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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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## II

(Non-legislative acts)

## REGULATIONS

## COMMISSION IMPLEMENTING REGULATION (EU) 2020/587

of 29 April 2020

**amending Implementing Regulation (EU) No 1206/2011 laying down requirements on aircraft identification for surveillance for the single European sky and Implementing Regulation (EU) No 1207/2011 laying down requirements for the performance and the interoperability of surveillance for the single European sky**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 <sup>(1)</sup>, and in particular point (a) of Article 44(1) thereof,

Whereas:

- (1) In order to ensure safe and efficient operations of aircraft, aerodromes, air traffic management, air navigation and of the European air traffic management network, it is necessary to provide for certain improvements to the operating rules related to the use of airspace, aircraft equipment and air traffic management and air navigation services systems and their constituents required for the use of airspace. New and updated safety-related interoperability requirements should therefore be set out in Commission Implementing Regulation (EU) No 1206/2011 <sup>(2)</sup> and Commission Implementing Regulation (EU) No 1207/2011 <sup>(3)</sup>.
- (2) Taking into account the experiences from the ongoing implementation of airborne surveillance capability and the capability of the ground systems to process data, effective and timely installation of aircraft equipment is necessary to enable the full surveillance chain to achieve the expected benefits within the established deadlines. The criteria for exemptions from the requirements to equip aircraft should be amended to provide clarity as to which aircraft are to be equipped and which ones are to benefit of an exemption from those requirements. At the same time, the overall number of aircraft equipped should remain effective and should not impose an undue economic burden.
- (3) A significant number of equipped aircraft is already certified in line with the international standard for airborne parts and appliances for the surveillance systems, corresponding to Annex 10 to the Chicago Convention, Volume IV, Third Edition, including all amendments up to No 77. That standard is fully compatible with the anticipated surveillance systems. Mandating the use of the standard corresponding to Annex 10 to the Chicago Convention, Volume IV, Fourth Edition including all amendments up to No 85 as currently provided in Annex II to

<sup>(1)</sup> OJ L 212, 22.8.2018, p. 1.

<sup>(2)</sup> Commission Implementing Regulation (EU) No 1206/2011 of 22 November 2011 laying down requirements on aircraft identification for surveillance for the single European sky (OJ L 305, 23.11.2011, p. 23).

<sup>(3)</sup> Commission Implementing Regulation (EU) No 1207/2011 of 22 November 2011 laying down requirements for the performance and the interoperability of surveillance for the single European sky (OJ L 305, 23.11.2011, p. 35).

Implementing Regulation (EU) No 1207/2011 would impose an undue economic burden. Therefore, the standard corresponding to Annex 10 to the Chicago Convention, Volume IV, Third Edition including all amendments up to No 77 should be considered as the minimum requirement. Therefore, the minimum technical standards to which aircraft operators are to comply laid down in Implementing Regulation (EU) No 1207/2011 should be amended.

- (4) State aircraft operating as general air traffic should be equipped with serviceable secondary surveillance radar transponders in line with the requirements applicable to civil aircraft laid out in points (a) and (c) of Article 5(5) of Implementing Regulation (EU) No 1207/2011. The procedures and conditions related to state aircraft that cannot be equipped with serviceable secondary surveillance radar transponders should remain those laid out in Article 8 of Implementing Regulation (EU) No 1207/2011.
- (5) The requirements for the formal arrangements on transferring surveillance data between air navigation service providers should be amended to reflect existing data distribution scenarios to facilitate exchange of surveillance data and to avoid excessive onerous constraints on the delivering provider.
- (6) In order to ensure the effectiveness of State aircraft operations, the ability of the European ATM system to ensure that those State aircraft engaged in sensitive operations and training are able to operate with the assignment of discrete SSR codes should be established and therefore Implementing Regulation (EU) No 1206/2011 should be amended accordingly.
- (7) The outbreak of the pandemic of Covid-19 virus and the resulting impact on the aviation sector has led to unforeseeable obstacles for aircraft operators to pursue their activities to bring the aircraft in compliance with certain requirements of Implementing Regulation (EU) No 1207/2011. As a result, the deadline for aircraft operators laid out in Article 5(5), Article 8(1) and Article 8(2) of Implementing Regulation (EU) No 1207/2011 should be postponed to 7 December 2020, and Implementing Regulation (EU) No 1207/2011 should be amended accordingly.
- (8) Implementing Regulation (EU) No 1206/2011 and Implementing Regulation (EU) No 1207/2011 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 127(1) of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Annex II to Implementing Regulation (EU) No 1206/2011 is amended in accordance with Annex I to this Regulation.

#### *Article 2*

Implementing Regulation (EU) No 1207/2011 is amended as follows:

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

‘2. This Regulation shall apply to all flights operating as general air traffic in accordance with instrument flight rules within the Single European Sky airspace with the exception of Article 7(3) and 7(4) which shall apply to all flights operating as general air traffic’;
- (2) in Article 4, paragraph 4 is deleted;
- (3) in Article 5, paragraphs 5 and 6 are replaced by the following:

‘5. By 7 December 2020 operators shall ensure that:

  - (a) aircraft operating flights referred to in Article 2(2) are equipped with serviceable secondary surveillance radar transponders that comply with the following conditions:
    - (i) they have the capabilities set out in Part A of Annex II;
    - (ii) they have the continuity sufficient to avoid presenting an operational risk;

- (b) aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operating flights referred to in Article 2(2), with an individual certificate of airworthiness first issued on or after 7 June 1995, are equipped with serviceable secondary surveillance radar transponders that comply with the following conditions:
- (i) they have the capabilities set out in Parts A and B of Annex II;
  - (ii) they have the continuity sufficient to avoid presenting an operational risk;
- (c) fixed wing aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operating flights referred to in Article 2(2), with an individual certificate of airworthiness first issued on or after 7 June 1995, are equipped with serviceable secondary surveillance radar transponders that comply with the following conditions:
- (i) they have the capabilities set out in Parts A, B and C of Annex II;
  - (ii) they have the continuity sufficient to avoid presenting an operational risk.

Points (b) and (c) of the first subparagraph shall not apply to aircraft that operate within the Single European Sky airspace and that belong to one of the following categories:

- (i) they are being flown to undergo maintenance;
- (ii) they are being flown for export;
- (iii) their operations will be ceased by 31 October 2025.

Operators of aircraft with a first certificate of airworthiness issued before 7 December 2020 shall comply by 7 June 2023 with the requirements set out in points (b) and (c) of the first subparagraph, subject to the following conditions:

- (i) they have established before 7 December 2020 a retrofit programme demonstrating compliance with points (b) and (c) of the first subparagraph;
- (ii) those aircraft have not benefitted from any Union funding granted to bring such aircraft in compliance with the requirements set out in points (b) and (c) of the first subparagraph.

