo system are amortised at a rate of 20 % per year and hence they were fully amortised five years after their installation.
- (162) Compensation: the description of the compensation mechanism and the parameters for calculation, control and revision of the compensation is inadequate. In that connection, as regards the allocation of advertising revenue, CCB considers it essential for the Belgian authorities to take account of the gross rating point (GRP)⁽⁵⁹⁾ for Villo advertising screens, and not the average revenue generated by all screens operated by JCD in its networks. As regards the costs to be taken into account when calculating the compensation, CCB emphasises that, according to Article 5 of the 2012 SGEI decision, these are only the 'costs incurred in operating the service of general economic interest', a definition that excludes any costs relating to the installation and operation of advertising displays.
- (163) Control of overcompensation: as indicated above (see recital 156), CCB considers that there is no control of the absence of overcompensation for JCD in the operation of the Villo concession. Moreover, according to CCB's calculations, JCD has been substantially overcompensated.

4.2.1.4. Amounts of compensation

- (164) CCB contests the amounts resulting from exemption from municipal taxes as mentioned in the opening decision. It contends that the exemptions increased substantially once the Villo concession was fully operational from 2014, totalling at least EUR 650 000 per year, i.e. well above the proposed maximum of EUR [250 000-350 000] per year (see recital 22).

⁽⁵⁷⁾ See Article 2(a) of the 2012 SGEI decision.

⁽⁵⁸⁾ Order of 25 November 2010 governing the operation of an automated cycle hire public service, published in the *Moniteur belge* on 7 December 2010, Article 2.

⁽⁵⁹⁾ The GRP is an index determining the commercial value of an advertising screen according to its capacity to reach as many consumers as possible and the frequency of visual contacts between the screen and the target consumer.

- (165) Furthermore, CCB is of the opinion that the use of advertising displays free of charge in itself constitutes State aid. It considers that the value of each advertisement should be quantified and, referring to its own contract with the City of Antwerp, concludes that JCD's exemption from any payment is equivalent to aid of nearly EUR 8 million per year.

4.2.2. Comments submitted by the second complainant

- (166) The Commission received comments from an anonymous third party on 17 July 2015. That party also emphasises that the Villo agreement grants JCD State aid.
- (167) In particular, the anonymous third party disputes that the tests of the *Altmark* judgment are satisfied in the present case, since the parameters of the compensation were not established clearly and transparently beforehand. Furthermore, no control system was put in place to avoid overcompensation, which precludes possible compatibility on the basis of the 2012 SGEI decision.
- (168) Finally, the anonymous third party 'firmly' disputes the view of the Belgian authorities that there is an allocation formula as powerful as the GRP for the allocation of advertising revenue to Villo advertisements (see recital 196).

4.2.3. Comments submitted by JCD

- (169) JCD forwarded its comments on the Commission's opening decision by letter of 17 July 2015.

4.2.3.1. Existence of State aid

- (170) JCD maintains that the Villo agreement is financed exclusively by private resources and does not confer any economic advantage on it. Therefore the Villo agreement does not include State aid. The only public resources involved in this instance result from the exemption from regional charges and the price revision clauses in the agreements signed with municipalities. In JCD's view, those measures should be classed as compensation for a public service covered by the *Altmark* principles. In particular, JCD adduces the following arguments:

First *Altmark* test

- (171) According to the order governing the operation of the service provided under the Villo agreement, the service comprises 'the organisation of an automated cycle hire scheme for personal transport throughout the Brussels Capital Region'. In JCD's view, the requirements for this service essentially involve setting up a cycle hire network continuously accessible to the whole population, for an attractive payment, and laying down obligations for maintenance of the network, for example availability in the relevant area and replacement of bicycles with defects. Thus JCD considers that compliance with the criterion of performance of public service obligations 'does not present any difficulty in this instance'.

Second *Altmark* test

- (172) JCD stresses that the requirement to define the parameters of the compensation beforehand does not mean that the compensation is to be calculated by a specific formula. JCD argues that the main parameters for the financing system were in fact listed objectively and transparently in the specifications, which provide, *inter alia*:
- (i) that the concession holder is liable for the operating risk;
 - (ii) that the contracting authority prefers a tender not requiring any financial contribution from the Region; and
 - (iii) that in no circumstances will the Region make a fixed recurring financial contribution.
- (173) JCD also takes the view that the way in which the exemption from regional charges operates allows its amount to be calculated precisely beforehand by multiplying the fixed amount of the charge by the number of displays installed.

- (174) As regards the price revision clauses, their financial impact is known beforehand, since they are designed to offset the increase in municipal taxes, irrespective of the fact that it was naturally impossible to predict future changes in those taxes.

Third Altmark test

- (175) JCD maintains that there can be no overcompensation, because:
- (i) exemption from the charge for the occupancy of regional property for advertising purposes was granted as a consideration for its acceptance of a more substantial loss arising from the reduction in the number of advertising displays that could be installed under the Villo agreement;
 - (ii) the price revision clauses signed with the municipalities were designed solely to safeguard the balance of the contract initially established in the Villo agreement, with a very limited financial impact: less than EUR [0-50 000] for the 2013 financial year and less than EUR [0-50 000] for the 2014 financial year;
 - (iii) the clause to neutralise changes in regional taxes is a standard clause that has never been implemented;
 - (iv) the Villo agreement is strictly monitored by the Belgian authorities; the number of advertising displays that can be installed under the concession is defined precisely by the Villo agreement, which lays down strict requirements for the operation of the system; JCD is required to provide the Region's authorities with information on the implementation of the agreement; the agreement places an obligation on JCD to submit an annual report to the management committee on the system use data; every three years the management committee draws up a report on the technical and technological condition of the bicycle fleet; the order governing the operation of the service provided under the Villo agreement provides for an annual review by the Regional Government and Parliament of the performance of the concession contract; furthermore, according to Article 21 of the Villo agreement, failure by JCD to comply with the legislation in force and the ethical rules for advertising is subject to a penalty of EUR 4 000 per day;
 - (v) the Villo agreement is unprofitable.

Fourth Altmark test

- (176) JCD submits that the call for tenders leading to the signature of the Villo agreement was indeed open, transparent and non-discriminatory, and that there is no doubt that the Region chose the bidder capable of providing the public service at the lowest cost to the community, since, even taking account of the additional measures adopted after the award procedure, JCD's tender was still by far the most advantageous.

4.2.3.2. Compatibility

- (177) If the Commission should decide that the exemption from regional charges and the price revision clauses constitute State aid, JCD argues that they are compatible with the internal market on the basis of the 2012 SGEI decision.

Applicability of the 2012 SGEI decision

- (178) Article 2(1)(a) of the 2012 SGEI decision limits its scope to aid not exceeding EUR 15 million annually. JCD notes that compensation for a public service is defined as any advantage granted from public funds and that advertising revenue and payments by users cannot therefore be taken into account in applying that provision. Accordingly, JCD considers that the annual amount of aid alleged in this instance is well below that threshold and therefore falls within the scope of the decision.

