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EN

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

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I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2020/459 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 30 March 2020

amending Council Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports

(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 100(2) thereof,

Having regard to the proposal from the European Commission,

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

After consulting the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

- (1) The outbreak of COVID-19 has led to a sharp drop in air traffic as a result of a significant fall in demand and direct measures taken by the Member States as well as third countries to contain the outbreak. The consequent serious impact on air carriers set in as early as January 2020 in respect of the People's Republic of China and Hong Kong Special Administrative Region of the People's Republic of China, has been pervasive since 1 March 2020, and is likely to affect at least two scheduling periods, those of winter 2019/2020 and summer 2020.
- (2) Those circumstances are beyond the control of air carriers and the consequent voluntary or obligatory cancellation of air services by air carriers is a necessary or legitimate response to those circumstances. In particular, voluntary cancellations protect the financial health of air carriers and avoid the negative environmental impact of empty or largely-empty flights operated only for the purpose of maintaining underlying airport slots.
- (3) Figures published by Eurocontrol, which is the network manager for the air traffic network functions of the single European sky, indicate a year-on-year fall of approximately 10 % in air traffic for the European region in the first half of March 2020. Air carriers are reporting large falls in forward bookings and are implementing significant cancellations of flights into the 'winter 2019/2020' and 'summer 2020' scheduling periods as a result of the outbreak.

⁽¹⁾ Position of the European Parliament of 26 March 2020 (not yet published in the Official Journal) and decision of the Council of 30 March 2020.

- (4) Under Article 8(2) of Council Regulation (EEC) No 95/93 ⁽²⁾, read in conjunction with Article 10(2) thereof, the failure by an air carrier to operate at least 80 % of a series of slots which it has been allocated at a coordinated airport threatens the historical precedence for these slots.
- (5) Article 10(4) of Regulation (EEC) No 95/93 allows slot coordinators to disregard, for the purpose of calculating historical precedence, the non-operation of airport slots for periods during which the air carrier is unable to operate the planned air services due to, for example, airport closures. However, that Article does not address situations like the outbreak of COVID-19. It is therefore appropriate to amend Regulation (EEC) No 95/93 accordingly.
- (6) In light of known forward bookings and epidemiological forecasts, it can reasonably be expected at this stage that a significant number of cancellations attributable to the outbreak of COVID-19 will occur over the period between 1 March 2020 and at least 24 October 2020. The non-utilisation of slots allocated for this period should not lead to air carriers losing the historical precedence that they would otherwise enjoy. It is therefore necessary to define the conditions under which non-operated slots should be considered as having been operated for those purposes, in respect of the corresponding following season.
- (7) Slots at coordinated airports are a valuable economic resource. Despite the general fall in air traffic, the cancellation of air services should, however, not prevent the use of airport slots by other air carriers which may wish to use them on a temporary basis without such slots accruing grandfather rights. Therefore, when they are not used by the air carrier to which they were allocated, slots should be returned to the coordinator without delay.
- (8) The further development of COVID-19 and its further impact on air carriers are difficult to predict. The Commission should continuously analyse the impact of COVID-19 on the air transport sector and the Union should be in a position to prolong without undue delay the period during which the measures envisaged by this Regulation apply if the adverse conditions persist.
- (9) Since the objective of this Regulation, namely to consider slots unused due to the outbreak of COVID-19 as having been operated, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the proposed action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.
- (10) In order to extend, if necessary and justified, the measures set out in this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of prolonging the period during which the measures envisaged by this Regulation apply. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽³⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (11) In view of the urgency entailed by the exceptional circumstances caused by the outbreak of COVID-19, it was considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.
- (12) This Regulation should enter into force as a matter of urgency on the date following that of its publication in the *Official Journal of the European Union*,

⁽²⁾ Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (OJ L 14, 22.1.1993, p. 1).

⁽³⁾ OJ L 123, 12.5.2016, p. 1.