For aircraft where the capability of the transponders to comply with the requirements of points (b) and (c) of the first subparagraph is temporarily inoperative, operators shall be entitled to operate that aircraft in the Single European Sky airspace for a maximum of 3 consecutive days.

6. Operators shall ensure that aircraft equipped in accordance with paragraph 5 and having a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operate with antenna diversity, with a minimum performance as prescribed in paragraph 3.1.2.10.4 of Annex 10 to the Chicago Convention, Volume IV, Third Edition, including all amendments up to No 77.;

- (4) in Article 5, paragraph 7 is deleted;
- (5) in Article 6, paragraph 2 is deleted;
- (6) in Article 7, paragraph 2 is deleted;
- (7) in Article 7, paragraph 3 is replaced by the following:

‘3. Member States shall ensure that the assignment of 24-bit ICAO aircraft addresses to aircraft equipped with a Mode S transponder complies with Chapter 9 and its appendix of Annex 10 to the Chicago Convention, Volume III, Second Edition including all amendments up to No 90.’;

- (8) in Article 8, paragraphs 1 and 2 are replaced by the following:

‘1. Member States shall ensure that, by 7 December 2020 at the latest, State aircraft comply with point (a) of Article 5(5).

2. Member States shall ensure that, by 7 December 2020 at the latest, transport-type State aircraft comply with point (c) of Article 5(5).’;

- (9) in Article 8, the following paragraph 8 is inserted:

‘8. For State aircraft where the capability of the transponders to comply with the requirements of paragraphs 1 and 2 is temporarily inoperative, Member States shall be entitled to allow the operation of that aircraft in the Single European Sky airspace for a maximum of 3 consecutive days.’;

- (10) Article 14 is deleted;

(11) the following Article 14a is inserted:

*Article 14a*

**Flight Plans**

Operators of non-equipped State aircraft communicated as per Article 8(3) and operators of aircraft not equipped in accordance with Article 5(5) operating within the Single European Sky airspace, shall include the indicators SUR/EUADSBX or SUR/EUEHSX or SUR/EUELSX or a combination thereof, in Item 18 of the flight plan.;

(12) Annex II is amended in accordance with Annex II to this Regulation;

(13) Annex IV is amended in accordance with Annex III to this Regulation.

*Article 3*

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

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

Done at Brussels, 29 April 2020.

*For the Commission*

*The President*

Ursula VON DER LEYEN

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## ANNEX I

Point 3 of Annex II to Implementing Regulation (EU) No 1206/2011 is amended as follows:

(1) point (c) is replaced by the following:

‘(c) an aircraft which is eligible for the assignment of the conspicuity code established in accordance with point (c) of Article 4(6) exits or is otherwise diverted outside the airspace volume referred to in point (1);’;

(2) the following point (d) is added:

‘(d) State aircraft engaged on nationally sensitive operations or training, that require security and confidentiality.’.

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## ANNEX II

Annex II to Implementing Regulation (EU) No 1207/2011 is amended as follows:

(1) Part A is amended as follows:

(a) point 1 is replaced by the following:

‘1. The minimum capability for the secondary surveillance transponder shall be Mode S Level 2 meeting the performance and functionality criteria of Annex 10 to the Chicago Convention, Volume IV, Third Edition including all amendments up to No 77.’;

(b) point 5 is replaced by the following:

‘5. The data items referred to in point 4 shall only be transmitted by the transponder via the Mode S protocol. The aircraft and equipment certification process shall cover the transmission of those data items.’;

(c) point 6 is deleted;

(2) Part B is amended as follows:

(a) point 1 is replaced by the following:

‘1. The minimum capability for the secondary surveillance transponder shall be Mode S Level 2 meeting the performance and functionality criteria of Annex 10 to the Chicago Convention, Volume IV, Third Edition including all amendments up to No 77.’;

(b) point 15 is replaced by the following:

‘15. Except for military reserved formats, the data items referred to in point 14 shall only be transmitted by the transponder via the extended squitter ADS-B protocol. The aircraft and equipment certification process shall cover the transmission of these data items.’;

(c) point 16 is deleted;

(3) Part C is amended as follows:

(a) in point 2, the introductory phrase is replaced by the following:

‘2. The following data items, where available on a digital bus, shall be transmitted by the transponder as requested by the ground-based surveillance chain, via the Mode S protocol and in accordance with the formats specified in ICAO document 9871 (2<sup>nd</sup> edition)’;

(b) point 4 is replaced by the following:

‘4. The data items referred to in point 3 shall only be transmitted by the transponder via the Mode S protocol. The aircraft and equipment certification process shall cover the transmission of these data items.’.

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## ANNEX III

Annex IV to Implementing Regulation (EU) No 1207/2011 is replaced by the following:

## 'ANNEX IV

**Requirements for the establishment of formal arrangements referred to in Article 5(2)**

Formal arrangements between air navigation service providers for the exchange or provision of surveillance data shall include the following minimum content:

- (a) the parties to the arrangements;
  - (b) the period of validity of the arrangements;
  - (c) the scope of the surveillance data;
  - (d) the sources of the surveillance data;
  - (e) the exchange format of the surveillance data;
  - (f) the service delivery point of the surveillance data;
  - (g) agreed service levels in terms of the following:
    - surveillance data performance as established by Article 4(3)
    - procedures in case of unserviceability;
  - (h) change management procedures;
  - (i) reporting arrangements with respect to performance and availability including unforeseen outage;
  - (j) management and coordination arrangements;
  - (k) ground-based surveillance chain safeguarding and notification arrangements.
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# DECISIONS

## COMMISSION IMPLEMENTING DECISION (EU) 2020/588

of 22 April 2020

**concerning exemptions from the extended anti-dumping duty on certain bicycle parts originating in the People's Republic of China pursuant to Regulation (EC) No 88/97**

(notified under document C(2020) 2382)

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 <sup>(1)</sup>, and in particular Article 13(4) thereof,

Having regard to Council Regulation (EC) No 71/97 of 10 January 1997 extending the definitive anti-dumping duty imposed by Regulation (EEC) No 2474/93 on bicycles originating in the People's Republic of China to imports of certain bicycle parts from the People's Republic of China, and levying the extended duty on such imports registered under Regulation (EC) No 703/96 <sup>(2)</sup> and in particular Article 3 thereof,