Compliance with the conditions of the 2012 SGEI decision

- (179) JCD is of the opinion that the Villo agreement complies with the provisions of the 2012 SGEI decision and adduces the following arguments.

- (180) Entrustment: JCD refers to recital 73 of the opening decision, which states that the public service obligations on the concession operator are set out in the Villo agreement and in the order of 25 November 2010 adopted by the Regional Parliament.
- (181) As regards the duration of the entrustment, JCD considers the 15-year period justified given the scale of the investment required. The installation of stations and the supply of bicycles require substantial investment, while the Villo agreement restricts the number of advertising displays that can be installed and the indexing of user prices. Furthermore JCD notes that the 2005 SGEI decision, which was applicable at the time the Villo agreement was signed, contained no provisions on the duration of the concession.
- (182) JCD does not consider that it was necessary in this case for the entrustment to lay down recovery arrangements for any overcompensation, since any risk of overcompensation was eliminated as soon as the Villo agreement was signed, in particular because the contract was awarded on the basis of an open, transparent and non-discriminatory call for tenders.
- (183) Compensation: JCD submits that, in so far as the operation of the concession has been unprofitable up to now, there can have been no overcompensation. It is therefore not necessary to calculate JCD's operating margin to determine whether it can be considered reasonable and hence it is not necessary to ensure that the reference value used to determine the absence of overcompensation is not overestimated.
- (184) As regards the allocation of advertising revenue under the Villo agreement, JCD states that it values the displays installed according to population covered, audience performance and number of screens, without taking account of the contractual origin of the screens, and having regard to the competitive situation and their location in a strategically important city. It does not consider it appropriate to assess the real value solely on the basis of the GRP, as CCB claims (see recital 162), since advertisers looking for countrywide coverage are not interested in a screen sold on its own, even with a very high GRP.
- (185) Control of overcompensation: JCD considers that the operational checks provided for in the Villo agreement (see recital 175(iv)) do indeed ensure that there is no overcompensation.

4.2.3.3. Amount of compensation

- (186) As regards the exemption from the charge for occupancy of regional public property, JCD explains that, in the negotiations prior to the conclusion of the Villo agreement, JCD agreed to reduce the number of advertising displays proposed in its tender for installation under the public service concession.
- (187) The number of separate 2 m² displays and the number of 8 m² displays were reduced by 25 units. In exchange, the Region allowed JCD exemption from the charge for the occupancy of regional public property by 8 m² displays installed under the Villo agreement.
- (188) That exemption totals not more than EUR [50 000-150 000] per year (see recital 22).
- (189) As regards the neutralisation of changes to municipal taxes, JCD explains that the financial impact is in fact very limited. It depends both on the charging of the taxes concerned and the invoicing by JCD. In practice the charges reinvoiced by JCD in application of the price revision clauses totalled less than EUR [0-50 000] per year up to 2017.

4.3. Comments submitted by Belgium

4.3.1. Comments submitted by Belgium on the opening decision

- (190) The Belgian authorities sent their comments on the opening decision by letter of 21 May 2015.

4.3.1.1. Existence of State aid

(191) The Belgian authorities confirm their initial view that the measures provided for in the Villo agreement signed with JCD satisfy all the tests of the *Altmark* judgment and that those measures consequently do not constitute State aid.

(192) In particular they submit the following arguments.

First Altmark test

(193) By promoting an ecological means of transport that offers a response to mobility problems in Brussels, the Belgian authorities consider that the availability to the public of an automated cycle hire scheme indisputably pursues objectives of general interest.

Second Altmark test

(194) The Belgian authorities consider that the specifications on the basis of which JCD and CCB drew up their detailed tenders set out the main parameters of the financing system:

- (i) all the scheme's revenue to be from private sources;
- (ii) no direct subsidy or direct compensation for losses from the concession; and
- (iii) the entire operating risk to be borne by the concessionaire.

Third Altmark test

(195) Firstly, the Belgian authorities take the view that the concession was awarded on the basis of an open, transparent and non-discriminatory competitive invitation and it can therefore be assumed that there was no overcompensation. In so far as the Region had expressly ruled out payment of a direct subsidy in exchange for the concession, the open, transparent and non-discriminatory character of the procedure necessarily excluded any risk of overcompensation.

(196) Secondly, the financial measures provided for by the concession did not result in any overcompensation by JCD. The Belgian authorities consider that:

- (i) JCD's exemption from charges for occupancy of public property in the Region, totalling not more than EUR [50 000-150 000] per year, covered only a small part of the total operating costs for the concession, equal to [0-5] % of those costs in 2012;
- (ii) neutralisation of any future changes in regional taxes (see recital 22) is a standard clause in long-term concession agreements, justified particularly by the Region's entitlement to raise its own taxes and the fact that no compensation is provided for in the event of losses from the operation of the concession; taxes and regional charges were not increased in this instance and therefore the neutralisation clause has never been applied;
- (iii) the price revision clauses in bipartite agreements signed with local authorities (see recital 22) merely provide for an independent corrective to balance the contract and in no way affect the level of local tax, which the local authorities remain free to revise; as indicated in recital 82 of the opening decision, the neutralisation is equivalent to a maximum of between EUR [50 000-100 000] and EUR [250 000-350 000], depending on the comparison rate used;
- (iv) for the allocation of advertising revenue, JCD applies a valuation coefficient to each contract corresponding to the added value for average revenue per screen, a methodology that is in line with current practice in the field; and
- (v) the concession agreement is systematically monitored: firstly, a management committee ⁽⁶⁰⁾ and a support committee, to which JCD reports annually on the operation of the scheme, are responsible for monitoring the performance of the agreement; and secondly, the order of 25 November 2010 provides for annual scrutiny of the implementation of the concession agreement by the Government and Parliament of the Brussels Capital Region.

⁽⁶⁰⁾ The management committee is set up by Article 6 of the Villo agreement and is composed equally of at least two members appointed by the Minister for Mobility from the Brussels mobility department and at least two members appointed by JCD.

Fourth Altmark test

- (197) In the opinion of the Belgian authorities, the Villo concession was awarded to JCD by an open, transparent and non-discriminatory procedure. The financial measures added after the call for tenders (see recital 22) were designed merely to offset the reduction in the anticipated advertising revenue and to safeguard the balance of the contract for the future.

4.3.1.2. Compatibility

- (198) If the measures provided for in the Villo agreement do constitute State aid, the Belgian authorities take the view that they can be considered compatible with the internal market on the basis of Article 107(3)(c) of the Treaty, given that:
- (i) by promoting an ecological means of transport as an alternative to cars, the supply of self-service bicycles constitutes a well-defined objective in the interest of the community;
 - (ii) the financing of the concession almost entirely from private funds is appropriate and proportional, and has an incentive effect; and
 - (iii) the distortions of competition and the effects on trade are limited, since the concession results from an effective and transparent competitive procedure of purely local application.

