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

## II

*(Non-legislative acts)*

## REGULATIONS

## COMMISSION IMPLEMENTING REGULATION (EU) 2019/1953

of 25 November 2019

**on the reimbursement, in accordance with Article 26(5) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council, of the appropriations carried over from financial year 2019**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 <sup>(1)</sup>, and in particular Article 26(6) thereof,

After consulting the Committee on the Agricultural Funds,

Whereas:

- (1) In accordance with point (d) of the first subparagraph of Article 12(2) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(2)</sup> non-committed appropriations relating to the actions financed by the European Agricultural Guarantee Fund (EAGF) as referred to in Article 4(1) of Regulation (EU) No 1306/2013 may be carried over to the following financial year. Such carryover is limited to 2 % of the initial appropriations voted by the European Parliament and by the Council and to the amount of the adjustment of direct payments as referred to in Article 8 of Regulation (EU) No 1307/2013 of the European Parliament and of the Council <sup>(3)</sup> which was applied during the preceding financial year.
- (2) In accordance with Article 26(5) of Regulation (EU) No 1306/2013, by way of derogation from the third subparagraph of Article 12(2) of Regulation (EU, Euratom) 2018/1046, Member States are to reimburse the carryover referred to in point (d) of the first subparagraph of Article 12(2) of Regulation (EU, Euratom) 2018/1046 to the final recipients who are subject to the adjustment rate in the financial year to which the appropriations are carried over. That reimbursement only applies to final beneficiaries in those Member States where financial discipline applied <sup>(4)</sup> in the preceding financial year.
- (3) When setting the amount of the carryover to be reimbursed, in accordance with Article 26(7) of Regulation (EU) No 1306/2013 the amounts of the reserve for crises in the agricultural sector referred to in Article 25 of that Regulation, not made available for crisis measures by the end of the financial year, are to be taken into account.

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 549.

<sup>(2)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

<sup>(3)</sup> Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608).

<sup>(4)</sup> Financial discipline does not apply in financial year 2019 in Croatia in accordance with Article 8(2) of Regulation (EU) No 1307/2013.

- (4) In accordance with Article 1(1) of Commission Implementing Regulation (EU) 2018/1710 <sup>(3)</sup>, financial discipline is applied to direct payments in respect of calendar year 2018 to establish the crisis reserve. The crisis reserve has not been called on in financial year 2019.
- (5) In order to ensure that the reimbursement to the final recipients of unused appropriations as a result of the application of financial discipline remains proportionate to the amount of the financial discipline adjustment, it is appropriate that the Commission determines the amounts available to the Member States for the reimbursement.
- (6) To avoid compelling Member States to make an additional payment for that reimbursement, this Regulation needs to apply from 1 December 2019. Consequently, the amounts established by this Regulation are definitive and apply, without prejudice to the application of reductions in accordance with Article 41 of Regulation (EU) No 1306/2013, to any other corrections taken into account in the monthly payment decision concerning the expenditure effected by the paying agencies of the Member States for October 2019, in accordance with Article 18(3) of Regulation (EU) No 1306/2013 and to any deductions and supplementary payments to be made in accordance with Article 18(4) of that Regulation or to any decisions which will be taken within the framework of the clearance of accounts procedure.
- (7) In accordance with the introductory phrase of Article 12(2) of Regulation (EU, Euratom) 2018/1046 the non-committed appropriations may be carried over to the following financial year only. It is therefore appropriate for the Commission to determine eligibility dates for the expenditure of the Member States in relation to the reimbursement in accordance with Article 26(5) of Regulation (EU) No 1306/2013, taking into account the agricultural financial year as defined in Article 39 of that Regulation.
- (8) In order to take into account the short time span between the communication of the execution of 2019 EAGF appropriations under shared management for the period from 16 October 2018 to 15 October 2019 by the Member States and the need to apply this Regulation from 1 December 2019, this Regulation should enter into force on the date of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

#### Article 1

The amounts of the appropriations that will be carried over from financial year 2019 in accordance with point (d) of the first subparagraph and the third subparagraph of Article 12(2) of Regulation (EU, Euratom) 2018/1046 and that in accordance with Article 26(5) of Regulation (EU) No 1306/2013 are made available to the Member States for the reimbursement to the final recipients who are subject to the adjustment rate in financial year 2020, are laid down in the Annex to this Regulation.

The amounts that will be carried over are subject to the carryover decision of the Commission in accordance with Article 12(3) of Regulation (EU, Euratom) 2018/1046.

#### Article 2

Member States' expenditure in relation to the reimbursement of the appropriations carried over shall only be eligible for Union financing if the relevant amounts have been paid to the beneficiaries before 16 October 2020.

#### Article 3

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

<sup>(3)</sup> Commission Implementing Regulation (EU) 2018/1710 of 13 November 2018 adapting the adjustment rate for direct payments pursuant to Regulation (EU) No 1306/2013 of the European Parliament and of the Council in respect of the calendar year 2018 and repealing Commission Implementing Regulation (EU) 2018/866 (OJ L 286, 14.11.2018, p. 10).

It shall apply from 1 December 2019.

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

Done at Brussels, 25 November 2019.

*For the Commission,  
On behalf of the President,  
Jerzy PLEWA  
Director-General  
Directorate-General for Agriculture  
and Rural Development*

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## ANNEX

**Amounts available for reimbursement of appropriations carried over**

	(amounts in EUR)
Belgium	6 075 149
Bulgaria	9 748 728
Czechia	11 451 014
Denmark	10 676 454
Germany	59 995 488
Estonia	1 617 491
Ireland	13 635 006
Greece	16 617 301
Spain	58 201 547
France	87 874 680
Italy	37 280 034
Cyprus	359 176
Latvia	2 689 706
Lithuania	4 577 182
Luxembourg	418 572
Hungary	15 632 995
Malta	37 135
Netherlands	8 369 372
Austria	7 194 905
Poland	26 846 892
Portugal	6 986 911
Romania	18 270 128
Slovenia	941 089
Slovakia	5 973 155
Finland	6 115 927
Sweden	8 301 611
United Kingdom	40 938 999

# DECISIONS

COUNCIL DECISION (EU) 2019/1954

of 18 November 2019

**establishing the position to be adopted, on behalf of the European Union, in the EPA Committee set up by the Interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part, in connection with the adoption of the rules of procedure for mediation, the rules of procedure for arbitration and the code of conduct for arbitrators**