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 95/93 is amended as follows:

(1) Article 10a is replaced by the following:

'Article 10a

1. For the purposes of Articles 8(2) and 10(2), coordinators shall consider slots allocated for the period from 1 March 2020 until 24 October 2020 as having been operated by the air carrier to which they were initially allocated.
2. For the purposes of Articles 8(2) and 10(2), coordinators shall consider slots allocated for the period from 23 January 2020 until 29 February 2020 as having been operated by the air carrier to which they were initially allocated, as regards air services between airports in the Union and airports either in the People's Republic of China or in the Hong Kong Special Administrative Region of the People's Republic of China.
3. In respect of slots with a date later than 8 April 2020, paragraph 1 shall only apply where the relevant unused slots have been made available to the coordinator for reallocation to other air carriers.
4. Where the Commission finds, on the basis of figures published by Eurocontrol, which is the network manager for the air traffic network functions of the single European sky, that the reduction in the level of air traffic as compared to the level in the corresponding period in the previous year is persisting and is likely to persist, and also finds, on the basis of the best available scientific data, that this situation is the result of the impact of the outbreak of COVID-19, the Commission shall adopt delegated acts in accordance with Article 12a to amend the period specified in paragraph 1 accordingly.
5. The Commission shall continuously monitor the situation using the criteria set out in paragraph 4. Based on the information available to it, the Commission shall present a summary report on this matter to the European Parliament and to the Council by 15 September 2020. If necessary, the Commission shall adopt the delegated act provided for in paragraph 4 as soon as possible.
6. Where, in the case of a prolonged impact of the outbreak of COVID-19 on the air transport sector in the Union, imperative grounds of urgency so require, the procedure provided for in Article 12b shall apply to delegated acts adopted pursuant to this Article.'

(2) The following Articles are inserted:

'Article 12a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 10a shall be conferred on the Commission until 2 April 2021.
3. The delegation of power referred to in Article 10a may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 10a shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 12b

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 12a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.'

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, 30 March 2020.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
G. GRLIĆ RADMAN

REGULATION (EU) 2020/460 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 30 March 2020

amending Regulations (EU) No 1301/2013, (EU) No 1303/2013 and (EU) No 508/2014 as regards specific measures to mobilise investments in the healthcare systems of Member States and in other sectors of their economies in response to the COVID-19 outbreak (Coronavirus Response Investment Initiative)

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 Articles 43(2), 177 and 178 thereof,

Having regard to the proposal from the European Commission,

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

After consulting the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

- (1) Member States have been affected by the consequences of the COVID-19 outbreak in a unique manner. The current public health crisis hampers growth in Member States, which in turn aggravates the serious liquidity shortages due to the sudden and significant increase in public investments needed in their healthcare systems and other sectors of their economies. That has created an exceptional situation which needs to be addressed with specific measures.
- (2) It is vital that the lack of liquidity and of public funds in Member States does not hinder investments under programmes supported by the European Regional Development Fund (the "ERDF"), the European Social Fund (the "ESF") and the Cohesion Fund (the "CF") (collectively "the Funds") and the European Maritime and Fisheries Fund (the "EMFF") needed to fight the COVID-19 outbreak.
- (3) In order to respond to the impact of the public health crisis, the ERDF should support the financing of working capital in small and medium-sized enterprises ("SMEs") where necessary as a temporary measure to provide an effective response to the public health crisis.
- (4) In order to respond to the impact of the public health crisis, the ERDF investment priority to strengthen research, technological development and innovation should cover investment in products and services necessary for fostering crisis response capacities in health services.
- (5) In order to provide more flexibility in addressing the COVID-19 outbreak, more flexibility should be provided to Member States in programme implementation, and a simplified procedure not requiring a Commission decision should be provided for changes to operational programmes. The information to be submitted to the Commission about such changes should be clarified.
- (6) In order to respond to the impact of the public health crisis, financial instruments that are financed by the Funds should also provide support in the form of working capital to SMEs if necessary as a temporary measure to provide an effective response to the public health crisis.
- (7) In order to provide an immediate response to the impact of the public health crisis, expenditure for operations for fostering crisis response capacities should be eligible as of 1 February 2020.