4.3.2. Comments submitted by Belgium on the comments of interested parties

- (199) The Belgian authorities sent their comments on the comments of interested parties by letter of 2 October 2015.
- (200) The Belgian authorities reject the arguments put forward by the complainants. They contend that the measures provided for by the Villo agreement satisfy all the tests of the *Altmark* judgment and consequently do not constitute State aid. In the alternative, the Belgian authorities take the view that the measures are compatible with the internal market on the basis of:
- (i) Article 107(3)(c) of the Treaty; and
 - (ii) the 2012 SGEI decision.

4.3.2.1. Existence of State aid

- (201) CCB maintains that the Brussels Capital Region conferred on JCD the right to occupy and use public property for advertising purposes without any charge; the Belgian authorities reject that claim, and submit that the consideration for the use of the advertising displays is the provision of the cycle hire public service, as specified in the call for tenders.
- (202) Furthermore, the Belgian authorities uphold the view they stated in their letter of 21 May 2015 that the *Altmark* tests are satisfied in this case (see recitals 191 to 197). They put forward further arguments on the first two tests of the *Altmark* judgment (see recitals 203 to 204).

First Altmark test

- (203) According to the Belgian authorities, CCB's claim that a cycle hire service similar to the Villo system is already provided in other European cities without having been expressly classified as a service of general economic interest is not relevant in this case. They say that the concept of a service of general economic interest is a relative notion that depends on circumstances. In this instance the Brussels Capital Region has to deal with particularly heavy vehicular traffic, calling for the adoption of ambitious and effective measures. In the example of the city of Antwerp cited, the Belgian authorities submit that the operator concerned (CCB) receives a direct subsidy.

Second Altmark test

- (204) The Belgian authorities consider that if a method of financing a public service had to be defined precisely as soon as the contract notice appeared, a competitive procedure would be pointless, since bidders would have no margin of manoeuvre. The Belgian authorities maintain their view that the specifications set out the parameters for financing the service objectively and transparently (see recital 194).

4.3.2.2. Compatibility

Applicability of the 2012 SGEI decision

- (205) Although there is no valuation of any aid that the Belgian authorities accept, they consider that the total amount of the alleged aid is in any case well below EUR 15 million, since the purely private revenue (such as advertising revenue) must not be included in the calculation of the aid. Accordingly, the Belgian authorities are of the opinion that the annual amount of the alleged aid does fall within the scope of the 2012 SGEI decision.

Compliance with the conditions of the 2012 SGEI decision

- (206) According to the Belgian authorities the extension of the concession period (see recital 161) aligns the period of the first phase with that of the second phase (see recital 20). The alignment is justified for two reasons: the longer than expected duration of the various procedures required, the wish to align the two phases in the interests of good management, the need to compensate for a reduction in the number of advertising displays, and the wish to provide a service to the public for an adequate length of time.
- (207) The Belgian authorities take the view that the Villo concession was awarded to JCD with a clear and explicit entrustment act which defines the parameters of the compensation and enables any overcompensation to be avoided (see recitals 193 to 197).

Article 107(3)(c) TFEU

- (208) The Belgian authorities maintain the view expressed in their letter of 21 May 2015 (see recital 198) that the measures provided for can be considered compatible with the internal market on the basis of Article 107(3)(c) TFEU, since:
- (i) the supply of self-service bicycles constitutes a well-defined objective in the interest of the community;
 - (ii) the agreement is designed as an appropriate and proportional instrument, and has an incentive effect;
 - (iii) the distortions of competition and the effects on trade are limited.

4.4. Additional comments submitted by interested parties

4.4.1. Additional comments submitted by CCB

- (209) According to CCB, the costs incurred by JCD in implementing the Villo agreement are significantly lower than those declared initially and therefore lower than those cited by the Belgian authorities to demonstrate that there is no overcompensation:
- (i) JCD benefited from a reduction in the number of bicycles to be put into service, from 5 000 to 4 500;
 - (ii) JCD may have made a substantial saving from the amendment to the Villo agreement, which reduces the number of cycle stations to be installed from 400 to 360;
 - (iii) the number of journeys recorded by Villo was 150 000 lower in 2015 than in 2014.
- (210) CCB has calculated the advertising revenue earned by JCD from implementing the Villo agreement, identifying the advertising displays by their installation date and position, then calculating the number of advertising screens operated by JCD, and finally applying JCD's official rates for its Brussels network and the standard payments in the sector for outside advertising on displays of this type. According to those calculations, JCD has considerably underestimated the advertising revenue.

- (211) CCB concludes that JCD was allowed overcompensation of EUR 27,3 million between May 2009 and February 2017.
- (212) Since there is no monitoring to ensure the absence of overcompensation (see recital 163), CCB is of the opinion that a control system should be put in place in order to check annually whether the concession holder has been overcompensated and to correct the overcompensation identified if necessary. The check should be carried out by an independent third party.
- (213) CCB considers, furthermore, that the absence of overcompensation should be assessed on the basis of a reasonable profit calculated in relation to the costs of the service of general economic interest and not in relation to the revenue generated.

4.4.2. *Additional comments submitted by JCD*

- (214) As regards the use of the GRP to determine the advertising revenue generated by the Villo agreement (see recitals 162 and 184), JCD states that this is was in fact one of the criteria it uses to determine the value of advertising networks. However, JCD considers that the theoretical GRP index of advertising displays is not an adequate method of valuing the displays under a contract. JCD values the displays installed under each contract by reference to an average revenue per screen, calculated on a countrywide basis, to which it applies a correction coefficient based on various factors, notably the GRP of the screens and the location of the displays in a city of strategic importance to advertisers, as well as the varying degree of advertising pressure from one city to another and the competition situation.
- (215) While stressing the limited relevance of the GRP, JCD notes that a comparison of GRP and the price per screen between its largest national network and its largest Brussels network results in premiums of [10-20] % and [20-30] % respectively, similar to the correction coefficient for the screens operated under the Villo agreement, which is [20-30] %.
- (216) As regards the costs incurred in implementing the Villo agreement, JCD considers that the figures obtained by CCB are not correct, owing to:
- (i) the fact that CCB's method takes no account of the investments required for the installation of the necessary infrastructures at the start of the concession;
 - (ii) the use by CCB of an annual cost per bicycle of EUR 1 450, a figure taken from JCD's tender and thus based on estimates.
- (217) JCD does not recognise the amounts cited by CCB for the neutralisation of municipal taxes (see recital 164). According to JCD, the difference between CCB's estimated figures and the actual amounts is due to:
- (i) the use of incorrect rates: contrary to CCB's calculations, only a few municipalities apply a tax rate on advertising displays of more than EUR 75 per scrolling m² per year;
 - (ii) application of the mechanism to municipalities that are not involved: CCB seems to have applied the revision mechanism to the municipalities of Etterbeek, Schaerbeek and Saint-Josse, when the bilateral agreements with those municipalities do not incorporate that clause;
 - (iii) automatic application of the mechanism: in practice JCD receives sums due under the revision mechanism only after it has invoiced the municipalities for the charge; some time can elapse between the installation and use of the advertising displays and the time at which the sums are collected in accordance with the revision clauses.
- (218) As regards the amount of advertising revenue, CCB underestimates JCD's discount; the discount rate is around [60-70] %, not 40 %. When the correct rate is applied, the advertising revenue is considerably lower the estimates given by CCB, at just over half.
- (219) JCD also disputes the figure given by CCB for the operation of the advertising displays free of charge (see recital 165). According to JCD, CCB disregards the fact that the operation of the advertising displays provided for by the Villo concession is inseparable from the provision of the cycle hire public service: the advertising revenue is intended to finance the public service.
- (220) JCD considers that the use of the advertising displays is taken into account in the financing of the Villo concession, since it operates the Villo displays in exchange for the substantial costs generated by the provision of the cycle hire public service.