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(4), in conjunction with Article 218(9), thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part <sup>(1)</sup> ('the Agreement'), was signed on behalf of the Union by Council Decision 2009/152/EC <sup>(2)</sup> and has been applied on a provisional basis since 4 August 2014.
- (2) In accordance with Article 80(1) of the Agreement, the EPA Committee is required to lay down the rules of procedure and the code of conduct on the settlement of disputes.
- (3) In accordance with Article 88 of the Agreement, the EPA Committee may decide to amend Title VI of the Agreement and the Annexes thereto.
- (4) The EPA Committee, at its next annual meeting is to adopt a decision establishing the rules of procedure for mediation, the rules of procedure for arbitration, and the code of conduct of arbitrators.
- (5) It is appropriate to establish the position to be taken, on behalf of the Union, in the EPA Committee concerning the adoption of the envisaged decision, as that decision will be binding on the Union.
- (6) It is therefore appropriate that the position of the Union in the EPA Committee be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

## *Article 1*

The position to be taken, on behalf of the Union, in the EPA Committee set up by the Interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part, shall be based on the EPA Committee's draft Decision on the rules of procedure for mediation, the rules of procedure for arbitration, and the code of conduct for arbitrators, annexed to this Decision.

<sup>(1)</sup> OJ L 57, 28.2.2009, p. 2.

<sup>(2)</sup> Council Decision 2009/152/EC of 20 November 2008 on the signature and provisional application of the interim agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part (OJ L 57, 28.2.2009, p. 1).

*Article 2*

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

Done at Brussels, 18 November 2019.

*For the Council*  
*The President*  
J. LEPPÄ

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**DRAFT****DECISION No ..../2019 OF THE EPA COMMITTEE**

**set up by the Interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part,**

**of ...**

**adopting the rules of procedure for mediation, the rules of procedure for arbitration, and the code of conduct for arbitrators**

THE EPA COMMITTEE,

Having regard to the Interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part (the 'Agreement'), signed in Brussels on 15 January 2009, and applied on a provisional basis since 4 August 2014, and in particular Articles 80(1) and 88 thereof,

Whereas:

- (1) Under the terms of the Agreement and of this Decision, the Central Africa Party is composed of the Republic of Cameroon.
- (2) Article 80(1) of the Agreement provides that dispute settlement procedures provided for under Chapter 3 (Procedures for the settlement of disputes) of Title VI (Dispute avoidance and settlement) of the Agreement are covered by the rules of procedure and the code of conduct of arbitrators, which will be adopted by the EPA Committee.
- (3) Article 88 of the Agreement provides that the EPA Committee may decide to amend Title VI (Dispute avoidance and settlement) of the Agreement and the Annexes thereto,

HAS ADOPTED THIS DECISION:

*Article 1*

1. The rules of procedure for mediation, as set out in Annex I to this Decision, shall be established as Annex IV to the Agreement.
2. The rules of procedure for arbitration, as set out in Annex II to this Decision, shall be established as Annex V to the Agreement.
3. The code of conduct for arbitrators, as set out in Annex III to this Decision, shall be established as Annex VI to the Agreement.
4. The rules of procedure and the code of conduct, as referred to in paragraphs 1 and 3 of this Article shall be established without prejudice to any special rules provided for in the Agreement or which may be decided by the EPA Committee.

*Article 2*

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

Done at ...,

*For the Republic of Cameroon*

...

*For the European Union*

...

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## ANNEX I

**RULES OF PROCEDURE FOR MEDIATION***Article 1***Scope of application**

1. The provisions contained in these rules of procedure supplement and clarify the Interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part ('the Agreement'), in particular Article 69 (mediation) thereof.
2. These rules of procedure are intended to enable the Parties to resolve any disputes that may arise between them through a mutually satisfying solution reached owing to a comprehensive and expeditious mediation procedure.
3. Within the meaning of these rules of procedure, 'mediation' means any proceeding, regardless of what that proceeding is called, in which the Parties ask a mediator to help them to settle their dispute amicably.

*Article 2***Start of the proceeding**

1. A Party may request, in writing and at any time, that the Parties enter into a mediation proceeding. The request must be sufficiently detailed to present clearly the concerns of the complaining Party. It must also:
  - (a) identify the specific measure at issue;
  - (b) provide a statement of the alleged adverse effects that the measure has, or will have, in the view of the complaining Party, on trade between the Parties;
  - (c) explain how the complaining Party considers that there exist a causal link between the measure and those effects.
2. The mediation proceeding may only be initiated by mutual consent of the Parties. Where a Party requests mediation pursuant to paragraph 1, the other Party shall consider the request and reply in writing within five days of the request. Failing this, the request shall be considered to have been dismissed.

*Article 3***Selection of the mediator**

1. The Parties shall mutually agree on a mediator at the beginning of the mediation proceeding, and no later than 15 days after receipt of the reply to the mediation request.
2. A mediator shall not be a citizen of either Party, unless the Parties agree otherwise.
3. The mediator shall provide a written statement confirming his or her impartiality and independence and his or her availability to oversee the mediation proceeding.
4. The mediator shall comply *mutatis mutandis* with the code of conduct for arbitrators.

*Article 4***Conduct of the mediation proceeding**

1. The mediator shall assist, in an impartial and transparent manner, the Parties in bringing clarity to the measure at issue and its possible trade effects between the Parties, and in reaching a mutually satisfying solution.

2. The mediator may decide on the most appropriate approach to bringing clarity to the measure concerned and its possible impact on trade between the Parties. In particular, the mediator may organise meetings between the Parties, consult the Parties jointly or individually, seek the assistance of, or consult, relevant experts and stakeholders, and provide any additional support requested by the Parties. However, before seeking the assistance of, or consulting, relevant experts and stakeholders, the mediator shall consult the Parties. Where the mediator wishes to meet, or talk to, one of the Parties and/or its counsel separately, he or she shall inform the other Party in advance or as soon as possible after his or her unilateral meeting or discussion with the first Party.
3. The mediator may offer advice and propose a solution that he or she submits to the Parties which may accept or reject the proposed solution or even agree on a different solution. However, the mediator may not, in any way, advise or comment on the consistency of the measure at issue with the Agreement.
4. The proceeding shall take place in the territory of the Party to which the request was addressed or, by mutual agreement between the Parties, in any other location or by any other means.
5. The Parties shall endeavour to reach a mutually satisfactory solution within 60 days from the appointment of the mediator. Pending a final agreement, the Parties may consider possible interim solutions, especially if the measure relates to perishable goods.
6. The solution may be adopted by means of an EPA Committee decision. Mutually satisfactory solutions shall be made public, unless the Parties decide otherwise. However, the version disclosed to the public may not contain any information classified by either Party as confidential.
7. At the request of the Parties, the mediator shall submit in writing a draft factual report to the Parties, providing a brief summary of the measure at issue in the proceeding and any mutually satisfactory solution reached as the final outcome of the proceeding, including possible interim solutions. The mediator shall grant the Parties 15 days to comment on the draft report. After considering the comments of the Parties submitted within the deadline provided, the mediator shall submit, in writing, a final factual report to the Parties within 15 days. The factual report may not contain any interpretation of the Agreement.