⁽¹⁾ Position of the European Parliament of 26 March 2020 (not yet published in the Official Journal) and decision of the Council of 30 March 2020.

- (8) In order to ensure that Member States have sufficient financial means to make the investments needed without delay, it is appropriate for the Commission not to issue recovery orders for amounts recoverable from Member States for the annual accounts submitted in 2020. Member States should use the amounts not recovered to accelerate investments related to the COVID-19 outbreak and eligible under Regulation (EU) No 1303/2013 of the European Parliament and of the Council ⁽²⁾ and the Fund-specific rules.
- (9) The amounts not recovered in 2020 should be cleared or subject to recovery orders at the closure of the programmes.
- (10) In order to respond to the impact of the public health crisis, the EMFF should support mutual funds and stock insurance to safeguard the income of fishermen and aquaculture farmers affected by the public health crisis.
- (11) Since the objective of this Regulation, namely to respond to the impact of the public health crisis, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the proposed action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union ("TEU"). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.
- (12) Given the urgency of the support needed, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.
- (13) In view of the COVID-19 outbreak and the urgency to address the associated public health crisis, it was considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.
- (14) Regulations (EU) No 1301/2013 ⁽³⁾, (EU) No 1303/2013 and (EU) No 508/2014 ⁽⁴⁾ of the European Parliament and of the Council should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 1301/2013

Regulation (EU) No 1301/2013 is amended as follows:

- (1) in Article 3(1), the following subparagraph is added:

"In addition, the ERDF may support the financing of working capital in SMEs where necessary as a temporary measure to provide an effective response to a public health crisis.";

- (2) in Article 5, point (1)(b) is replaced by the following:

- ⁽²⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).
- ⁽³⁾ Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347, 20.12.2013, p. 289).
- ⁽⁴⁾ Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council (OJ L 149, 20.5.2014, p. 1).

- "(b) promoting business investment in R&I, developing links and synergies between enterprises, research and development centres and the higher education sector, in particular promoting investment in product and service development, technology transfer, social innovation, eco-innovation, public service applications, demand stimulation, networking, clusters and open innovation through smart specialisation, and supporting technological and applied research, pilot lines, early product validation actions, advanced manufacturing capabilities and first production, in particular in key enabling technologies and diffusion of general purpose technologies as well as fostering investment necessary for strengthening the crisis response capacities in health services;"

Article 2

Amendments to Regulation (EU) No 1303/2013

Regulation (EU) No 1303/2013 is amended as follows:

- (1) in Article 30, the following paragraph is added:

"5. By way of derogation from paragraphs 1 and 2, for the programmes supported by the ERDF, Cohesion Fund and ESF, the Member State may transfer during the programming period an amount of up to 8 % of the allocation as of 1 February 2020 of a priority and no more than 4 % of the programme budget to another priority of the same Fund of the same programme.

Such transfers shall not affect previous years. They shall be considered to be not substantial and shall not require a decision of the Commission amending the programme. They shall however comply with all regulatory requirements and shall be approved by the monitoring committee in advance. The Member State shall notify the revised financial tables to the Commission.";

- (2) in Article 37(4), the following subparagraph is added:

"Financial instruments may also provide support in the form of working capital to SMEs, if necessary as a temporary measure, to provide an effective response to a public health crisis.";

- (3) in Article 65 (10), the following subparagraph is added:

"By way of derogation from paragraph 9, expenditure for operations for fostering crisis response capacities in the context of the COVID-19 outbreak shall be eligible as of 1 February 2020.";

- (4) in Article 96, paragraph 10 is replaced by the following:

"10. Without prejudice to Article 30(5), the Commission shall adopt a decision, by means of implementing acts, approving all the elements, including any of its future amendments, of the operational programme falling under this Article, except those falling under points (b)(vi), (c)(v) and (e) of the first subparagraph of paragraph 2, paragraphs 4 and 5, points (a) and (c) of paragraph 6 and paragraph 7, which remain under the responsibility of the Member States.";

- (5) in Article 139 (7), the following subparagraphs are added:

"By way of derogation from the first subparagraph, the Commission shall not issue a recovery order for amounts recoverable from the Member State for the accounts submitted in 2020. Amounts not recovered shall be used to accelerate investments related to the COVID-19 outbreak and eligible under this Regulation and Fund-specific rules.