4.5. Additional comments submitted by Belgium

- (221) In regard to the duration of the Villo agreement (see recital 161), the Belgian authorities also argue that the 2005 SGEI decision, which was applicable when the agreement was signed, did not lay down any provisions on the period for which the public service was to be provided (see recital 181). Furthermore, the Belgian authorities consider that the extension of the Villo concession period was justified, for three reasons:
- (i) circumstances beyond the control of the parties had delayed the implementation of the agreement;
 - (ii) the wish to align the two phases of the Villo agreement: the phases, whilst started at different times, were originally scheduled to last 15 years; in practice that would have resulted in two separate expiry dates for phase 1 and phase 2 (as indicated in the preamble to the amendment); and
 - (iii) the number of street furniture advertisements operated by JCD had been reduced as a result of the amendment to the Villo agreement.

4.6. Second amendment to the Villo agreement

- (222) The Government of the Brussels Capital Region and JCD signed an amendment to the Villo agreement on 29 March 2018. The amendment was added in order to allow more accurate and regular monitoring of the absence of overcompensation.
- (223) The amendment states that the results of JCD's separate cost accounting will be forwarded to the Region. The results will show the revenue from the Villo concession, broken down into revenue from user payments, advertising revenue, exemption from the regional charge and neutralisation of municipal tax increases, and the costs of the concession broken down into operating costs, management costs and amortisation of the investments related to the Villo service.
- (224) The amendment states that every year the statutory auditor (*commissaire aux comptes*) responsible for checking JCD's annual accounts is to verify that the accounting separation principles applied by JCD comply with the 2012 SGEI decision. After verification by the statutory auditor the results of the separate accounting are to be sent to the independent auditor (*réviseur*).
- (225) Every year the independent auditor will verify that the ratio of the cumulative annual operating results (EBIT) divided by the cumulative annual costs (since 2009) related to the operation of the Villo concession is not above the threshold of [10-20] % ⁽⁶¹⁾. If it exceeds the threshold, and to the extent that it does so, the amount of the regional charge from which JCD is exempt, plus the amount resulting from the impact of the measures related to municipal taxes, will be paid retroactively in full or in part for the previous year.
- (226) The amendment also states that the statutory auditor is to establish that there is no overcompensation for the 2009-2017 period using that method, and to draw up a compilation report for the management committee. The report was to be drawn up as soon as possible after the signature of the amendment.

4.7. Assessment of measures before the second amendment

- (227) In its assessment, the Commission will distinguish between the period before the amendment (see recital 222) and the period after the amendment.

4.7.1. State aid within the meaning of Article 107(1) TFEU

- (228) The criteria for determining the existence of State aid are set out in recitals 70 to 71. Recitals 229 to 249 assess whether those criteria are met in respect of each of the measures: the exemption from regional charges for occupancy of public property, the neutralisation of the municipal tax increase, and the regional taxes hardship clause (see recital 22).

⁽⁶¹⁾ Corresponding to a standard ratio of [10-20] % on revenue.

4.7.1.1. Imputability and State resources

(229) The criteria for determining imputability and the existence of State resources are set out in recitals 72 and 73.

Imputability

(230) It is not contested that the Brussels Capital Region awarded the Villo concession and that the Region introduced the additional measures after the concession was granted (see recitals 19 to 22). The contested measures are thus imputable to the State.

State resources

(231) The loss of revenue to the Brussels Capital Region and the various municipalities it comprises which is associated with the contested measures is revenue forgone by the public authorities and hence constitutes State resources transferred to JCD.

(232) The State resources in question are, specifically, (i) the loss resulting from exemption from the charge for occupancy of public property in the Brussels Capital Region for 8 m² advertising displays, totalling up to EUR [50 000-150 000] per year; (ii) the loss of revenue arising from the neutralisation of any change to regional taxes, equal to the amount resulting from that increase; and (iii) the loss of revenue arising from the neutralisation of any change to municipal taxes, equal to the amount resulting from that increase and totalling up to EUR [250 000-350 000] per year (see recital 22).

(233) The Villo cycle hire scheme is also financed by the management and use of advertising displays and by customer payments. Advertising revenue and payments from users of the concession are purely private resources and cannot be classed as State resources.

(234) The Commission is of the opinion that the advertising revenue received by JCD clearly does not constitute State resources, because the revenue is derived from private contracts between JCD and its clients in which the State has no involvement.

(235) Furthermore, it cannot be assumed that when the Brussels Capital Region does not itself engage in an economic activity it is necessarily waiving State resources. Such an approach to State resources would be extremely broad and would prevent the State from authorising activities in its territory without first establishing that it could not carry out the activity itself.

4.7.1.2. Existence of an economic advantage

(236) The criteria for determining whether a selective economic advantage is conferred are set out in recitals 82 and 83.

(237) In the present case, the exemption from regional charges and the neutralisation of the increase in municipal charges enable JCD not to incur costs that it would normally have had to bear out of its own financial resources, and therefore do indeed give it an advantage.

(238) However, the Belgian authorities take the view that the additional measures should be regarded as compensation for a public service covered by the case-law in the *Altmark* judgment.

(239) In the *Altmark* judgment, the Court of Justice of the European Union stated that compensation granted through State resources for costs relating to the supply of a service of general economic interest do not constitute an advantage if all of four conditions are satisfied ⁽⁶²⁾:

- (i) the recipient undertaking must actually have public service obligations to discharge, and the obligations must be clearly defined;
- (ii) the parameters on the basis of which the compensation is calculated must be established in advance in an objective and transparent manner;

⁽⁶²⁾ Judgment of the Court of Justice in Case C-280/00, *Altmark Trans and Regierungspräsidium Magdeburg*, ECLI:EU:C:2003:415, paragraphs 87 to 95.