Having regard to Commission Implementing Regulation (EU) 2020/45 of 20 January 2020 amending Implementing Regulation (EU) 2019/1379 as regards the extension of the anti-dumping duty imposed on imports of bicycles originating in the People's Republic of China to imports of certain bicycle parts originating in the People's Republic of China by Council Regulation (EC) No 71/97 <sup>(3)</sup>,

Having regard to Commission Regulation (EC) No 88/97 of 20 January 1997 on the authorisation of the exemption of imports of certain bicycle parts originating in the People's Republic of China from the extension by Council Regulation (EC) No 71/97 of the anti-dumping duty imposed by Council Regulation (EEC) No 2474/93 <sup>(4)</sup>, and in particular Articles 4 to 7 thereof,

After informing the Member States,

Whereas:

- (1) An anti-dumping duty applies on imports into the Union of essential bicycle parts originating in the People's Republic of China ('China') ('the extended duty') as a result of the extension of the anti-dumping duty imposed on imports of bicycles originating in China by Regulation (EC) No 71/97.
- (2) Under Article 3 of Regulation (EC) No 71/97 the Commission is empowered to adopt the necessary measures to authorise the exemption of imports of essential bicycle parts which do not circumvent the anti-dumping duty.
- (3) Those implementing measures are set forth in Regulation (EC) No 88/97 establishing the specific exemption system.
- (4) On that basis the Commission has exempted a number of bicycle assemblers from the extended duty ('the exempted parties').
- (5) As provided for in Article 16(2) of Regulation (EC) No 88/97, the Commission has published in the *Official Journal of the European Union* subsequent lists of the exempted parties <sup>(5)</sup>.

<sup>(1)</sup> OJ L 176, 30.6.2016, p. 21.

<sup>(2)</sup> OJ L 16, 18.1.1997, p. 55.

<sup>(3)</sup> OJ L 16, 21.1.2020, p. 7.

<sup>(4)</sup> OJ L 17, 21.1.1997, p. 17.

<sup>(5)</sup> OJ C 45, 13.2.1997, p. 3, OJ C 112, 10.4.1997, p. 9, OJ C 220, 19.7.1997, p. 6, OJ L 193, 22.7.1997, p. 32, OJ L 334, 5.12.1997, p. 37, OJ C 378, 13.12.1997, p. 2, OJ C 217, 11.7.1998, p. 9, OJ C 37, 11.2.1999, p. 3, OJ C 186, 2.7.1999, p. 6, OJ C 216, 28.7.2000, p. 8, OJ C 170, 14.6.2001, p. 5, OJ C 103, 30.4.2002, p. 2, OJ C 35, 14.2.2003, p. 3, OJ C 43, 22.2.2003, p. 5, OJ C 54, 2.3.2004, p. 2, OJ L 343, 19.11.2004, p. 23, OJ C 299, 4.12.2004, p. 4, OJ L 17, 21.1.2006, p. 16, OJ L 313, 14.11.2006, p. 5, OJ L 81, 20.3.2008, p. 73, OJ C 310, 5.12.2008, p. 19, OJ L 19, 23.1.2009, p. 62, OJ L 314, 1.12.2009, p. 106, OJ L 136, 24.5.2011, p. 99, OJ L 343, 23.12.2011, p. 86, OJ L 119, 23.4.2014, p. 67, OJ L 132, 29.5.2015, p. 32, OJ L 331, 17.12.2015, p. 30, OJ L 47, 24.2.2017, p. 13, OJ L 79, 22.3.2018, p. 31, OJ L 171, 26.6.2019, p. 117.

- (6) The most recent Commission Implementing Decision (EU) 2019/1087 <sup>(6)</sup> concerning exemptions under Regulation (EC) No 88/97 was adopted on 19 June 2019.
- (7) For the purposes of this Decision, the definitions set out in Article 1 of Regulation (EC) No 88/97 apply.

### 1. REQUESTS FOR EXEMPTION

- (8) Between 19 December 2016 and 17 October 2019, the Commission received from the parties listed in Tables 1 and 3 requests for exemption with the information required to determine whether these requests were admissible in accordance with Article 4(1) of Regulation (EC) No 88/97.
- (9) The parties requesting exemption were given an opportunity to comment on the Commission's conclusions concerning the admissibility of their requests.
- (10) In accordance with Article 5(1) of Regulation (EC) No 88/97, pending a decision on the merits of requests from the parties requesting exemption, the payment of the extended duty in respect of any imports of essential bicycle parts declared for free circulation by these parties listed in Tables 1 and 3 below was suspended as from the day on which the Commission received their respective requests.

### 2. AUTHORISATION OF EXEMPTION

- (11) The examination of the merits of the requests from the parties listed in Table 1 has been concluded.

Table 1

TARIC additional code	Name	Address
C307	Merida Polska Sp. Z o.o.	ul. Marii Skłodowskiej-Curie 35, PL-41-800 Zabrze, Poland
C311	Juan Luna Cabrera	Calle Alhama 64, ES-14900 Lucena (Cordoba), Spain

- (12) The Commission established during its examination that the value of the parts originating in China constituted less than 60 % of the total value of the parts of all the bicycles assembled by both parties. This was also the case for the majority of the assembled bicycles by both parties.
- (13) Consequently, the Commission concluded that the respective assembly operations of Merida Polska Sp. Z o.o. and of Juan Luna Cabrera fall outside the scope of Article 13(2) of Regulation (EU) 2016/1036.
- (14) For that reason, and in accordance with Article 7(1) of Regulation (EC) No 88/97, the parties listed in Table 1 fulfil the conditions for exemption from the extended duty.
- (15) In accordance with Article 7(2) of Regulation (EC) No 88/97, the exemptions should take effect as from the date of receipt of the requests. The customs debts in respect of the extended duty from the parties requesting exemption should therefore be considered void from the same date.
- (16) The parties were informed of the Commission's conclusions on the merits of their requests and were given an opportunity to comment thereon.
- (17) Since the exemptions apply only to the parties specifically referred to in Table 1, the exempted parties should notify the Commission <sup>(7)</sup> without delay of any changes to these (for instance, following a change in the name, legal form or address or following the setting up of new assembly entities).

<sup>(6)</sup> Commission Implementing Decision (EU) 2019/1087 of 19 June 2019 concerning exemptions from the extended anti-dumping duty on certain bicycle parts originating in the People's Republic of China pursuant to Regulation (EC) No 88/97 (OJ L 171, 26.6.2019, p. 117).

<sup>(7)</sup> The parties are advised to use the following email address: TRADE-BICYCLE-PARTS@ec.europa.eu

- (18) In case of change in reference, the exempted parties should provide all relevant information, in particular on any modification in its activities linked to assembly operations. Where appropriate, the Commission will update the references accordingly.