The amounts not recovered shall be cleared or recovered at closure."

Article 3

Amendments to Regulation (EU) No 508/2014

Regulation (EU) No 508/2014 is amended as follows:

- (1) Article 35 is amended as follows:

- (a) the title is replaced by the following:

"Mutual funds for public health crises, adverse climatic events and environmental incidents";

(b) paragraph 1 is replaced by the following:

"1. The EMFF may contribute to mutual funds which pay financial compensation to fishermen for economic losses caused by public health crises, adverse climatic events or by environmental incidents or for the rescue costs for fishermen or fishing vessels in the case of accidents at sea during their fishing activities.";

(c) paragraphs 5 and 6 are replaced by the following:

"5. Member States shall define the rules for the establishment and management of the mutual funds, in particular for the granting of compensation payments and the eligibility of fishermen for such compensation in the event of public health crises, adverse climatic events, environmental incidents or accidents at sea as referred to in paragraph 1, as well as for the administration and monitoring of compliance with those rules. Member States shall ensure that the fund arrangements provide for penalties in the case of negligence on the part of the fisherman.

6. Public health crises, adverse climatic events, environmental incidents or accidents at sea as referred to in paragraph 1 shall be those that are formally recognised by the competent authority of the Member State concerned as having occurred.";

(d) paragraph 8 is replaced by the following:

"8. The contributions referred to in paragraph 1 shall only be granted to cover losses caused by public health crises, adverse climatic events, environmental incidents or accidents at sea which amount to more than 30 % of the annual turnover of the business concerned, calculated on the basis of the average turnover of that business over the preceding three calendar years.";

(2) in Article 57(1), the following point is added:

"(e) public health crises.".

Article 4

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, 30 March 2020.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
G. GRLIĆ RADMAN

REGULATION (EU) 2020/461 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 30 March 2020

amending Council Regulation (EC) No 2012/2002 in order to provide financial assistance to Member States and to countries negotiating their accession to the Union that are seriously affected by a major public health emergency

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 the third paragraph of Article 175 and Article 212(2) thereof,

Having regard to the proposal from the European Commission,

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

After consulting the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

- (1) The European Union Solidarity Fund ('the Fund') was established by Council Regulation (EC) No 2012/2002 ⁽²⁾. The Fund was created to provide financial assistance to Member States following major disasters as a concrete sign of European solidarity in situations of distress.
- (2) In the event of major public health emergencies, the Union should show its solidarity with Member States and the population concerned by providing financial assistance to help the population affected, to contribute to a rapid return to normal living conditions in the affected regions and to contain the spreading of infectious diseases.
- (3) The Union should also show solidarity in the event of major public health emergencies with the countries negotiating their accession to the Union.
- (4) A major crisis situation may result from public health emergencies, in particular an officially declared virus pandemic. The Fund enables the Union to help in mobilising emergency services to meet people's immediate needs and to contribute to the short-term restoration of damaged key infrastructure so that economic activity can resume in the disaster-stricken regions. That Fund is currently limited, however, to natural disasters causing physical damage and does not include major disasters due to biological hazards. Provision should be made to allow the Union to intervene in the event of major public health emergencies.
- (5) The objective of the action to be taken is to complement the efforts of the States concerned in such cases where the effects of a crisis situation are of such gravity that those States cannot tackle the situation by their own means alone. Since that objective cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union ('TEU'). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (6) In line with the principle of subsidiarity, action under this Regulation should be confined to major public health emergencies. Those emergencies should be defined depending on the basis of the public expenditure necessary to address them.