- (iii) the compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of public service obligations, taking into account the relevant receipts and a reasonable profit for discharging those obligations; and
- (iv) where the undertaking which is to discharge public service obligations is not chosen pursuant to a public procurement procedure which would allow for the selection of the tenderer capable of providing those services at the least cost to the community, the level of compensation needed must be determined on the basis of an analysis of the costs which a typical undertaking, well run and adequately provided, would have incurred in discharging those obligations.
- (240) As regards the second *Altmark* test, the Commission notes that the financial impact for the Brussels Capital Region of the additional measures provided for in the agreement only after the invitation to tender, and in particular a measure such as the increase in municipal charges, was unknown at the time the measure was granted, since it depended entirely on future variations in municipal charges. In the absence of a limit on the maximum financial impact of the measure, the Commission does not consider it fully transparent.
- (241) With regard to the third *Altmark* test, it was not verified beforehand, at the time the additional measures under examination were granted, that the compensation received by JCD while the concession was in operation would not exceed what was necessary to cover all or part of the costs generated by the performance of the obligations arising from it, taking account of the relevant revenue and a reasonable profit for the performance of those obligations.
- (242) Finally, with reference to the fourth *Altmark* test, the Commission is of the opinion that given that certain measures were added after the call for tenders it is not clear that the objective of the call for tenders from the point of view of the *Altmark* judgment, which is to select the operator capable of providing the service at the lowest cost to the community, can be considered to have been achieved. If not all the compensation measures are incorporated into a call for tenders it is difficult to conclude that the call makes it possible to select the operator providing the service of general economic interest at the lowest cost, even if the call for tenders procedure is in itself transparent.
- (243) For the reasons explained in recitals 240 to 242, the Commission does not consider that the *Altmark* tests have been satisfied in this instance, and concludes that the additional transfers of State resources decided on after the call for tenders do confer an economic advantage on JCD.
- (244) As for the calculation of the amount of the advantage, the Belgian authorities initially estimated that the neutralisation of municipal taxes would be equivalent to no more than about EUR [50 000-100 000] per year. However, that calculation allowed for the fact that local authorities generally apply a lower tax rate to public services than commercial operators, which have to pay a higher standard rate. The Belgian authorities consider that the only advantage conferred is the difference between the more favourable tax level granted to public services generally and the level of taxes actually applied to JCD under the Villo concession. The Commission, on the other hand, considers that the advantage actually conferred on JCD is equivalent to the difference between the standard rate and the rate applied to JCD, which, according to the initial calculations by the Belgian authorities, may total up to EUR [250 000-350 000] per year ⁽⁶³⁾.
- (245) In all, JCD enjoys an advantage of up to EUR [400 000-500 000] per year (EUR [50 000-150 000] from the exemption from the charge for occupancy of public property in the Brussels Capital Region and EUR [250 000-350 000] from the application of the price revision clause for municipal taxes, see recital 22.

4.7.1.3. Selectivity

- (246) The criteria for assessing the selectivity of a measure are set out in recital 97.

⁽⁶³⁾ See recital 82 of the opening decision.

(247) Since the contested measures constitute individual aid measures, the identification of the economic advantage (see recitals 236 to 245) is sufficient to support the presumption that they are selective ⁽⁶⁴⁾. In the absence of any indication to the contrary, that presumption applies here and is enough for the measures to be declared selective.

4.7.1.4. Distortion of competition and effects on trade between Member States

(248) For the same reasons as are set out in recitals 103 to 121, the additional measures allowed to JCD for the Villo concession have effects that could potentially distort competition and trade between Member States.

4.7.1.5. Conclusion on the existence of aid

(249) In light of the foregoing, the Commission takes the view that in respect of the additional measures related to the operation of the public Villo service concession by JCD in the Brussels Capital Region all of the criteria for State aid are met, and those measures accordingly constitute State aid within the meaning of Article 107(1) TFEU.

4.7.2. Lawfulness of the aid

(250) The Commission notes that the additional measures referred to in this part of the complaint, which constitute State aid within the meaning of Article 107(1) TFEU, were not notified in accordance with Article 108(3) TFEU.

(251) However, the Belgian authorities consider that, although they constitute State aid, they are compensation for a public service which is compatible with the internal market under the SGEI decision applicable at the material time (at the time the measures were granted, the text in force was the 2005 SGEI decision, which was later replaced by the 2012 SGEI decision). Both texts provide for an exemption from notification for measures that comply with their tests of compatibility ⁽⁶⁵⁾.

(252) In order for the measures to be regarded as compatible, it is sufficient for them to meet the conditions laid down in the 2005 SGEI decision, which was applicable when they were granted. Compatibility with the 2005 SGEI decision is assessed below.

4.7.3. Compatibility of the aid on the basis of the 2005 SGEI decision

4.7.3.1. Scope

(253) The 2005 SGEI decision applies only to services that can be classed as services of general economic interest. According to the case-law, in the absence of sectoral rules on that issue at Union level, Member States have wide discretion to decide which services may be classed as services of general economic interest. The Commission's role is to ensure that there are no manifest errors.

(254) In this instance the Commission does not consider that there was a manifest error, in so far as the service meets a public need that would not be met in the same way without State intervention (for example, the amount paid by users is not sufficient to cover the costs of the service). It is also worth noting that the Belgian Constitutional Court has considered the issue and confirmed that the Villo automated cycle hire scheme is a public service ⁽⁶⁶⁾.

⁽⁶⁴⁾ Judgment of the Court of Justice of 4 June 2005 in Case C-15/14 P, *Commission v MOL*, ECLI:EU:C:2015:362, paragraph 60; judgment of the Court of Justice of 30 June 2006 in Case C-270/15 P, *Kingdom of Belgium v Commission*, ECLI:EU:C:2016:489, paragraph 49; judgment of the General Court of 13 December 2017 in Case T-314/15, *Hellenic Republic v Commission*, ECLI:EU:T:2017:903, paragraph 79.

⁽⁶⁵⁾ See Article 3 of the 2005 SGEI decision and of the 2012 SGEI decision.

⁽⁶⁶⁾ See judgment 68/2012 of the Belgian Constitutional Court of 31 May 2012.

- (255) According to Article 2(1)(a), the 2005 SGEI decision applies to State aid in the form of compensation for a public service of less than EUR 30 million per year, granted to undertakings with an average annual turnover before tax, all activities included, of less than EUR 100 million during the two financial years preceding that in which the service of general economic interest was assigned.
- (256) The total amount of aid granted to JCD in the form of exemption from the charge for occupancy of public property and neutralisation of municipal tax increases is well below the threshold of EUR 30 million per year; according to the estimates of the Belgian authorities it does not exceed EUR [400 000-500 000] per year (see recital 245). Furthermore, annual turnover was significantly less than EUR 100 million in the period 2006-2007. Hence the 2005 SGEI decision is applicable on that basis.

4.7.3.2. Compliance with conditions

- (257) Article 4 of the 2005 SGEI decision stipulates that ‘responsibility for operation of the service of general economic interest shall be entrusted to the undertaking concerned by way of one or more official acts, the form of which may be determined by each Member State. The act or acts shall specify, in particular ... the arrangements for avoiding and repaying any overcompensation.’
- (258) A clear and explicit description of the arrangements for recovering and avoiding overcompensation was included in JCD’s entrustment act only from 29 March 2018, when the second amendment to the Villo agreement was adopted (see recitals 222 to 226). Consequently the Commission is of the opinion that that condition of the 2005 SGEI decision was not met, and that the aid in question is not compatible with the internal market on the basis of the 2005 SGEI decision.