### 3. UPDATE OF REFERENCES TO EXEMPTED OR SUSPENDED PARTIES

- (19) The exempted or suspended parties listed in Table 2 notified the Commission, between 2 May 2019 and 20 February 2020, of changes in their references (names, legal forms and addresses). The Commission, after having examined the information submitted, concluded that those changes do not affect the assembly operations with regard to the conditions of exemption or suspension set forth in Regulation (EC) No 88/97.
- (20) While the exemption or the suspension of these parties from the extended duty authorised in accordance with Article 7(1) of Regulation (EC) No 88/97 remains unaffected, the references to these parties should be updated.

Table 2

TARIC additional code	Former reference	Change
A163	Speedcross di Torretta Luigi & C. s.n.c. Corso Italia 20, IT-20020 Vanzaghello (MI), Italy	The name and legal form of the company have been changed to: Speedcross s.r.l.
A557	Jozef Kender-Kenzel Piesková 437/9A, 946 52 Imel, Slovakia	The name, legal form and address of the company have been changed to: KENZEL s.r.o. Novozámocká 182, 94701 Hurbanovo, Slovakia
8612	Tecno Bike S.r.l. Via del Lavoro 22, IT-61030 Canavaccio, Urbino (PS), Italy	The address of the company has been changed to: Via del Lavoro 22, IT-61029 Canavaccio di Urbino (PU), Italy
8979	W.S.B. Hi-Tech Bicycle Europe B.V. De Hemmen 91, NL-9206AG Drachten, The Netherlands	The address of the company has been changed to: De Roef 15, NL-9206AK Drachten, The Netherlands

### 4. SUSPENSION OF PAYMENTS OF THE DUTIES FOR PARTIES UNDER EXAMINATION

- (21) The examination of the merits of the requests from the parties listed in Table 3 is ongoing. Pending a decision on the merits of their requests, the payment of the extended duty by these parties is suspended.
- (22) Since the suspensions apply only to the parties specifically referred to in Table 3, these parties should notify the Commission <sup>(8)</sup> without delay of any changes to these (for instance following a change in the name, legal form or address or following the setting up of new assembly entities).
- (23) In case of change in reference, the party should provide all relevant information, in particular on any modification in its activities linked to assembly operations. Where appropriate, the Commission will update the references to such party.

Table 3

TARIC additional code	Name	Address
C202	Vanmoof B.V.	Mauritskade 55, NL-1092 AD Amsterdam, The Netherlands
C207	Kenstone Metal Company GmbH	Am Maikamp 8-12, DE-32107 Bad Salzufen, Germany

<sup>(8)</sup> The parties are advised to use the following email address: TRADE-BICYCLE-PARTS@ec.europa.eu

TARIC additional code	Name	Address
C481	FJ Bikes Europe Unipessoal, Lda	Praça do Município 8, Sala 1D, PT-3750 111 Águeda, Portugal
C492	MOTOKIT Veiculos e Accesorios S.A.	Rua Padre Vicente Maria da Rocha 448, 1° Esq., PT- 3840-453 Vagos, Portugal
C499	Frog Bikes Manufacturing Ltd	Unit A, Mamhilad Park Estate, GB-Pontypool, Torfaen, NP4 0HZ, United Kingdom
C527	FIRMA ADAM Adam Ziętek	Muchy 56 PL-63-524 Czajków, Poland
C529	Rowerland Piotr Tokarz	ul. Klubowa 23, PL-32-600 Broszkowice, Poland

#### 5. SUSPENSION OF PAYMENTS OF THE DUTIES FOR PARTIES UNDER EXAMINATION LIFTED

- (24) The suspension of payment of the duties for the parties under examination should be lifted for the party listed in Table 4.

Table 4

TARIC additional code	Name	Address
C489	P.P.H. ARTPOL Artur Kopec	ul. Aniołowska 14, PL-42-202 Częstochowa, Poland

- (25) On 3 July 2019 the Commission received from that party a request to withdraw the application for an exemption while the examination of its merits was ongoing and the payment of the extended duty was suspended.
- (26) The Commission accepted the withdrawal and consequently the suspension of the payment of the extended duty should be lifted. The extended duty should be collected as from the date of receipt of the request for exemption submitted by that party, namely the date on which the suspension took effect, that is 25 October 2018.
- (27) The party was informed of the Commission's conclusions and was given an opportunity to comment thereon. No comments were submitted.

#### 6. AUTHORISATION OF EXEMPTION REVOKED

- (28) The exempted parties listed in Table 5 notified the Commission, between 30 June 2019 and 3 February 2020, of the following: closing down of its activities (Bicicletas Monty S.A.), and the renunciation of the exemption from the payment of extended duty (Gor Kolesa, proizvodnja koles, d.o.o).
- (29) Consequently, in accordance with the principle of good administration, the authorisation of exemption from the payment of the extended duty for both exempted parties listed in Table 5 should be revoked,

Table 5

TARIC additional code	Name	Address
A165	Bicicletas Monty S.A.	Calle El Plà 106, ES-08980 Sant Feliu de Llobregat, Spain
C209	Gor Kolesa, proizvodnja koles, d.o.o.	Primorska cesta 6b, SI-3325 Šoštanj, Slovenia

HAS ADOPTED THIS DECISION:

#### Article 1

The parties listed in the Table in this Article are hereby exempted from the extension by Regulation (EC) No 71/97 of the definitive anti-dumping duty on bicycles originating in the People's Republic of China imposed by Council Regulation (EEC) No 2474/93 <sup>(\*)</sup> to imports of certain bicycle parts from the People's Republic of China.

In accordance with Article 7(2) of Regulation (EC) No 88/97 the exemptions shall take effect as from the dates of receipt of the parties' requests. Those dates are provided for in the Table column headed 'Date of effect'.

The exemptions shall apply only to the parties specifically referred to in the Table in this Article.

The exempted parties shall notify the Commission without delay of any change to their names and addresses, providing all relevant information, in particular on any modification in the party's activities linked to assembly operations with regard to the conditions of exemption.

#### Exempted parties

TARIC additional code	Name	Address	Date of effect
C307	Merida Polska Sp. Z o.o.	ul. Marii Skłodowskiej-Curie 35, PL-41-800 Zabrze, Poland	14.6.2017
C311	Juan Luna Cabrera	C/Alhama 64, ES-14900 Lucena (Cordoba), Spain	4.10.2017

#### Article 2

Updated references to the exempted or suspended parties listed in the Table in this Article are provided for in the column headed 'New reference'. Those updates shall take effect as from the dates provided for in the Table column headed 'Date of effect'.