⁽¹⁾ Position of the European Parliament of 26 March 2020 (not yet published in the Official Journal) and decision of the Council of 30 March 2020.

⁽²⁾ Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (OJ L 311, 14.11.2002, p. 3).

- (7) Union assistance should be complementary to the efforts of the States concerned and be used to cover a share of the public expenditure committed to dealing with the most essential emergency operations resulting from the emergency situation.
- (8) In line with the principle of subsidiarity, Union assistance should only be awarded upon application by the affected State. The Commission should ensure equitable treatment of requests presented by the States.
- (9) The Commission should be able to take a rapid decision to commit specific financial resources and to mobilise them as quickly as possible. The existing provisions for making advance payments should therefore be strengthened by increasing their amounts.
- (10) This Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*.
- (11) In view of the COVID-19 outbreak and the urgency to address the associated public health crisis, it was considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.
- (12) Regulation (EC) No 2012/2002 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2012/2002 is amended as follows:

- (1) Article 2 is replaced by the following:

'Article 2

1. At the request of a Member State or of a country involved in accession negotiations with the Union, hereinafter referred to as "eligible State", assistance from the Fund may be mobilised when serious repercussions on living conditions, human health, the natural environment or the economy occur in one or more regions of that eligible State as a consequence of:

- (a) a major or regional natural disaster having taken place on the territory of the same eligible State or of a neighbouring eligible State; or
- (b) a major public health emergency having taken place on the territory of the same eligible State.

Direct damage caused as the direct consequence of a natural disaster shall be regarded as part of the damage caused by that natural disaster.

2. For the purposes of this Regulation, a "major natural disaster" means any natural disaster resulting, in an eligible State, in direct damage estimated either at over EUR 3 000 000 000 in 2011 prices, or more than 0,6 % of its GNI.

2a. For the purposes of this Regulation, a "major public health emergency" means any life-threatening or otherwise serious hazard to health of biological origin in an eligible State seriously affecting human health and requiring decisive action to contain further spreading, resulting in a public financial burden inflicted on the eligible State for emergency response measures estimated at over EUR 1 500 000 000 in 2011 prices, or more than 0,3 % of its GNI.

3. For the purposes of this Regulation, a "regional natural disaster" means any natural disaster resulting, in a region at NUTS level 2 of an eligible State, in direct damage in excess of 1,5 % of that region's gross domestic product (GDP).

By way of derogation from the first subparagraph, where the region concerned, in which a natural disaster has occurred, is an outermost region within the meaning of Article 349 of the Treaty on the Functioning of the European Union, "regional natural disaster" means any natural disaster resulting in direct damage in excess of 1 % of that region's GDP.

Where the natural disaster concerns several regions at NUTS level 2, the threshold shall be applied to the average GDP of those regions weighted according to the share of total damage in each region.

4. Assistance from the Fund may also be mobilised for any natural disaster in an eligible State which is also a major natural disaster in a neighbouring eligible State.

5. For the purpose of this Article, harmonised statistical data provided by Eurostat shall be used.;

(2) in Article 3, paragraphs 1 and 2 are replaced by the following:

'1. The assistance shall take the form of a financial contribution from the Fund. For each eligible disaster or emergency, a single financial contribution shall be awarded to an eligible State.

2. The aim of the Fund is to complement the efforts of the States concerned and to cover part of their public expenditure in order to help the eligible State to carry out, depending on the type of eligible disaster or emergency, the following essential emergency and recovery operations:

- (a) restoring the working order of infrastructure and plant in the fields of energy, water and waste water, telecommunications, transport, health and education;
- (b) providing temporary accommodation and funding rescue services to meet the needs of the population concerned;
- (c) securing preventive infrastructure and measures of protection of cultural heritage;
- (d) cleaning up disaster-stricken areas, including natural zones, in line with, where appropriate, eco-system based approaches, as well as immediate restoration of affected natural zones to avoid immediate effects from soil erosion;
- (e) measures aiming at rapidly providing assistance, including medical, to the population affected by a major public health emergency and to protect the population from the risk of being affected, including prevention, monitoring or control of the spread of diseases, combating severe risks to public health or mitigating their impact on public health.