#### *Article 5*

### **End of the mediation proceeding**

The proceeding shall be terminated:

- (a) by the adoption of a solution mutually agreed between the Parties, on the date of adoption;
- (b) by a written declaration of the mediator, after consultation with the Parties, that further efforts at mediation would be to no avail, on the date of that declaration;
- (c) by a written declaration of a Party after exploring solutions mutually agreed under the mediation proceeding and after having considered any advice and proposed solutions by the mediator, on the date of that declaration. Such declaration may not be issued before the period set out in Article 4(5) of these rules of procedure has expired; or
- (d) at any stage of the proceeding by mutual agreement of the Parties, on the date of that agreement.

#### *Article 6*

### **Implementation of a mutually satisfactory solution**

1. Where the Parties have agreed to a solution, each Party shall take the measures necessary to implement it within the agreed time limit.

2. The implementing Party shall inform the other Party, in writing and within the agreed time limit, of any steps or measures taken to implement the mutually satisfactory solution.

#### Article 7

##### **Confidentiality and relationship to dispute settlement**

1. All information relating to the mediation proceeding must remain confidential, unless its disclosure is required by law or required for the implementation or performance of the agreement resulting from the mediation.
2. Unless the Parties agree otherwise, and without prejudice to Article 4(6) of these rules of procedure, all steps in the proceeding, including any advice or proposed solutions, shall be kept confidential. However, either Party may disclose to the public that mediation is taking place. The obligation of confidentiality does not extend to factual information already existing in the public domain.
3. The mediation proceeding is without prejudice to the Parties' rights and obligations under the provisions of the Agreement on dispute settlement or in any other relevant agreement.
4. The Parties shall not be required to undertake consultations before initiating the mediation proceeding. However, a Party should in principle apply the other relevant cooperation or consultation provisions of the Agreement before initiating the mediation proceeding.
5. A Party shall not rely on the following elements, or introduce them as evidence in the framework other dispute settlement proceedings under the Agreement or any other agreement, nor shall an arbitration panel take into consideration:
  - (a) positions taken by the other Party in the course of the mediation proceeding or information gathered under Articles 4 (1) and (2) of these rules of procedure;
  - (b) the fact that the other Party has indicated its willingness to accept a solution to the measure subject to mediation; or
  - (c) advice given or proposals made by the mediator.
6. Unless the Parties agree otherwise, a mediator may not be a member of an arbitration panel in the framework of dispute settlement proceedings under the Agreement or under the World Trade Organization (WTO) Agreement involving the same matter for which he or she has been a mediator.

#### Article 8

##### **Application of the rules of procedure for arbitration**

Article 3 (Notifications) - without prejudice to Article 4(2) of these rules of procedure -, Article 15 (Costs), Article 16 (Working language for the proceeding, translation and interpretation) and Article 17 (Calculating time limits) of the rules of procedure for arbitration shall apply *mutatis mutandis*.

#### Article 9

##### **Review**

Five years after the date of entry into force of this Decision, the Parties shall consult each other on any need to modify the mediation mechanism in light of the experience gained and the development of any corresponding mechanism in the WTO.

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## ANNEX II

**RULES OF PROCEDURE FOR ARBITRATION***Article 1***Definitions**

For the purposes of these rules of procedure:

- ‘adviser’: means a natural person retained by a Party to advise or assist that Party in connection with an arbitration proceeding;
- ‘arbitration panel’: means a panel set up under Article 71 of the Agreement;
- ‘arbitrator’: means a member of an arbitration panel set up under Article 71 of the Agreement;
- ‘assistant’: means a natural person who, under the terms of appointment of an arbitrator, conducts research for or provides assistance to the arbitrator;
- ‘day’: means a calendar day unless otherwise specified;
- ‘representative of a Party’: means an employee or any natural person appointed by a government department or agency or any other public entity of a Party who represents the Party in a dispute under this Agreement;
- ‘party complained against’: means the Party that is alleged to be in violation of the provisions referred to in Article 67 of the Agreement;
- ‘complaining Party’: means any Party that requests the setting up of an arbitration panel under Article 70 of the Agreement.

*Article 2***Scope of application**

1. These rules of procedure supplement and clarify the Interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part (‘the Agreement’), in particular Articles 70 *et seq.* thereof on arbitration.
2. These rules of procedure are intended to enable the Parties to resolve disputes that may arise between them through a mutually satisfactory solution reached owing to the arbitration mechanism.

*Article 3***Notifications**

1. ‘Notification’, for the purposes of these rules of procedure, means any request, notice, written submission or other document related to the arbitration procedure, on given that:
  - (a) any notification from the arbitration panel shall be sent to both Parties at the same time;
  - (b) any notification from one Party which is addressed to the arbitration panel shall be copied to the other Party at the same time; and
  - (c) any notification from one Party which is addressed to the other Party shall be copied to the arbitration panel at the same time, as appropriate.
2. Any notification shall be carried out by e-mail or, where appropriate, by any other means of telecommunication that provides a record of the sending thereof. Unless proven otherwise, such notification shall be deemed to have been delivered on the date of its sending.
3. All notifications shall be addressed to the Directorate-General for Trade of the European Commission and to the Cameroonian Ministry responsible for implementing the Agreement.
4. Minor errors of a clerical nature in notification may be corrected by delivery of a new notification clearly indicating the changes that have been made.

5. If the last day for delivery of a notification is a non-working day in the Central Africa Party or in the European Union, the notification may be delivered on the next business day. No notification of any kind shall be deemed to have been received on a non-working day.

6. Depending on the nature of the issues under dispute, all notifications addressed to the EPA Committee in accordance with these rules of procedure shall also be copied to the other relevant institutional bodies.

#### Article 4

### Appointment of arbitrators

1. If, pursuant to Article 71 of the Agreement, an arbitrator is selected by drawing lots, the Chairperson of the EPA Committee or his or her representative shall promptly inform the Parties of the date, time and venue of the drawing by lot.