4.7.4. *Compatibility of the aid on the basis of the 2012 SGEI decision*

4.7.4.1. Scope

- (259) Article 10(b) of the 2012 SGEI decision provides that ‘any aid put into effect before the entry into force of this Decision that was not compatible with the internal market nor exempted from the notification requirement in accordance with Decision 2005/842/EC but fulfils the conditions laid down in this Decision shall be compatible with the internal market and exempt from the requirement of prior notification’. In view of the foregoing, the Commission therefore considers that the aid should be assessed in the light of the 2012 SGEI decision.
- (260) As explained in recitals 253 and 254, the Commission does not consider that there has been any manifest error in the definition of the service of general economic interest. According to Article 2(1)(a), the 2012 SGEI decision applies to State aid in the form of public service compensation of not more than EUR 15 million per year. The Belgian authorities estimate the total amount of aid granted to JCD to be well below that threshold (see recital 245). Hence the 2012 SGEI decision is applicable on that basis.

4.7.4.2. Compliance with conditions

- (261) Article 4 of the 2012 SGEI decision (like Article 4 of the 2005 SGEI decision) stipulates that ‘Operation of the service of general economic interest shall be entrusted to the undertaking concerned by way of one or more acts, the form of which may be determined by each Member State. The act or acts shall include, in particular: the arrangements for avoiding and recovering any overcompensation.’
- (262) As explained in recital 258, the Commission considers that that condition of the SGEI decision is not met, and the aid in question is consequently not compatible with the internal market on the basis of the 2012 SGEI decision.

4.7.5. *Compatibility of the aid on the basis of the 2012 SGEI framework*

4.7.5.1. *Scope*

- (263) According to paragraph 7 of the Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest ('the 2012 SGEI framework')⁽⁶⁷⁾, 'The principles set out in this Communication apply to public service compensation only in so far as it constitutes State aid not covered by [the 2012 SGEI decision]'. The Commission therefore considers that the aid should be assessed in the light of the 2012 SGEI framework.
- (264) According to paragraph 69 of the 2012 SGEI framework, 'The Commission will apply the principles set out in this Communication to unlawful aid on which it takes a decision after 31 January 2012 even if the aid was granted before this date'. The 2012 SGEI framework is therefore applicable from the start of the Viljo concession.

4.7.5.2. *Compliance with conditions*

- (265) The Commission will verify that the aid is compatible with the conditions laid down in section 2 of the 2012 SGEI framework, with due regard to the fact that, according to paragraph 61 of the framework, 'The principles set out in paragraphs 14, 19, 20, 24, 39, 51 to 59 and 60(a) do not apply to aid which meets the conditions laid down in Article 2(1) of [the 2012 SGEI decision]'. As shown above (see recital 260), the aid in this case meets those conditions.

Genuine service of general economic interest

- (266) According to paragraph 12 of the 2012 SGEI framework, 'The aid must be granted for a genuine ... service of general economic interest as referred to in Article 106(2) of the Treaty'. The Commission considers the implementation of the Viljo agreement to be a genuine service of general economic interest (see recitals 253 to 254).

Need for an entrustment act specifying the public service obligations and the methods of calculating compensation

- (267) According to paragraph 15 of the 2012 SGEI framework, 'Responsibility for the operation of the SGEI must be entrusted to the undertaking concerned by way of one or more acts, the form of which may be determined by each Member State.' According to paragraph 16, the act must include, in particular, the content and duration of the public service obligations; the undertaking responsible and, where applicable, the territory concerned; the nature of any exclusive or special rights assigned to the undertaking; the description of the compensation mechanism and the parameters for calculating, monitoring and reviewing the compensation; and the arrangements for avoiding and recovering any overcompensation.
- (268) The Belgian authorities defined the Viljo concession as a public service concession in the Viljo agreement. Furthermore, on 25 November 2010 the Regional Parliament adopted an order on the operation of the public Viljo service.
- (269) The Viljo agreement defines the public service as 'the provision of an automated cycle hire scheme for the whole of the Brussels Capital Region, at the concessionaire's expense and risk, under the authority of the Government and subject to minimum conditions laid down by the latter'. It sets out the public service obligations on the concession operator. The act describes the nature, geographical scope and operation of the service. It also describes the pricing system applicable to users.
- (270) Duration of entrustment act: the duration of the concession was set at 15 years and was extended by 2 years and 4 months (see recital 161) by an amendment to the concession on 9 June 2011. That duration is justified by the scale of the investment required. This is illustrated in particular by the fact that JCD incurred considerable financial losses and started to earn profits only from 2016 (see Table 1 below).

⁽⁶⁷⁾ OJ C 8, 11.1.2012, p. 4.

- (271) Compensation parameters: the parameters of the compensation in the aid measures in question (the additional measures) are clearly defined in the Villo agreement.
- (272) **Verification of the absence of overcompensation:** the establishment of checks on the absence of overcompensation is a condition for compatibility under both the 2012 SGEI decision (see Article 4(e)) and the 2012 SGEI framework (see paragraph 16(e)). The Commission has concluded in recital 262 that the requirement in Article 4(e) of the 2012 SGEI decision was not met in this instance. However, the checks carried out by the audit firm KPMG show that there was no actual overcompensation in the period 2009-2017 (see Table 1 below).

Table 1

Verification of the absence of overcompensation

	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
Advertising revenue 2 m ² displays	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Revenue from use of mudguards	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Advertising revenue 8 m ² displays	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Revenue from users	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Revenue re invoicing taxes 2 m ²	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Revenue re invoicing taxes 8 m ²	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Total revenue (A)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Regional charge	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Revenue price revision clause	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Total public service compensation (B)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Display taxes	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Direct operating costs	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Management costs	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Amortisation	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Total costs (C)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Operating result (D) = (A) + (B) – (C)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
Profitability (E) = (D)/(C)	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]

- (273) CCB has submitted several comments on the verification of the absence of overcompensation.
- (274) Firstly, CCB does not consider that the costs relating to the installation and use of the advertising displays can be taken into account in calculating the compensation awarded to JCD (see recital 162). Furthermore, CCB considers that the use without charge of public property for advertising (as it terms the exemption from the charge for occupancy of municipal public property) should be quantified in relation to the value of the advertising displays (see recital 165).
- (275) The Commission is of the opinion that the advertising displays must be taken into account in verifying overcompensation. The Commission will do so by taking account of the revenue and costs actually generated by the displays. There is no need here to refer to a valuation of the screens, which itself would depend on the revenue and costs that such displays might generate (see Table 1 above). If the operational value of the advertising displays exceeds what is necessary to bear the costs resulting from the implementation of the Villo concession, the imbalance arrived at by this calculation must lead to a finding that there is overcompensation.
- (276) CCB disputes the amount of aid generated by the exemption from municipal taxes (see recital 164). JCD has identified several errors in CCB's calculations (see recital 217). Nevertheless, the Commission notes that, even if the amount of aid were considered to be EUR 650 000 a year, as stated by CCB, the public service task would still be unprofitable overall in the period 2009-2017.
- (277) As regards CCB's claim that the costs incurred by JCD in the implementation of the Villo agreement were significantly lower than initially declared (see recital 209), it need only be pointed out that the verification of the absence of overcompensation is based on the actual costs incurred by JCD and not on projections or estimates.
- (278) The Commission concludes that JCD was not overcompensated for the provision of the Villo service of general economic interest between 2009 and 2017.