The corresponding TARIC additional codes previously attributed to those exempted or suspended parties as provided for in the Table column headed 'TARIC additional code' remain unchanged.

#### Exempted/suspended parties for which the reference shall be updated

TARIC additional code	Former reference	New reference	Date of effect
A163	Speedcross di Torretta Luigi & C. s.n.c. Corso Italia 20, IT -20020 Vanzaghello (MI), Italy	Speedcross s.r.l. Corso Italia 20, IT -20020 Vanzaghello (MI), Italy	2.5.2019
A557	Jozef Kender-Kenzel Piesková 437/9A, 946 52 Imel, Slovakia	KENZEL s.r.o. Novozámocká 182, 947 01 Hurbanovo, Slovakia	1.6.2019

<sup>(\*)</sup> Council Regulation (EEC) No 2474/93 of 8 September 1993 imposing a definitive anti-dumping duty on imports into the Community of bicycles originating in the People's Republic of China and collecting definitively the provisional anti-dumping duty (OJ L 228, 9.9.1993, p. 1).

TARIC additional code	Former reference	New reference	Date of effect
8612	Tecno Bike S.r.l. Via del Lavoro 22, IT-61030 Canavaccio, Urbino (PS), Italy	Tecno Bike S.r.l. Via del Lavoro 22, IT-61029 Canavaccio di Urbino (PU), Italy	20.2.2020
8979	W.S.B. Hi-Tech Bicycle Europe B.V. De Hemmen 91, NL-9206AG Drachten, The Netherlands	W.S.B. Hi-Tech Bicycle Europe B.V. De Roef 15, NL-9206AK Drachten, The Netherlands	12.3.2020

### Article 3

The parties listed in the Table in this Article are under examination in accordance with Article 6 of Regulation (EC) No 88/97.

The suspensions of payment of the extended anti-dumping duty in accordance with Article 5 of Regulation (EC) No 88/97 shall be effective as from the dates of receipt of the parties' respective suspension requests. Those dates are provided for in the Table column headed 'Date of effect'.

Those suspensions of payments shall apply only to the parties under examination specifically referred to in the Table in this Article.

The parties under examination shall notify the Commission without delay of any changes in their assembly operations linked to the conditions of suspension and provide the Commission with all relevant information as evidence. These changes include but are not limited to, any changes of the parties' names, activities, legal forms, addresses.

### Parties under examination

TARIC additional code	Name	Address	Date of effect
C202	Vanmoof B.V.	Mauritskade 55, NL-1092 AD Amsterdam, the Netherlands	19.12.2016
C207	Kenstone Metal Company GmbH	Am Maikamp 8-12, DE-32107 Bad Salzuflen, Germany	20.3.2017
C481	FJ Bikes Europe Unipessoal, Lda	Praça do Município 8, Sala 1D, PT-3750 111 Águeda, Portugal	8.5.2018
C492	MOTOKIT Veiculos e Acessórios S.A.	Rua Padre Vicente Maria da Rocha 448, 1º Esq., PT-3840-453 Vagos, Portugal	29.11.2018
C499	Frog Bikes Manufacturing Ltd	Unit A, Mamhilad Park Estate, GB-Pontypool, Torfaen, NP4 0HZ, United Kingdom	7.1.2019
C527	FIRMA ADAM Adam Ziętek	Muchy 56, PL-63-524 Czajków, Poland	29.8.2019
C529	Rowerland Piotr Tokarz	ul. Klubowa 23, PL-32-600 Broszkowice, Poland	17.10.2019

*Article 4*

The suspension of the payment of the extended anti-dumping duty pursuant to Article 5 of Regulation (EC) No 88/97 is hereby lifted for the parties listed in the Table in this Article.

The extended duty should be collected as from the date on which the suspension took effect. That date is provided for in the Table column headed 'Date of effect'.

**Party for which the suspension is lifted**

TARIC additional code	Name	Address	Date of effect
C489	P.P.H. ARTPOL Artur Kopeć	ul. Aniołowska 14, PL-42-202 Częstochowa, Poland	25.10.2018

*Article 5*

The authorisation of the exemption of payment of the extended anti-dumping duty is hereby revoked for the parties listed in the Table in this Article.

The extended duty should be collected as from the date on which the revocation of the authorisation took effect. This date is provided for in the Table column headed 'Date of effect'.

**Parties for which the exemption is revoked**

TARIC additional code	Name	Address	Date of effect
A165	Bicicletas Monty S.A.	Calle El Plà 106, ES-08980 Sant Feliu de Llobregat, Spain	30.6.2019
C209	Gor Kolesa, proizvodnja koles, d.o.o.	Primorska cesta 6b, SI-3325 Šoštanj, Slovenia	3.2.2020

*Article 6*

This Decision is addressed to the Member States and to the parties listed in Articles 1 to 5 and published in the *Official Journal of the European Union*.

Done at Brussels, 22 April 2020.

*For the Commission*  
Phil HOGAN  
*Member of the Commission*



**COMMISSION IMPLEMENTING DECISION (EU) 2020/589****of 23 April 2020****on the adequacy of the competent authority of the Republic of South Africa pursuant to Directive 2006/43/EC of the European Parliament and of the Council***(notified under document C(2020) 2026)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC <sup>(1)</sup>, and in particular the first subparagraph of Article 47(3) thereof,

Whereas:

- (1) Under Article 47(1) of Directive 2006/43/EC, Member States may allow the transfer of audit working papers or other documents held by statutory auditors or audit firms approved by them, and of inspection or investigation reports relating to the audits in question, to the competent authorities of a third country only if those authorities meet requirements that have been declared adequate by the Commission and there are working arrangements on the basis of reciprocity between them and the competent authorities of the Member States concerned.
- (2) A decision on adequacy under Article 47(3) of Directive 2006/43/EC does not address other specific requirements for the transfer of audit working papers and other documents held by statutory auditors or audit firms and of inspection or investigation reports, such as the agreement on working arrangements on the basis of reciprocity between the competent authorities set out in Article 47(1)(d) of Directive 2006/43/EC, or the requirements for the transfer of personal data set out in Article 47(1)(e) of that Directive.
- (3) Cooperation over the transfer of audit working papers or other documents held by statutory auditors or audit firms and of inspection or investigation reports to the competent authority of a third country reflects the substantial public interest in carrying out independent public oversight. Accordingly, the competent authorities of the Member States should, in the framework of the working arrangements referred to in Article 47(2) of Directive 2006/43/EC, ensure that the competent authority of South Africa uses any documents transferred to it in accordance with Article 47(1) of that Directive only to exercise its functions of public oversight, external quality assurance and investigations of auditors and audit firms.
- (4) When inspections or investigations are carried out, statutory auditors and audit firms are not allowed to grant access to or to transmit their audit working papers or other documents to the competent authority of South Africa under any other conditions than those set out in Article 47 of Directive 2006/43/EC and in this Decision.
- (5) Without prejudice to Article 47(4) of Directive 2006/43/EC, Member States should ensure that, for the purposes of public oversight, quality assurance and investigations of statutory auditors and audit firms, contacts between the statutory auditors or audit firms approved by them and the competent authority of South Africa take place via the competent authorities of the Member States concerned.
- (6) In accordance with Article 47(1)(d) of Directive 2006/43/EC, the possibility for Member States to allow the transfer to the competent authority of South Africa of audit working papers or other documents held by statutory auditors or audit firms approved by them and of inspection or investigation reports is subject to the condition that working arrangements are agreed between the competent authorities concerned.