2. The Parties shall be present when the lots are drawn.

3. The Chairperson of the EPA Committee or the Chairperson's representative shall, in writing, inform each individual selected of his or her appointment as arbitrator. Each individual shall confirm his or her availability to both Parties within five days from the date on which he or she was informed of his or her appointment.

4. If the list of arbitrators referred to in Article 85 of the Agreement has not been drawn up or does not have sufficient names when a request is submitted under Article 71(2) of the Agreement, the Chairperson of the EPA Committee shall select arbitrators by drawing lots from the names of individuals officially put forward by one or both of the Parties, and who meet the conditions laid down in Article 85(2) of the Agreement.

#### Article 5

### Consultation between the Parties and the arbitration panel

1. Unless the Parties agree otherwise, they shall meet the arbitration panel within seven days of its setting up in order to determine such matters that the Parties or the arbitration panel deem appropriate, including:

- (a) the remuneration and expenses to be paid to arbitrators, which shall be in accordance with WTO standards;
- (b) the remuneration for each arbitrator's assistant, the total of which shall not exceed 50 per cent of the total remuneration of that arbitrator;
- (c) the timetable of the proceeding.

Arbitrators and representatives of the Parties may take part in this meeting via telephone or video conference.

2. Unless the Parties agree otherwise within five days of the date of the setting up of the arbitration panel, the terms of reference of the arbitration panel shall be:

*'to examine, in the light of the relevant provisions of the Agreement, the matter referred to in the request for the setting up of the arbitration panel, to rule on the compatibility of the measure in question with Article 67 of the Agreement, and to make a ruling in accordance with Articles 73, 83 and 84 of the Agreement.'*

3. The Parties shall notify the agreed terms of reference to the arbitration panel within three days of their agreement on the mandate.

#### Article 6

### Written submissions

The complaining Party shall deliver its initial written submission no later than 20 days after the date of the setting up of the arbitration panel. The Party complained against shall deliver its written counter-submission no later than 20 days after the date of delivery of the initial written submission.

*Article 7***Working of the arbitration panels**

1. The chairperson of the arbitration panel shall preside over all meetings. An arbitration panel may delegate to its chairperson the authority to make administrative and procedural decisions in the area concerned.
2. In accordance with Article 9 of these rules of procedure, the arbitrators and the persons requested shall attend the hearing. Unless otherwise provided in the Agreement or these rules of procedure, the arbitration panel may conduct its other activities by any means, including by telephone, fax or any electronic means.
3. Only arbitrators may take part in the deliberations of the arbitration panel, but the arbitration panel may permit its assistants to be present at its deliberations.
4. The drafting of any ruling shall be the exclusive responsibility of the arbitration panel and shall not be delegated.
5. Where a procedural question arises that is not covered by the provisions of Title VI (Dispute avoidance and settlement) of the Agreement, the arbitration panel, after consulting the Parties, may adopt an appropriate procedure that is compatible with those provisions and that ensures equal treatment between the Parties.
6. If the arbitration panel considers that there is a need to change any of the time limits for its proceedings other than the time limits set out in Title VI (Dispute avoidance and settlement) of the Agreement, or to make any other procedural or administrative adjustment, it shall inform the Parties in writing of the reasons for which the change or adjustment has been made and of the time limit or adjustment needed. The arbitration panel may adopt such change or adjustment after having consulted the Parties.
7. At the request of one of the Parties, the arbitration panel may modify the time limits applicable to the proceeding, provided that equal treatment between the Parties is ensured.
8. At the request of both Parties, the arbitration panel may suspend the proceeding at any time for a period agreed by the Parties and not exceeding 12 consecutive months. The arbitration panel shall resume the proceeding at any time at the written request of both Parties, or at the end of the agreed suspension period at the written request of one of the Parties. The chairperson of the arbitration panel and, where necessary, the other Party shall be informed of the request. If the panel's proceeding has been suspended for over 12 consecutive months, the authority conferred for the setting up of the arbitration panel shall become invalid and the proceeding before the panel shall be terminated. The Parties may, at any time, agree to terminate the proceeding before the arbitration panel. The Parties shall jointly notify the chairperson of the arbitration panel of this agreement. In the event of suspension, the relevant time limits shall be extended by the same amount of time as the arbitration panel's proceeding was suspended.
9. The termination of the arbitration panel's work shall be without prejudice to the rights of the Parties in the framework of any other proceeding on the same matter under Title VI (Dispute avoidance and settlement) of the Agreement.

*Article 8***Replacement**

1. If an arbitrator is unable to participate in the proceeding, withdraws, or must be replaced, a replacement shall be selected in accordance with Article 71 of the Agreement.
2. Where a Party considers that an arbitrator does not comply with the requirements of the code of conduct of arbitrators and for this reason should be replaced, that Party shall notify the other Party within 15 days from the date on which it became aware of the circumstances underlying the arbitrator's alleged failure to comply with the code of conduct.
3. The Parties shall consult each other within 15 days of the date of the notification referred to in paragraph 2 of this Article. The Parties shall inform the arbitrator of his or her alleged non-compliance and may request that the arbitrator take the steps necessary to remedy the alleged non-compliance. They may also, if they so agree, remove the arbitrator and select a new arbitrator in accordance with the procedure set out in Article 71(2) of the Agreement.
4. If the Parties fail to agree on the need to replace an arbitrator, other than the chairperson, either Party may request that such matter be referred to the chairperson of the arbitration panel, whose decision shall be final.

If, pursuant to this request, the chairperson finds that an arbitrator does not comply with the requirements of the code of conduct of arbitrators, a new arbitrator shall be selected in accordance with Article 71(3) of the Agreement.

5. If the Parties fail to agree on the need to replace the chairperson, either Party may request that this matter be referred to one of the persons on the list, of individuals selected to act as chairperson of the arbitration panel established under Article 85 of the Agreement. The name of this individual shall be drawn at random by the Chairperson of the EPA Committee. The individual thus selected shall decide whether or not the chairperson complies with the requirements of the code of conduct of arbitrators. The decision shall be final.

If it is found that the chairperson does not comply with the requirements of the code of conduct of arbitrators, the new chairperson shall be selected in accordance with Article 71(3) of the Agreement.

## *Article 9*

### **Hearings**

1. Based upon the timetable determined pursuant to Article 5(1), and after consulting with the Parties and the other arbitrators, the chairperson of the arbitration panel shall notify the Parties of the date, time and venue of the hearing. The Party responsible for the logistical administration of the proceeding shall make this information available to the public, subject to Article 11.

2. Unless the Parties agree otherwise, the hearing shall be held in Brussels if the complaining Party is the Central Africa Party and in Yaoundé if the complaining Party is the European Union.