- (279) In the Commission's view, the existence of a mechanism to monitor the absence of overcompensation is in reality indispensable only in order to declare aid compatible on the basis of the 2012 SGEI decision, where the State is responsible for monitoring the absence of overcompensation, or to declare aid compatible under the 2012 SGEI framework, for notified measures, in so far as the monitoring mechanism provides the basis on which the Commission eliminates the possibility of future overcompensation and the Commission does not carry out any checks *ex post*. When the Commission does indeed verify the absence of overcompensation *ex post*, that formal criterion loses its point, which is to prevent potential overcompensation. If the Commission carries out *ex post* checks, any overcompensation found must be recovered regardless of whether any monitoring has taken place, and, conversely, the absence of overcompensation is sufficient to satisfy the relevant compatibility requirements of the 2012 SGEI framework.
- (280) In that case the Commission considers that when there has been no overcompensation, incomplete supervision by the Member State in the past is of limited significance, because the aim of the condition, which is the absence of overcompensation, has in fact been achieved. It should be noted that in those cases where the Commission has taken a negative decision and ordered the recovery of public service compensation (where there was no manifest error in the definition of the public service), the aid to be recovered was confined to the overcompensation calculated by the Commission, regardless of the quality of the supervision put in place by the Member State⁽⁶⁸⁾. In all those cases the monitoring of overcompensation by the Member State was either non-existent or faulty (hence the presence of overcompensation). In such circumstances the alternative would have been to require recovery of all the public service compensation awarded to the public service operator even though the operator had in fact provided the public service, solely on the basis of the lack of a satisfactory monitoring system, irrespective of the actual amount of overcompensation.
- (281) In the abstract that approach could even lead to the recovery of all public service compensation awarded to an operator when there had been no overcompensation at all. In the Commission's view, that alternative would be contrary to the principles of the TFEU on the essential roles of services of general economic interest in the European Union, and in particular Article 14 TFEU, which provides that the Union is to take care that services of general economic interest operate on the basis of principles and conditions, particularly economic and financial conditions, which enable them to fulfil their missions.
- (282) The Commission is therefore of the opinion that the requirement of verification of the absence of overcompensation may be considered to have been satisfied in this instance.

Compliance with Commission Directive 2006/111/EC⁽⁶⁹⁾

- (283) Pursuant to paragraph 18 of the 2012 SGEI framework, 'Aid will be considered compatible with the internal market on the basis of Article 106(2) of the Treaty only where the undertaking complies, where applicable, with Directive 2006/111/EC'.
- (284) As regards accounting separation, there was some uncertainty as to JCD's cost accounting, particularly in relation to the way in which revenue generated by nationally negotiated contracts was allocated to displays that are part of the Villo concession (see recital 184). Following the adoption of the second amendment to the Villo agreement (see section 4.6), the statutory auditor will check the accounting separation principles applied by JCD each year. Such checks have also been carried out for the whole of the previous period (2009-2017), and following the explanations by the Belgian authorities and JCD (see recitals 196, 214 and 215) the Commission takes the view that the cost accounting system complies with the requirements of Directive 2006/111/EC and that the check on the absence of overcompensation (see Table 1 above) was carried out on the basis of appropriate accounting separation.

Absence of overcompensation

- (285) Pursuant to paragraph 49 of the 2012 SGEI framework, 'Member States must ensure that the compensation granted for operating the SGEI meets the requirements set out in this Communication and in particular that undertakings are not receiving compensation in excess of the amount determined in accordance with this the requirements set out in this section'.

⁽⁶⁸⁾ On that point, see in particular the decision of 25 January 2012 in Case SA.14588 and the decision of 10 July 2018 in Case SA.37977.

⁽⁶⁹⁾ Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings (OJ L 318, 17.11.2006, p. 17).

(286) As explained in recital 272, JCD was not overcompensated for the previous period.

Conclusion

(287) In light of the foregoing, the Commission concludes that the aid measures granted to JCD under the Villo agreement are compatible with the internal market on the basis of the 201 SGEI framework for the period of the Villo concession before the adoption of the second amendment, i.e. 5 December 2008 to 29 March 2018.

4.8. Assessment of the measures after the second amendment

4.8.1. State aid within the meaning of Article 107(1) TFEU

(288) Since the second amendment does not alter the measures granted to JCD under the Villo agreement, the Commission's assessment of the existence of State aid (see recitals 229 to 249) remains unchanged.

4.8.2. Compatibility of the aid on the basis of the 2012 SGEI decision

(289) The second amendment corrects the defects identified in the previous entrustment act (see recital 262) by adding a clear and explicit description of the arrangements for recovering and avoiding any overcompensation.

(290) Article 6 of the 2012 SGEI decision states that 'Member States shall ensure that ... the undertaking does not receive compensation in excess of the amount determined in accordance with Article 5 [amount of compensation not exceeding what is necessary to cover the net cost incurred in discharging the public service obligations, including a reasonable profit]. They shall provide evidence upon request from the Commission. They shall carry out regular checks, or ensure that such checks are carried out, at least every 3 years during the period of entrustment and at the end of that period.'

(291) Article 6 also states that 'Where an undertaking has received compensation in excess of the amount determined in accordance with Article 5, the Member State shall require the undertaking concerned to repay any overcompensation received.'

(292) The second amendment stipulates that an independent auditor is to check every year that the amount of compensation does not exceed what is necessary for the performance of the public service, including a reasonable profit. If it does exceed that amount, and to the extent that it does so, JCD is to pay the excess amount retroactively (see recital 225).

(293) For the reasons explained in recitals 289 to 292, the Commission concludes that the aid measures granted to JCD under the Villo agreement are compatible with the internal market on the basis of the 2012 SGEI decision with effect from the adoption of the second amendment.

(294) It should be noted that that verification is based on the comparison of a profit on costs with a reference margin of [10-20] %, corresponding to a standard margin on revenue of [10-20] % considered reasonable on the basis of discussions with CCB and JCD ⁽⁷⁰⁾. A margin on costs was preferred to a margin on revenue in order to take account of CCB's comments (see recital 213).

5. RECOVERY OF INCOMPATIBLE AID RELATED TO ADVERTISING DISPLAYS GOVERNED BY THE 1984 CONTRACT

(295) In accordance with the TFEU, when the Commission finds that aid is incompatible with the internal market, it has power to decide that the Member State concerned must abolish or alter it ⁽⁷¹⁾. Similarly, the European Union courts have ruled, in settled case-law, that the obligation on a Member State to abolish aid deemed by the Commission to be incompatible with the internal market is aimed at re-establishing the previously existing situation ⁽⁷²⁾.