<sup>(1)</sup> OJ L 157, 9.6.2006, p. 87.

- (7) Member States should ensure that such working arrangements between their competent authorities and the competent authority of South Africa are agreed on the basis of reciprocity and subject to the conditions of Article 47(1) and (2) of Directive 2006/43/EC, including the protection of any professional secrets and commercial interests, including industrial and intellectual property, contained in such papers relating to the entities audited or to the statutory auditors and audit firms that audited those entities.
- (8) Where a transfer of audit working papers or other documents held by statutory auditors or audit firms and of inspection or investigation reports to the competent authority of South Africa involves the transfer of personal data, such a transfer is lawful only if it also complies with the requirements for international data transfers laid down in Regulation (EU) 2016/679 of the European Parliament and of the Council <sup>(2)</sup>. Article 47(1)(e) of Directive 2006/43/EC therefore requires Member States to ensure that the transfer of personal data between their competent authorities and the competent authority of South Africa complies with any applicable data protection principles and rules and, in particular, with the provisions of Chapter V of Regulation (EU) 2016/679. Member States should ensure that appropriate safeguards for the transfer of personal data are provided for, in accordance with Article 46 of Regulation (EU) 2016/679. In addition, Member States should ensure that the competent authority of South Africa will not further disclose personal data contained in the documents transferred without the prior agreement of the competent authorities of the Member States concerned.
- (9) The Independent Regulatory Board for Auditors (IRBA) is the competent authority of South Africa responsible for the public oversight, external quality assurance and investigations of auditors and audit firms. It implements adequate safeguards prohibiting and sanctioning disclosure by its current or former employees of confidential information to any third person or authority. Under the South African Audit Profession Act 2005 and the IRBA Code of Conduct, the IRBA may transfer to the competent authorities of the Member States documents equivalent to those referred to in Article 47(1) of Directive 2006/43/EC.
- (10) Documents obtained by the IRBA in the performance of inspections and inspection reports may only be shared with the consent of the auditor or audit firm registered with the IRBA. That requirement may present difficulties in implementing the regulatory cooperation requirements contemplated under Article 47 of Directive 2006/43/EC. Therefore, the regulatory cooperation between the IRBA and the competent authorities of the Member States should be subject to close monitoring and review by the Commission to assess whether the consent requirement presents an obstacle to information exchange in practice.
- (11) The IRBA is the competent authority responsible to cooperate and enter into bilateral agreements with the Member States' competent authorities for the transfer of audit working papers. Confidentiality of audit working papers is ensured by the South African 'common law' on professional secrecy, which sets out a general professional duty and obligation to observe confidentiality of client material by the auditor.
- (12) Under the laws and regulations of South Africa, the IRBA may be subject to the requirement to share the information referred to in Article 47(1) of Directive 2006/43/EC with an 'appropriate regulator' but has discretionary powers to decide whether such onward sharing would be in the protection of the public and *the public interest*. When signing bilateral working agreements with the IRBA, the competent authorities of Member States could demand the IRBA to request their prior consent if the IRBA is compelled to transfer to an 'appropriate regulator' any non-public information received in the course of the cooperation. Furthermore, they should consider a requirement that the IRBA may share such information only with those entities identified in the agreements, stating that these entities should maintain such information as confidential and privileged. Moreover, the processing of personal data may only be performed for the specified purpose mentioned in this Decision, as stated in recital 3 and Article 1, and in accordance with the conditions mentioned in particular under recital 8 of this Decision.

<sup>(2)</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

- (13) Under Article 1 of Commission Implementing Decision (EU) 2016/1010 <sup>(3)</sup>, several competent authorities of third countries or territories, including the IRBA, were declared adequate within the meaning of Article 47(1)(c) of Directive 2006/43/EC for the purpose of transfers of audit working papers or other documents and of inspection and investigation reports. Pursuant to Article 3 of Implementing Decision (EU) 2016/1010, that Implementing Decision ceased to apply with respect to the IRBA on 1 August 2019.
- (14) Although the IRBA did not enter into any bilateral working arrangements with any of the competent authorities of the Member States prior to 31 July 2019, some Member States have shown interest in developing cooperation with the IRBA.
- (15) The Committee of European Auditing Oversight Bodies (CEAOB) has reassessed the legal framework in South Africa, based on the Audit Profession Act of 2005, which has not changed since Implementing Decision (EU) 2016/1010. Taking into account the technical *assessment* of the CEAOB referred to in Article 30(7)(c) of Regulation (EU) No 537/2014 of the European Parliament and of the Council <sup>(4)</sup>, the IRBA meets requirements that should be declared adequate for the purposes of Article 47(1)(c) of Directive 2006/43/EC.
- (16) This Decision does not affect the cooperation arrangements referred to in Article 25(4) of Directive 2004/109/EC of the European Parliament and of the Council <sup>(5)</sup>.
- (17) Any conclusion on the adequacy of the requirements met by the competent authorities of a third country pursuant to the first subparagraph of Article 47(3) of Directive 2006/43/EC does not pre-empt any decision that the Commission may adopt on the equivalence of the public oversight, quality assurance, investigation and penalty systems for auditors and audit entities of that third country pursuant to Article 46(2) of that Directive.
- (18) This Decision aims to facilitate effective cooperation between the competent authorities of the Member States and the IRBA. Its purpose is to allow those authorities to exercise their functions of public oversight, external quality assurance and investigations and, at the same time, to protect the rights of the parties concerned. Where a competent authority decides to enter into working arrangements on the basis of reciprocity with the IRBA in order to enable the transfer of audit working papers and other documents held by statutory auditors or audit firms and of inspection or investigation reports, the Member State concerned is under the obligation to communicate to the Commission the reciprocal working arrangements concluded with the IRBA to allow the Commission to assess whether cooperation is in accordance with Article 47 of Directive 2006/43/EC.
- (19) The ultimate objective of cooperation on audit oversight between Member States' competent authorities and the IRBA is to reach mutual reliance on each other's oversight systems and to enhance convergence in audit quality. Such mutual reliance and enhanced convergence would be based on the equivalence of the audit oversight systems of the Union and of South Africa. As a consequence, transfers of audit working papers or other documents held by statutory auditors or audit firms and of inspection or investigation reports should ultimately become the exception.
- (20) Given that there is a lack of practical experience in supervisory cooperation with the IRBA, and thus an inability to currently assess whether the requirement for the IRBA to procure the prior consent of the auditor or audit firm in order to share the documents obtained in the performance of inspections and inspection reports presents an obstacle to information exchange in practice, this Decision should be applicable for a limited period of time.