3. The arbitration panel may convene additional hearings if the Parties so agree.

4. All arbitrators shall be present during the entirety of the hearing.

5. The following persons may attend the hearing, irrespective of whether or not the proceeding is open to the public:

- (a) representatives of the Parties;
- (b) advisers to the Parties;
- (c) administrative staff, interpreters, translators and court reporters;
- (d) arbitrators' assistants;
- (e) experts, as chosen by the arbitration panel pursuant to Article 81 of the Agreement.

6. No later than five days before the date of a hearing, each Party shall deliver to the arbitration panel and to the other Party a list of the names of natural persons who will make oral arguments or presentations at the hearing on behalf of that Party and of other representatives or advisers who will be attending the hearing.

7. The arbitration panel shall ensure that the complaining Party and the Party complained against are afforded equal speaking time. It shall conduct the hearing as follows:

#### *Argument*

- (a) argument of the complaining Party;
- (b) argument of the Party complained against.

#### *Rebuttal Argument*

- (a) reply of the complaining Party;
- (b) counter-reply of the Party complained against.

8. The arbitration panel may direct questions to either Party at any time during the hearing.

9. The arbitration panel shall arrange for a transcript of the hearing to be prepared and delivered to the Parties within a reasonable time after the hearing. The Parties may comment on the transcript, and the arbitration panel may consider those comments.



10. Each Party may deliver to the arbitrators and to the other Party a supplementary written submission concerning any matter arising during the hearing within ten days of the date of the hearing.

#### Article 10

##### Questions in writing

1. The arbitration panel may, at any time during the proceeding, address questions in writing to one or both Parties. Each of the Parties shall receive a copy of any questions put by the arbitration panel.
2. Each Party shall also provide the other Party with a copy of its written response to the questions of the arbitration panel. Each Party shall be given the opportunity to provide written comments on the other Party's reply within five days of the date of receipt of that response.

#### Article 11

##### Transparency and confidentiality

1. Each Party and the arbitration panel shall endeavour to ensure the confidentiality of any information submitted by the other Party to the arbitration panel and which that Party has classified as confidential. Where a Party's submission to the arbitration panel contains confidential information, that Party shall also provide, within 15 days of delivery of that communication, a non-confidential version of the submission that could be disclosed to the public.
2. Nothing in these rules of procedure shall preclude a Party from disclosing statements of its own positions to the public to the extent that, when making reference to information submitted by the other Party, it does not disclose any information classified by the other Party as confidential.
3. The arbitration panel shall meet in closed session when the submission and arguments of a Party contain confidential business information. The Parties shall maintain the confidentiality of the arbitration panel hearings when they are held in closed session.

#### Article 12

##### Ex parte contacts

1. The arbitration panel shall not meet or contact a Party in the absence of the other Party.
2. No arbitrator may discuss any aspect of the subject matter of the proceeding with a Party or the Parties in the absence of the other arbitrators.

#### Article 13

##### Amicus curiae submissions

1. Non-governmental persons established on the territory of a Party may submit *amicus curiae* briefs to the arbitration panel in accordance with paragraphs 2 to 5.
2. Unless the Parties agree otherwise within five days of the date of the setting up of the arbitration panel, the arbitration panel may receive unsolicited written submissions, provided that they are made within ten days of the date of the setting up of the arbitration panel, and those submissions, including any annexes thereto, are in no case longer than fifteen typed pages, including any annexes, and that they are directly relevant to the issue under consideration by the arbitration panel.
3. Each submission shall contain a description of the person making the submission, whether natural or legal, including the nature of that person's activities and the source of that person's financing, and specify the nature of the interest that that person has in the arbitration proceeding. The submission shall be drafted in the languages chosen by the Parties, in accordance with Article 16(1) and (2) of these rules of procedure.
4. The submissions shall be delivered to the Parties for their comments. The Parties may submit comments, within ten days of the delivery, to the arbitration panel.

5. The arbitration panel shall list in its ruling all the submissions it has received that conform to these rules. The arbitration panel shall not be obliged to address in its ruling the arguments made in such submissions. The arbitration panel shall submit to the Parties for their comments any submission it obtains.

#### *Article 14*

##### **Urgent cases**

In cases of urgency referred to in Article 73(2) of the Agreement, the arbitration panel, after consulting the Parties, shall adjust the time limits referred to in these rules as appropriate and shall notify the Parties of such adjustments.

#### *Article 15*

##### **Costs**

1. Each Party shall bear its costs of participation in the arbitration proceeding.
2. The Party complained against shall be responsible for the logistical administration of the arbitration proceeding, in particular for organising hearings, unless it is agreed otherwise, and shall bear all of the costs of the logistical administration of the hearing. However, the Parties shall jointly and equally bear the other administrative costs of the arbitration proceeding as well as the remuneration and expenses of the arbitrators and their assistants.

#### *Article 16*

##### **Working language for the proceeding, translation and interpretation**

1. During the consultations referred to in Article 71(2) of the Agreement, and no later than the meeting referred to in Article 5(1) of these rules of procedure, the Parties shall endeavour to agree on a common working language for the proceeding before the arbitration panel.
2. If the Parties are unable to agree on a common working language, each Party shall arrange for the translation of its written submissions into the language chosen by the other Party, unless these submissions are written in one of the official languages common to the Parties to the Agreement. The Party complained against shall be responsible for the interpretation of oral submissions into the languages chosen by the Parties, provided that the Parties have chosen one of the official languages common to the Parties. If one of the Parties chooses a language other than one of the official languages common to both Parties, the interpretation of oral submissions shall be entirely the responsibility of that Party.
3. Arbitration panel reports and rulings shall be drafted in the language or languages chosen by the Parties. If the Parties have not agreed on a common working language, the interim and final reports of the arbitration panel and its rulings shall be issued in one of the official languages common to the Parties.
4. Any costs incurred for the translation of an arbitration panel ruling into the language or languages chosen by the Parties shall be borne equally by the Parties.
5. A Party may provide comments on the accuracy of any translated version of a document drawn up in accordance with these rules.
6. Each Party shall bear the costs of the translation of its written submissions.

#### *Article 17*

##### **Calculation of time limits**

All the time limits set out in Title VI (Dispute avoidance and settlement) of the Agreement and in these rules of procedure, including the time limits for arbitration panels to notify their rulings, may be modified by mutual consent of the Parties, and shall be calculated in calendar days from the day following the act or fact to which they refer, unless otherwise specified.