For the purposes of point (a) of the first subparagraph, "restoring the working order" means restoring infrastructure and plant to their condition prior to the occurrence of the natural disaster. Where it is not legally possible or economically justified to restore the condition prior to the occurrence of the natural disaster, or where the beneficiary State decides to relocate or improve the functionality of the infrastructure or plant affected in order to improve its capacity to withstand future natural disasters, the Fund may contribute to the cost of restoration only up to the estimated cost of returning to its status quo ante.

Costs in excess of the level of cost referred to in the second subparagraph shall be financed by the beneficiary State from its own or, where possible, from other Union funds.

For the purposes of point (b) of the first subparagraph, "temporary accommodation" means accommodation that lasts until the population concerned is able to return to their original homes following their repair or reconstruction.;

(3) in Article 4a, paragraph 2 is replaced by the following:

'2. The amount of the advance shall not exceed 25 % of the amount of the financial contribution anticipated and shall in no case exceed EUR 100 000 000. Once the definitive amount of the financial contribution has been determined, the Commission shall take into account the sum of the advance prior to the balance of the financial contribution being paid. The Commission shall recover unduly paid advances.;

(4) in Article 8, paragraph 3 is replaced by the following:

'3. No later than six months after the expiry of the 18-month period referred to in paragraph 1, the beneficiary State shall present a report on the implementation of the financial contribution from the Fund with a statement justifying the expenditure, indicating any other source of funding received for the operations concerned, including insurance settlements and compensation from third parties.

The implementation report shall set out, depending on the nature of the eligible disaster or emergency:

- (a) the preventive measures taken or proposed by the beneficiary State to limit future damage and to avoid, to the extent possible, a recurrence of similar natural disasters or public health emergencies, including the use of European Structural and Investment Funds for this purpose;
- (b) the state of implementation of relevant Union legislation on disaster risk prevention and management;
- (c) the experience gained from the disaster or emergency and the measures taken or proposed to ensure environmental protection and resilience in relation to climate change, natural disasters and public health emergencies; and
- (d) any other relevant information on prevention and mitigation measures taken related to the nature of the natural disaster or public health emergency.

The implementation report shall be accompanied by an opinion of an independent audit body, drawn up in accordance with internationally accepted audit standards, establishing whether the statement justifying the expenditure gives a true and fair view and whether the financial contribution from the Fund is legal and regular, in line with Articles 59(5) and 60(5) of Regulation (EU, Euratom) No 966/2012.

At the end of the procedure referred to in the first subparagraph, the Commission shall carry out a closure of the assistance from the Fund.'

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, 30 March 2020.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
G. GRLIĆ RADMAN

II

(Non-legislative acts)

DECISIONS

COUNCIL DECISION (EU) 2020/462

of 20 February 2020

establishing the position to be adopted on behalf of the European Union within the Association Committee set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, concerning the exchange of information for the purpose of evaluating the impact of the Agreement in the form of an Exchange of Letters on the amendment of the Euro-Mediterranean Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(3) and the first subparagraph of Article 207(4) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part ⁽¹⁾ ('the Association Agreement') was concluded on behalf of the European Union by means of Council and Commission Decision 2000/204/EC, ECSC ⁽²⁾ and entered into force on 1 March 2000.
- (2) By means of Decision (EU) 2019/217 ⁽³⁾, the Council approved the conclusion of the Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Association Agreement ⁽⁴⁾ ('the amending Agreement') with a view to extending the tariff preferences laid down in the Association Agreement to products originating in Western Sahara.
- (3) In accordance with Article 81 of the Association Agreement, an Association Committee was established to manage the Association Agreement. Pursuant to Article 83 of the Association Agreement, the Association Committee has the power to take decisions for the management of the Association Agreement as well as in those areas in which the Council has delegated its powers to it.
- (4) The Association Committee is to adopt, at the latest two months after the entry into force of the amending Agreement, a decision on the arrangements for evaluating the impact of the amending Agreement, in particular on sustainable development and with regard to the advantages for the people concerned and the exploitation of the natural resources of Western Sahara.
- (5) It is appropriate to establish the position to be taken on the Union's behalf in the Association Committee, as the proposed decision will be binding on the Union.