<sup>(3)</sup> Commission Implementing Decision (EU) 2016/1010 of 21 June 2016 on the adequacy of the competent authorities of certain third countries and territories pursuant to Directive 2006/43/EC of the European Parliament and of the Council (OJ L 165, 23.6.2016, p. 17).

<sup>(4)</sup> Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC (OJ L 158, 27.5.2014, p. 77).

<sup>(5)</sup> Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).

- (21) Notwithstanding the time limitation, the Commission will monitor on a regular basis the market developments, evolution of the supervisory and regulatory frameworks and the effectiveness of supervisory cooperation, taking into account experience gained during supervisory cooperation also based on Member States' input. In particular, the Commission may undertake a specific review of this Decision at any time before the end of its expiration period where relevant developments make it necessary to re-assess the declaration of adequacy granted by this Decision. Such re-assessment could lead to the repeal of this Decision.
- (22) The European Data Protection Supervisor delivered an opinion on 3 December 2019.
- (23) The measures provided for in this Decision are in accordance with the opinion of the Committee established pursuant to Article 48(1) of Directive 2006/43/EC,

HAS ADOPTED THIS DECISION:

*Article 1*

The Independent Regulatory Board for Auditors of South Africa meets requirements which shall be considered adequate within the meaning of Article 47(1)(c) of Directive 2006/43/EC for the purposes of transfers of audit working papers or other documents and of inspection and investigation reports under Article 47(1) of Directive 2006/43/EC.

*Article 2*

Member States shall ensure that where audit working papers or other documents held by statutory auditors or audit firms are exclusively held by a statutory auditor or audit firm registered in a Member State other than the Member State where the group auditor is registered and whose competent authority has received a request from the Independent Regulatory Board for Auditors of South Africa, such papers or documents shall be transferred to the requesting competent authority only if the competent authority of the first Member State has given its express agreement to the transfer.

*Article 3*

This Decision shall apply from 1 May 2020 to 30 April 2026.

*Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 23 April 2020.

*For the Commission*  
Valdis DOMBROVSKIS  
*Executive Vice-President*

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**COMMISSION IMPLEMENTING DECISION (EU) 2020/590****of 24 April 2020****amending Decision (EU) 2019/784 as regards an update of relevant technical conditions applicable to the 24,25-27,5 GHz frequency band***(notified under document C(2020) 2542)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) <sup>(1)</sup>, and in particular Article 4(3) thereof,

Whereas:

- (1) Commission Implementing Decision (EU) 2019/784 <sup>(2)</sup> harmonises the essential technical conditions for the availability and efficient use of the 24,25-27,5 GHz frequency band in the Union for terrestrial systems capable of providing wireless broadband electronic communications services.
- (2) The 24,25-27,5 GHz ('26 GHz') frequency band was harmonised globally for International Mobile Telecommunications <sup>(3)</sup> (IMT) at the 2019 World Radiocommunication Conference (WRC-19) by amendments to the Radio Regulations of the International Telecommunications Union's Radiocommunication Sector (ITU-R).
- (3) The ITU-R Radio Regulations, as amended <sup>(4)</sup>, introduced global out-of-band emission limits ('protection limits') applicable in two stages to next-generation (5G) terrestrial wireless systems capable of providing wireless broadband electronic communications services in the 26 GHz frequency band for the protection of the passive earth exploration satellite service (EESS (passive)) in the 23,6-24 GHz frequency band <sup>(5)</sup>. Those protection limits are less stringent than the EU-harmonised limits <sup>(6)</sup>. The application of the first-stage limits in the Union should ensure the timely availability of 5G equipment and facilitate faster investments in 5G infrastructure in the single market. The second-stage limits, together with the requirement that no high-density terrestrial systems for the provision of wireless access services shall be deployed in an appropriate frequency range below 23,6 GHz, ensure the adequate protection of the EESS (passive) as well as meteorological satellite services within the 23,6-24 GHz frequency band.
- (4) The first-stage protection limits applicable until 1 September 2027 under the ITU-R Radio Regulations may increase the risk of harmful interference to the globally operating EESS (passive) (e.g. the Copernicus system and certain meteorological satellites) depending on the pace of deployment of next-generation (5G) terrestrial wireless systems in the 26 GHz band. Therefore, it is essential that the second-stage protection limits apply before the start of mass 5G deployment in the Union, which is expected as from 2025 <sup>(7)</sup>.

<sup>(1)</sup> OJ L 108, 24.4.2002, p. 1.

<sup>(2)</sup> Commission Implementing Decision (EU) 2019/784 of 14 May 2019 on harmonisation of the 24,25 27,5 GHz frequency band for terrestrial systems capable of providing wireless broadband electronic communications services in the Union (OJ L 127, 16.5.2019, p. 13).

<sup>(3)</sup> According to ITU-R Resolution 750 (revised by WRC-19) on the Compatibility between the Earth exploration-satellite service (passive) and relevant active services.

<sup>(4)</sup> <http://www.itu.int/pub/R-REG-RR> (2020 edition).

<sup>(5)</sup> For 5G base stations/terminal stations, these are: – 33/– 29 dBW/200MHz until 1 September 2027 (first stage), and – 39/– 35 dBW/200MHz thereafter (second stage).

<sup>(6)</sup> I.e. the additional baseline limits in Tables 4 and 6 in the Annex to Implementing Decision (EU) 2019/784.

<sup>(7)</sup> See Commission Communication *5G for Europe: an action plan* (COM(2016) 588 final).