*Article 18***Other procedures**

The time limits set out in these rules of procedure shall be adjusted in line with the special time limits provided for the adoption of a ruling by the arbitration panel in proceedings under Articles 74 to 78 of the Agreement.

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*ANNEX III***CODE OF CONDUCT FOR ARBITRATORS***Article 1***Definitions**

For the purposes of this code of conduct:

- ‘arbitrator’: means a member of an arbitration panel set up under Article 71 of the Agreement;
- ‘assistant’: means a natural person who, under the terms of appointment of an arbitrator, conducts research for or provides assistance to the arbitrator;
- ‘candidate’: means an individual whose name is on the list of arbitrators referred to in Article 85 of the Agreement and who is under consideration for selection as an arbitrator under Article 71 of the Agreement;
- ‘mediator’: means a natural person who conducts mediation in accordance with Article 69 of the Agreement;
- ‘staff’: in respect of an arbitrator, means natural persons under the direction and control of the arbitrator, other than assistants.

*Article 2***Basic principles**

1. In order to preserve the integrity and impartiality of the dispute settlement mechanism, each candidate arbitrator must familiarise himself or herself with this code of conduct. He or she must:
  - (a) be independent and impartial;
  - (b) avoid direct or indirect conflicts of interests;
  - (c) avoid impropriety and any act that lead to the presumption of impropriety or of impartiality;
  - (d) observe high standards of conduct;
  - (e) not be influenced by self-interest, outside pressure, political considerations, external pressure, loyalty to a Party or fear of criticism.
2. An arbitrator shall not, directly or indirectly, incur any obligation or accept any benefit that would interfere, or appear to interfere in any way with the proper performance of his or her duties.
3. An arbitrator shall not use his or her position on the arbitration panel to advance any personal or private interests. An arbitrator shall avoid actions that may lead to the presumption that others are in a special position to influence him or her.
4. An arbitrator shall not allow past or existing financial, business, professional, personal, or social relationships or responsibilities to influence his or her conduct or judgement.
5. An arbitrator shall avoid entering into any relationship or acquiring any financial interest that is likely to affect his or her impartiality or that might reasonably lead to the presumption of impropriety or of impartiality.

*Article 3***Disclosure obligations**

1. Prior to confirmation of his or her selection as an arbitrator under Article 71 of the Agreement, a candidate shall disclose any interest, relationship or matter that is likely to affect his or her independence or impartiality or that might reasonably lead to the presumption of impropriety or of impartiality in the framework of the proceeding. To this end, a candidate shall strive, to the extent possible, to become aware of any such interests, relationships and matters, including financial interests, professional interests, or employment or family interests.
2. The disclosure obligation under paragraph 1, being a continuing duty, arbitrators shall disclose any such interests, relationships or matters that may arise during any stage of the proceeding.

3. A candidate or an arbitrator shall communicate to the EPA Committee for consideration by the Parties any matters concerning actual or potential violations of this code of conduct as soon as possible after having become aware of them.

#### Article 4

##### **Duties of arbitrators**

1. Upon acceptance of his or her appointment, an arbitrator shall be available to take up his or her duties and shall perform those duties thoroughly and expeditiously throughout the course of the proceeding, and with fairness and diligence.
2. An arbitrator shall consider only those issues raised in the proceeding and necessary for a ruling and shall not delegate this duty to any other person.
3. An arbitrator shall take all necessary steps to ensure that his or her assistant and staff are aware of, and comply with, Articles 2, 3 and 6 of this code of conduct.

#### Article 5

##### **Obligations of former arbitrators**

All former arbitrators must avoid actions that may lead to the presumption that they were biased in carrying out their duties or derived advantage from the ruling of the arbitration panel.

#### Article 6

##### **Confidentiality**

1. An arbitrator or former arbitrator shall not, at any time, disclose or use any non-public information concerning a proceeding or acquired during a proceeding except for the purposes of that proceeding and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to adversely affect the interest of others.
2. An arbitrator shall not disclose an arbitration panel ruling or parts thereof prior to its publication in accordance with this Article 84(2) of the Agreement.
3. An arbitrator or former arbitrator shall not, at any time, disclose the deliberations of an arbitration panel, or any member's view.

#### Article 7

##### **Expenses**

Each arbitrator shall keep a record and render a final account of the time devoted to the proceeding and of his or her expenses, as well as the time and expenses of his or her assistant, to the Parties.

#### Article 8

##### **Mediators**

This code of conduct applies *mutatis mutandis* to mediators.

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**COUNCIL DECISION (EU) 2019/1955****of 21 November 2019****on the position to be taken on behalf of the European Union within the General Council of the World Trade Organization as regards the adoption of a decision on the review of the Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products ('TRQ Understanding')**

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(4) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 22 December 1994, the Marrakesh Agreement Establishing the World Trade Organization (the 'WTO Agreement') was concluded by the Union by Council Decision 94/800/EC <sup>(1)</sup> and entered into force on 1 January 1995.
- (2) Pursuant to paragraph 1 of Article IV of the WTO Agreement, the Ministerial Conference of the World Trade Organization ('WTO') has the authority to take decisions on all matters under any of the Multilateral Trade Agreements.
- (3) Pursuant to paragraph 2 of Article IV of the WTO Agreement, in the intervals between meetings of the Ministerial Conference the functions of the Ministerial Conference are to be conducted by the General Council of the WTO.
- (4) Pursuant to paragraph 1 of Article IX of the WTO Agreement, WTO bodies usually take decisions by consensus.
- (5) In December 2013, the Ninth Session of the WTO Ministerial Conference adopted a Ministerial Decision on Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products, as defined in Article 2 of the Agreement on Agriculture (WT/MIN(13)/39) (the 'TRQ Understanding') that governs the management of tariff rate quotas of agricultural products.
- (6) Pursuant to paragraph 13 of the TRQ Understanding, a review of the operation of the TRQ Understanding is to commence no later than four years following its adoption, taking into account experience gained up to that time. The objective of this review is to promote a continuing process of improvement in the utilisation of tariff rate quotas.
- (7) In accordance with paragraph 13 of the TRQ Understanding, the Committee on Agriculture proceeded with the review of that Understanding in 2018. The review findings will be presented to the December 2019 meeting of the General Council of the WTO in the form of a report issued by the Committee on Agriculture (Report No G/AG/29 'Review of the Operation of the Bali Decision on TRQ Administration' of 31 October 2019).
- (8) Given the lack of consensus among WTO members on the substantive amendments to the TRQ Understanding, the report recommends prolonging the review period until the end of 2021, so that a consensus on substantive amendments may be reached. The report further includes recommendations intended to increase the transparency of TRQ administration.
- (9) In its December 2019 meeting, the General Council of the WTO should be invited to consider the adoption of the recommendations laid down in Annex 2 of Report No G/AG/29 in the form of a decision on the review of the TRQ Understanding.
- (10) It is appropriate to establish the position to be taken on the Union's behalf in the General Council of the WTO, as the decision to be adopted will be binding on the Union.