⁽¹⁾ OJ L 70, 18.3.2000, p. 2.

⁽²⁾ Council and Commission Decision 2000/204/EC, ECSC of 26 January 2000 on the conclusion of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part (OJ L 70, 18.3.2000, p. 1).

⁽³⁾ Council Decision (EU) 2019/217 of 28 January 2019 on the conclusion of the agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part (OJ L 34, 6.2.2019, p. 1).

⁽⁴⁾ OJ L 34, 6.2.2019, p. 4.

- (6) In order to monitor the effects of the amending Agreement on the people concerned and the exploitation of the natural resources of the territories in question, the amending Agreement specifically provides for a suitable framework and procedure to allow the parties, on the basis of regular exchanges of information, to evaluate its consequences during implementation. The Union and the Kingdom of Morocco have agreed to exchange information at least once a year by means of the Association Committee. The specific arrangements for the evaluation exercise should therefore be laid down with a view to their adoption by the Association Committee.
- (7) The purpose of the exchange of information coincides with that of the joint report of 11 June 2018 by the Commission and the European External Action Service on the benefits for the people of Western Sahara and the public consultation on extending tariff preferences to products from Western Sahara.
- (8) As regards the impact on the territory's economy, the information available to date primarily concerns agriculture and fishing, but the preferences concern all products; the data to be exchanged could therefore change according to developments in Western Sahara. Furthermore, the exchange of information does not exclusively concern economic aspects ('benefits' in the narrow sense) but is intended to allow for a broader evaluation covering such aspects as sustainable development and the impact on the exploitation of natural resources.
- (9) The Kingdom of Morocco has also agreed to set up separately a mechanism for collecting statistics on exports to the Union of products originating in Western Sahara, which are to be made available on a monthly basis to the Commission and to custom authorities in the Member States.
- (10) The Kingdom of Morocco will be able, on the basis of existing information systems, to ask the Union for information on production and trade in specific product categories of interest to the Kingdom of Morocco,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted on behalf of the Union within the EU-Kingdom of Morocco Association Committee set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, shall be based on the draft Decision of the Association Committee attached to this Decision.

Article 2

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

Done at Brussels, 20 February 2020.

For the Council
The President
B. DIVJAK

DRAFT
DECISION No .../...
OF THE EU-KINGDOM OF MOROCCO ASSOCIATION COMMITTEE
of ...

concerning the exchange of information between the European Union and the Kingdom of Morocco for the purpose of evaluating the impact of the Agreement in the form of an Exchange of Letters on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part

THE EU-KINGDOM OF MOROCCO ASSOCIATION COMMITTEE,

Having regard to the Euro-Mediterranean Agreement of 26 February 1996 establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, and in particular Article 83 thereof,

Having regard to the Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco of 25 October 2018 on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part,

Whereas:

- (1) The Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part ('the Agreement in the form of an Exchange of Letters') entered into force on 19 July 2019.
- (2) The Agreement in the form of an Exchange of Letters was concluded without prejudice to the respective positions of the European Union with regard to the status of Western Sahara and of the Kingdom of Morocco with regard to that region.
- (3) Under the Agreement in the form of an Exchange of Letters, products originating in Western Sahara that are subject to controls by the customs authorities of the Kingdom of Morocco benefit from the same trade preferences as those granted by the European Union to products covered by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part ('the Association Agreement').
- (4) In a spirit of partnership and in order to allow the parties to assess the impact of the Agreement in the form of an Exchange of Letters, in particular on sustainable development and with regard to the advantages for the people concerned and the exploitation of the natural resources of the territories in question, the European Union and the Kingdom of Morocco have agreed to exchange information at least once a year by means of the Association Committee.
- (5) The specific arrangements for the evaluation exercise are to be adopted by the Association Committee,