⁽⁷⁰⁾ See also recital 109 of the opening decision.

⁽⁷¹⁾ Judgment of the Court of Justice of 12 July 1973 in Case C-70/72, *Commission v Germany*, ECLI:EU:C:1973:87, paragraph 13.

⁽⁷²⁾ Judgment of the Court of Justice of 21 March 1990 in Case C-142/87, *Belgium v Commission*, ECLI:EU:C:1990:125, paragraph 66.

- (296) The Union courts have taken the view that that objective has been achieved when the beneficiary has repaid the unlawfully granted amounts of aid. With that repayment, the recipient forfeits the advantage it had enjoyed over its competitors on the market, and the situation prior to payment of the aid is restored ⁽⁷³⁾.
- (297) In accordance with that case-law, Article 16(1) of Regulation (EU) 2015/1589 provides that ‘where negative decisions are taken in cases of unlawful aid, the Commission shall decide that the Member State concerned shall take all necessary measures to recover the aid from the beneficiary’.
- (298) Accordingly, since the measures in question were implemented in breach of Article 108(3) TFEU and are deemed to be unlawful and incompatible aid, they must be recovered in order to restore the situation existing on the market before they were granted. The recovery must cover the period from the time at which the aid was made available to the beneficiary to its actual recovery, in accordance with the method set out in recitals 131 to 141. The amounts to be recovered must generate interest until they are actually recovered.

6. SUMMARY OF CONCLUSIONS

6.1. Advertising displays governed by the 1984 contract

- (299) The Commission is of the opinion that, as regards the use by JCD of certain advertising displays installed in the City of Brussels governed by the 1984 contract and kept in place after the removal date specified in annex 10 to the 1999 contract without payment of rent or tax, all the criteria for State aid are met, and that measure therefore constitutes State aid within the meaning of Article 107(1) TFEU.
- (300) As regards the lawfulness of the aid measure, the Commission finds that the measure referred to in this part of the complaint, which constitutes State aid within the meaning of Article 107(1) TFEU, was not notified pursuant to Article 108(3) TFEU, and has been implemented. It therefore constitutes unlawful aid.
- (301) The Commission also considers that that aid is incompatible with the internal market, and it should therefore be recovered, including principal and interest, in accordance with the *CELF* case-law of the Court of Justice ⁽⁷⁴⁾.

6.2. Villo

- (302) The Commission considers that the measures provided for in the Villo agreement constitute State aid on the basis of Article 107(1) TFEU.
- (303) The measures provided for in the Villo agreement are nevertheless compatible with the internal market on the basis of Article 106(2) TFEU.
- (304) In regard to the period from the start of the concession on 5 December 2008 to the signature of the second amendment on 29 March 2018 (see section 4.6), the Commission considers that the measures provided meet the conditions of the 2012 SGEI framework (see section 4.7). They are therefore not to be recovered, although they are unlawful aid in that they were not notified in accordance with Article 108(3) TFEU.
- (305) In regard to the period from the date of signature of the second amendment to the end of the concession on 16 September 2026, the Commission considers that the conditions of the 2012 SGEI decision have been met, subject to strict compliance with the conditions laid down in that amendment (see section 4.8),

⁽⁷³⁾ Judgment of the Court of Justice of 17 June 1999 in Case C-75/97, *Belgium v Commission*, ECLI:EU:C:1999:311, paragraphs 64 and 65.

⁽⁷⁴⁾ Judgment of the Court of Justice of 12 February 2008 in Case C-199/06, *CELF and Ministre de la Culture et de la Communication (‘CELFI’)*, ECLI:EU:C:2009:79.

HAS ADOPTED THIS DECISION:

Article 1

The State aid to JCD, in an amount equivalent to the rent and taxes not paid on the advertising displays installed in the City of Brussels governed by the 1984 contract and kept in place after the removal date specified in annex 10 to the 1999 contract, granted by Belgium unlawfully between 15 September 2001 and 21 August 2010 in breach of Article 108(3) of the Treaty on the Functioning of the European Union, is incompatible with the internal market.

Article 2

1. Belgium shall recover the aid referred to in Article 1 from the beneficiary.
2. The sums to be recovered shall generate interest from the date on which they were made available to the beneficiary until their actual recovery.
3. The interest shall be calculated on a compound basis in accordance with Chapter V of Commission Regulation (EC) No 794/2004 ⁽⁷⁵⁾.

Article 3

1. The recovery of the aid referred to in Article 1 shall be immediate and effective.
2. Belgium shall ensure that this decision is implemented within four months of the date of its notification.

Article 4

1. Within two months of the notification of this decision, Belgium shall forward the following information to the Commission:
 - (a) the total amount (principal and interest) to be recovered from the beneficiary;
 - (b) a detailed description of the measures already taken and planned in order to comply with this decision;
 - (c) the documents showing that the beneficiary has been given notice to repay the aid.
2. Belgium shall keep the Commission informed of the progress of the national measures taken in implementation of this decision until the aid referred to in Article 1 has been recovered in full. It shall immediately submit, on simple request from the Commission, information on the measures already taken and planned to comply with this decision. It shall also provide detailed information on the amounts of aid and the interest already recovered from the beneficiary.

Article 5

1. The measures provided for in the Villo agreement constitute State aid on the basis of Article 107(1) of the Treaty on the Functioning of the European Union.
2. In regard to the period from 5 December 2008, when the Villo agreement was signed, to 29 March 2018, when the second amendment to the Villo agreement was signed, the measures provided for in the Villo agreement meet the conditions of the 2012 SGEI framework ⁽⁷⁶⁾ and are compatible with the internal market. That aid is unlawful since it was not notified in accordance with Article 108(3) TFEU.

⁽⁷⁵⁾ Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).

⁽⁷⁶⁾ Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest (OJ C 8, 11.1.2012, p. 4).

3. In regard to the period from 29 March 2018, when the second amendment was signed, to 26 September 2026, the end of the concession, the measures provided for in the Villo agreement meet the conditions of the 2012 SGEI decision ⁽⁷⁾ and are compatible with the internal market subject to strict compliance with the conditions laid down in the second amendment to the Villo agreement.

Article 6

This decision is addressed to the Kingdom of Belgium.

Done at Brussels, 24 June 2019.

For the Commission
Margrethe VESTAGER
Member of the Commission

⁽⁷⁾ Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ L 7, 11.1.2012, p. 3).

CORRIGENDA**Corrigendum to Commission Implementing Regulation (EU) 2019/1198 of 12 July 2019 imposing a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036**

(Official Journal of the European Union L 189 of 15 July 2019)

On page 52, in point (a) of Article 2:

for: 'it did not export to the Union the product described in paragraph 1 in the period between 1 October 2010 and 30 September 2011 (original investigation period);'

read: 'it did not export to the Union the product described in Article 1(1) in the period between 1 January 2011 and 31 December 2011 (original investigation period).'

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