<sup>(1)</sup> Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994) (OJ L 336, 23.12.1994, p. 1).

- (11) In the General Council of the WTO, the Union is to be represented by the Commission, in accordance with Article 17(1) of the Treaty on European Union,

HAS ADOPTED THIS DECISION:

*Article 1*

The position to be taken on the Union's behalf within the General Council of the World Trade Organization (the 'General Council of the WTO') in its December 2019 meeting shall be based on the draft decision by the General Council of the WTO adopting the recommendations made to the General Council of the WTO by the Committee on Agriculture in Annex 2 of its Report No G/AG/29 of 31 October 2019 attached to this Decision.

Minor changes to that draft decision may be agreed to by the representatives of the Union in the General Council of the WTO without further decision of the Council.

*Article 2*

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

Done at Brussels, 21 November 2019.

*For the Council*  
*The President*  
V. SKINNARI

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**Committee on Agriculture****G/AG/29**

31 October 2019

**REVIEW OF THE OPERATION OF THE BALI DECISION ON TRQ ADMINISTRATION**

## REPORT TO THE GENERAL COUNCIL

1.1. At the Ninth Session of the Ministerial Conference, Ministers adopted the Decision on 'Understanding of Tariff Rate Quota Administration Provisions of Agricultural Products, as defined in Article 2 of the Agreement on Agriculture' (WT/MIN(13)/39) ('Bali TRQ Decision'). Ministers instructed the Committee to review and monitor the implementation of Members' obligations established under the Bali TRQ Decision with the objective that the review will promote a continuing process of improvement in the utilization of tariff rate quotas, commencing no later than 2017, taking into account experience gained up to that time. <sup>(1)</sup> The Review discussions commenced at the October 2017 meeting of the Committee. <sup>(2)</sup> At the February 2018 meeting, the Committee agreed to the process and timelines to conduct the Review in document G/AG/W/171. <sup>(3)</sup> As per the agreed procedure, the review has been conducted through open-ended informal meetings of the Committee scheduled back-to-back with the regular meetings of the Committee. <sup>(4)</sup>

1.2. Members discussed the Review in four informal meetings of the Committee in 2018 on 20 February, 11 June, 25 September and 26 November. A thematic session on tariff quota administration and underfill was held during the November informal meeting involving the participation of industry representatives. The review discussions also benefitted from a number of written contributions by Members. Similarly, in response to requests from Members and as per the agreed process and timelines to conduct the review, the Secretariat prepared a background paper <sup>(5)</sup> on tariff quota administration and fill rates to facilitate the Review. **Annex 1** includes a list of all written documents considered thus far in the review.

1.3. Members have identified the following themes in the review discussions: 1) Effective implementation and follow-up of the substantive obligations arising out of the Bali TRQ Decision; 2) TRQ transparency requirements; 3) Underfill Mechanism. Some elements <sup>(6)</sup> raised under each of the three themes, including during the thematic discussions in November, are indicated below.

**EFFECTIVE IMPLEMENTATION AND FOLLOW-UP**

- i. Reallocation of unused-licenses within a TRQ;
- ii. Reallocation processes, including regarding country-specific allocations <sup>(7)</sup>;
- iii. Sharing of experiences and best practices on improving TRQ fill, including reallocation of TRQs under RTAs.

**TRQ TRANSPARENCY REQUIREMENTS**

- i. Timely and complete TRQ notifications;
- ii. Prompt reporting of changes in TRQ administration;
- iii. Consistent reporting of fill-rates by all Members with TRQ commitments;
- iv. Harmonized notifications practices (e.g. for TRQs not opened or scheduled TRQs with no tariff advantage);

<sup>(1)</sup> Paragraph 13 of WT/MIN(13)/39. No experience with regard to recourse to the Underfill Mechanism has yet been reported.

<sup>(2)</sup> Section 2.2.1 of G/AG/R/86 refers.

<sup>(3)</sup> Section 2.5.1 of G/AG/R/87 refers.

<sup>(4)</sup> At the June 2019 meeting, the Committee agreed to extend the timeline to the October 2019 meeting of the Committee to finalize the report of the Review.

<sup>(5)</sup> G/AG/W/183.

<sup>(6)</sup> There is no agreement among Members on these elements or their treatment in the recommendations.

<sup>(7)</sup> Paragraph 9 of the Bali Ministerial Decision on TRQ refers to the reallocation process. Additionally, footnotes 3 and 5 of Annex A of the Bali Decision refer to the rights of Members holding a country-specific allocation specifically in the context of the underfill mechanism.



- v. Reporting of reasons of underfill;
- vi. Sharing of national experiences and best practices of TRQ administration;
- vii. Special and differential treatment (Burdensomeness of notification requirements);
- viii. Linkage with notification requirements in the area of import licensing procedures;
- ix. Technical assistance by the Secretariat towards improved notification compliance of Members.

#### **UNDERFILL MECHANISM**

- i. Differing obligations of Members (paragraph 4 of Annex A);
- ii. Special and differential treatment;
- iii. Potential less-than-universal applicability in future;
- iv. Linkage between Annex B and paragraph 4 of Annex A;
- v. Exploration of the causes of underfill;
- vi. Targeted examination of TRQ underfill in some specific sectors;
- vii. Practical applicability of the Underfill Mechanism (exploration of reasons including potential complexity, as to why it has not yet been invoked, sharing of experiences, simplification of procedural requirements);
- viii. Maintenance of list of underfilled TRQs by the Secretariat.

1.4. On the issue of future operation of paragraph 4 of the Underfill Mechanism and the associated S&D provision, Members' positions were divergent. Some developing Members maintained that S&D provisions in the Bali TRQ Decision should not be diluted; some other Members argued that the S&D treatment for developing countries should not lead to a carve out and that the beneficiary developing countries should rather assume commitments with regard to the management of TRQs taking into account their development status.

1.5. Several Members considered the scope of this review to be limited to seeking improvement in TRQ administration to distinguish it from the market access negotiations. Some others referred to the possibility of taking up the TRQ-related issues in the market access negotiations.

Pursuant to paragraphs 13-15 of the Bali TRQ Decision (WT/MIN(13)/39), the Committee at its meeting on 31 October 2019 agrees to the following recommendations as included in **Annex 2** to this report for consideration by the General Council.