HAS ADOPTED THIS DECISION:

Article 1

1. In a spirit of partnership and in order to allow the parties to assess the impact of the Agreement in the form of an Exchange of Letters during its application from a sustainable development perspective, the European Union and the Kingdom of Morocco have agreed to exchange information by means of the Association Committee on an annual basis.
2. The European Union and the Kingdom of Morocco shall exchange data considered relevant in the main areas of activity concerned as well as statistical, economic, social and environmental information, in particular with regard to the advantages of the Agreement in the form of an Exchange of Letters for the people concerned and the exploitation of the natural resources of the territories in question. A list of relevant information is set out in the Annex to this Decision.

The exchange shall be based on a prior written communication sent by the end of March each year; the communication may be followed by requests for clarification and supplementary questions raised in the subject areas covered by this Decision. Responses shall be provided by the end of June each year.

3. In a spirit of partnership and in order to allow them to assess the impact of the Agreement the form of an Exchange of Letters, the parties have also agreed that the Kingdom of Morocco may, on the basis of existing information systems, ask the European Union for information on production and trade in specific product categories of particular interest to the Kingdom of Morocco.

For this purpose, the Kingdom of Morocco shall send its request in writing to the European Union by the end of March each year; the communication may be followed by requests for clarification and supplementary questions. Responses shall be provided by the end of June each year.

4. The parties shall take note of those exchanges within the Association Committee once a year.

5. The minutes, including the Association Committee's conclusions, shall be approved by the parties by the end of the month following that in which the meeting takes place.

Article 2

The Annex shall form an integral part of this Decision.

Article 3

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

Done at ..., ... 2020

For the EU-Kingdom of Morocco Association Committee

ANNEX

RELEVANT INFORMATION FOR THE PURPOSES OF THE EXCHANGE OF INFORMATION PROVIDED FOR IN THE AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS

The information exchanged is to be used to update the joint report of 11 June 2018 by the Commission and the European External Action Service (EEAS) ⁽¹⁾. The exchange of information is therefore to include detailed information that allows for the impact of the Agreement in the form of an Exchange of Letters to be evaluated during its implementation, including general information on the territories and people concerned. This information is intended solely for the purposes of evaluation and the updating of the report by the Commission and the EEAS. The following are examples of relevant information:

1. Information provided by the Kingdom of Morocco:

(a) General information:

- * Socio-economic and environmental statistics.

(b) Information on the main export sectors of the economy:

- * production by type of product;
- * the area farmed and the volume harvested;
- * exports to the European Union in terms of volume and value;
- * economic activities of local operators related to the sectors covered by the Agreement in the form of an Exchange of Letters, and employment generated;
- * sustainable management of resources;
- * production establishments.

2. Information provided by the EU:

Information on trade in products exported to the Kingdom of Morocco by customs code and in terms of volume and value, as well as, where such data are available, on the production of specific products.

3. Other relevant information:

As stated in the correspondence exchanged by the European Commission and the Mission of the Kingdom of Morocco to the European Union on 6 December 2018, the Kingdom of Morocco is setting up a mechanism for collecting information on exports covered by the Association Agreement, as amended by the Exchange of Letters, which will systematically and regularly provide and make available each month precise data so that the European Union has transparent and reliable information on the origin of these exports to the Union, by region ⁽²⁾. The European Commission will have direct access to such data and will share them with the customs authorities of the Member States of the European Union.

For its part, the Kingdom of Morocco will have transparent and reliable statistical information on exports from the European Union to the Kingdom of Morocco.

⁽¹⁾ 'Report on benefits for the people of Western Sahara and public consultation on extending tariff preferences to products from Western Sahara' of 11 June 2018 (SWD (2018) 346 final).

⁽²⁾ NB: This mechanism has been operational since 1 October 2019.

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