- (5) The continued application of the current more stringent EU-harmonised protection limits in the single market would provide greater protection of the EESS (passive) across the territory of the Union. However, the application of protection limits in the Union that differed from those applied in the rest of the world, in particular by being more stringent may affect the degree of equipment availability and choice, which in turn may have a negative impact on equipment costs and the scale of investments in high-capacity (5G) networks.
- (6) WRC-19 Resolution 242, which is an integral part of the ITU-R Radio Regulations, recognises that frequency bands immediately below the 23,6-24 GHz frequency band are not intended for use with high-density mobile applications. This recognition at international level contributes to the protection of the EESS (passive) in that band further to the second-stage protection limits applicable to the 26 GHz frequency band under the ITU-R Radio Regulations. Such measures improve the protection of the EESS (passive) and the quality of satellite data necessary for weather forecast. To this end, there should be no new deployment of terrestrial systems capable of providing electronic communication services within the frequency range 22-23,6 GHz in the Union. Furthermore, relevant actions may be considered to ensure the protection of EESS (passive), if such systems may be deployed at high density in that frequency range outside the Union.
- (7) Pursuant to Article 4(2) of the Decision No 676/2002/EC and in view of the urgent need to preserve regulatory certainty in the single market with a view to implementing Article 54 of the Directive (EU) 2018/1972 of the European Parliament and of the Council<sup>(8)</sup>, the Commission asked the European Conference of Postal and Telecommunications Administrations (CEPT)<sup>(9)</sup>, under the Commission Mandate to the CEPT to develop harmonised technical conditions for spectrum use in support of the introduction of next-generation (5G) terrestrial wireless systems in the Union<sup>(10)</sup>, to assess and report on any adaptation of the protection limits under the Implementing Decision (EU) 2019/784.
- (8) In response, the CEPT submitted technical input in a letter of 6 March 2020<sup>(11)</sup> which provides clarification to a portion of the Commission's request and also recommends a preferred approach to the protection of the EESS (passive) in the 23,6-24 GHz frequency band taking into consideration the WRC-19 outcome and the need for long-term protection of the EESS (passive). In particular, this approach includes an earlier date for the transition to the second-stage limits, in order to avoid the risk of mass-market development of 5G equipment using the first-stage limits, as well as the requirement to prevent high-density deployment of terrestrial systems capable of providing wireless broadband electronic communication services in the 22-23,6 GHz frequency band.
- (9) Therefore, Implementing Decision (EU) 2019/784 should be amended in order to preserve the balance of Union policies on 5G deployment and the monitoring of the Earth's atmosphere and surface and to foster the Union's role as a leader in the global 5G ecosystem of equipment and services.
- (10) Furthermore, CEPT has been developing a technical toolkit<sup>(12)</sup> to address 5G deployment in the 26 GHz frequency band, based on spectrum use under authorisation regimes other than individual rights of use such as general authorisation or a combined individual/general authorisation. It provides guidance to Member States on some possible solutions to be implemented at national level in line with their obligations in that band and taking into account the continued deployment of satellite earth stations in the EESS, the Space Research Service (SRS) and the Fixed Satellite Service (FSS).
- (11) The measures provided for in this Decision are in accordance with the opinion of the Radio Spectrum Committee established by the Decision No 676/2002/EC,

<sup>(8)</sup> Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36).

<sup>(9)</sup> Letter to CEPT dated 20 December 2019 (Electronic Communications Committee, Project Team 1, doc. ECC PT1 (20)011).

<sup>(10)</sup> Document RSCOM16-40rev3.

<sup>(11)</sup> CEPT letter dated 6 March 2020 'CEPT response on additional input regarding the impact of the WRC-19 outcome on the harmonised technical conditions for the 26 GHz band' (Electronic Communications Committee, doc. ECC(20)055).

<sup>(12)</sup> Such as the (draft) ECC Report 317 'Additional work on 26 GHz to address spectrum use under authorisation regimes other than individual rights of use: Technical toolkit to assist administrations' (approved by the Electronic Communications Committee (ECC) for public consultation on 6 March 2020).

HAS ADOPTED THIS DECISION:

*Article 1*

Implementing Decision (EU) 2019/784 is amended as follows:

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

'By 30 June 2020, Member States shall designate and make available on a non-exclusive basis the 24,25-27,5 GHz frequency band for terrestrial systems capable of providing wireless broadband electronic communications services, in compliance with the essential technical conditions set out in the Annex.'

(2) in Article 7, the first paragraph is replaced by the following:

'Member States shall report to the Commission on the implementation of this Decision by 30 September 2020';

(3) the Annex is amended in accordance with the Annex to this Decision.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 24 April 2020.

*For the Commission*  
Thierry BRETON  
*Member of the Commission*

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## ANNEX

The Annex to Implementing Decision (EU) 2019/784 is amended as follows:

(1) Table 4 is replaced by the following:

*Table 4*

**Base station additional baseline power limit**

Frequency range	Maximum TRP	Measurement bandwidth	Entry into force
23,6-24,0 GHz	- 33 dBW	200 MHz	Entry into force of this Decision <sup>(e)</sup>
	- 39 dBW	200 MHz	1 January 2024 <sup>(e)</sup>

<sup>(e)</sup> Member States shall not allow new deployments of terrestrial systems capable of providing wireless broadband electronic communications services in the frequency range 22-23,6 GHz, in order to ensure the appropriate protection of the Earth Exploration Satellite Service (passive) and the Radio Astronomy Service in the 23,6-24 GHz frequency band in conjunction with the limit applicable after 1 January 2024.

<sup>(e)</sup> This limit applies to base stations brought into use after 1 January 2024. This limit does not apply to base stations that have been brought into use prior to that date. For those base stations, the limit of - 33 dBW/200 MHz continues to apply after 1 January 2024. Member States shall consider additional measures to assess and mitigate the aggregate impact of those base stations in relation to their obligation under Article 3(a) regarding the Earth Exploration Satellite Service (passive). Such measures include adaptation of the size of assigned blocks, the antenna configuration, the in-block power or the penetration of equipment.'

(2) Table 6 is replaced by the following:

*Table 6*

**Terminal station additional baseline power limit**

Frequency range	Maximum TRP	Measurement bandwidth	Entry into force
23,6-24,0 GHz	- 29 dBW	200 MHz	Entry into force of this Decision
	- 35 dBW	200 MHz	1 January 2024 <sup>(e)</sup>

<sup>(e)</sup> This limit applies to terminal stations brought into use after 1 January 2024. This limit does not apply to terminal stations that have been brought into use prior to that date. For those terminal stations, the limit of - 29 dBW/200 MHz continues to apply after 1 January 2024.'





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