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## ANNEX 1

**List of documents**

G/AG/W/169 10 October 2017	Monitoring and review of Members' obligations established under the Bali Decision on TRQ administration. Note by the Secretariat
G/AG/W/171 9 February 2018	Proposed process for the Review of the Operation of the Bali Decision on TRQ Administration. Note by the Secretariat
G/AG/W/175 18 May 2018 and G/AG/W/175/Add.1 7 May 2019	— European Union submission to Committee on Agriculture on the Process for the Review of the Operation of the Bali Decision on Tariff Rate Quota Administration <sup>(1)</sup> . Communications from the European Union
G/AG/W/179 6 June 2018	— Review of the Operation of the Bali Ministerial Decision on 'Understanding on Tariff Rate Quota Administration provisions of Agricultural Products ...' <sup>(2)</sup> . Submission from the Cairns Group
G/AG/W/183 31 July 2018	Tariff quota administration methods and fill rates 2007-2016. Background Paper by the Secretariat
G/AG/W/186 19 September 2018	Review of Bali Decision on TRQ administration. Submission from Australia
G/AG/W/197 24 May 2019	The Underfill Mechanism of the Bali TRQ Administration Decision Submission on behalf of the Cairns Group

<sup>(1)</sup> Document G/AG/W/171 of 9 February 2018.

<sup>(2)</sup> WT/MIN (13)/39 AND WT/L/914 dated 11 December 2013.

## ANNEX 2

1. The timeframe specified in Paragraph 14 and footnote 2 of the Bali TRQ Decision for a decision on Paragraph 4 of Annex A shall be extended to the end of 2021. All references to '12<sup>th</sup> Ministerial Conference' and '31 December 2019' in paragraphs 13-14 and footnote 2 of the Bali TRQ Decision shall be understood to read '13<sup>th</sup> Ministerial Conference' and '31 December 2021' respectively. In all other respects, the terms of the Bali TRQ Decision remain unchanged. For greater certainty, Members listed in Annex B of the Bali TRQ Decision retain the right to discontinue application of paragraph 4 of Annex A on or after 31 December 2021 if neither a Ministerial Conference nor the General Council has decided to extend paragraph 4 of Annex A by that date.
2. Recognizing the importance of enhanced transparency of TRQ administration and fill rates as well as a timely submission of notifications by Members, and acknowledging that the on-line agriculture notification system should lead to improved harmonization, the Committee agrees on the following:
  - a) The Secretariat will prepare a list of the existing TRQ notification practices of Members including in cases where a scheduled TRQ was not opened.
  - b) The Committee will initiate discussions on harmonization of Members' TRQ notification practices, including for the TRQ fill rates.
  - c) The Committee encourages Members to include an explanation in their Table MA:2 notifications in cases where scheduled TRQs are not opened.
  - d) The Secretariat will regularly update the information on TRQ administration and fill rates as included in G/AG/W/183 <sup>(1)</sup> as well the updated information on which Members have notified fill rates and on questions raised in the Committee concerning fill rates.
3. The Committee agrees to undertake regular reviews of the operation of the Bali TRQ Decision every three years after the conclusion of this review. These regular reviews will include, inter alia, an examination of the utilization of the Underfill Mechanism based on submissions by Members.

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<sup>(1)</sup> The Secretariat background note may specifically include a list of TRQs where no Table MA:2 notification has been submitted or where the fill rate is below 65 %.

**COMMISSION IMPLEMENTING DECISION (EU) 2019/1956****of 26 November 2019****on the harmonised standards for electrical equipment designed for use within certain voltage limits and drafted in support of Directive 2014/35/EU of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council <sup>(1)</sup>, and in particular Article 10(6) thereof,

Whereas:

- (1) In accordance with Article 12 of Directive 2014/35/EU of the European Parliament and of the Council <sup>(2)</sup>, electrical equipment which is in conformity with harmonised standards or parts thereof, the references of which have been published in the *Official Journal of the European Union*, is to be presumed to be in conformity with the safety objectives referred to in Article 3 of that Directive and set out in Annex I to that Directive, covered by those harmonised standards or parts thereof.
- (2) By letter M/511 of 8 November 2012, the Commission made a request to the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (Cenelec) and the European Telecommunications Standards Institute (ETSI) for providing the first full list of the titles of harmonised standards and for the drafting, revision and the completion of harmonised standards, for electrical equipment designed for use within certain voltage limits in support of Directive 2014/35/EU. The safety objectives referred to in Article 3 of Directive 2014/35/EU and set out in Annex I to that Directive have not changed since the request was made to CEN, Cenelec and ETSI.
- (3) On the basis of the request M/511 CEN and Cenelec drafted the following harmonised standards and amendments thereto: EN 60204-1:2018 for electrical equipment of machines; EN 60335-1:2012/A13:2017, EN 60335-2-4:2010/A11:2018, EN 60335-2-15:2016, EN 60335-2-16:2003/A11:2018, EN 60335-2-28:2003/A11:2018, EN 60335-2-29:2004/A11:2018, EN 60335-2-55:2003/A11:2018, EN 60335-2-59:2003/A11:2018, EN 60335-2-74:2003/A11:2018, EN 60335-2-85:2003/A11:2018, EN 60335-2-109:2010/A1:2018 and EN 60335-2-109:2010/A2:2018 for household and similar electrical appliances; EN 60715:2017, EN 60947-2:2017, EN 60947-5-1:2017 and EN 60947-5-5:1997/A2:2017 for low voltage switchgear and controlgear; EN 60898-1:2019, EN 61008-1:2012/A12:2017, EN 62606:2013/A1:2017 and EN 63024:2018 for circuit breakers and similar devices for household and similar applications; EN IEC 61010-2-201:2018 for measuring, control and laboratory equipment; EN IEC 61058-1:2018 for switches for appliances; EN 61643-11:2012/A11:2018 for low voltage surge protective devices; and EN 62560:2012/A11:2019 for lamps and related equipment.
- (4) The Commission, together with CEN and Cenelec, has assessed whether these standards and amendments thereto, drafted by CEN and Cenelec, comply with the request M/511.
- (5) These standards and amendments thereto satisfy the safety objectives which they aim to cover and which are set out in Directive 2014/35/EU. It is therefore appropriate to publish the references of those standards in the *Official Journal of the European Union*.

<sup>(1)</sup> OJ L 316, 14.11.2012, p. 12.

<sup>(2)</sup> Directive 2014/35/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits (OJ L 96, 29.3.2014, p. 357).

- (6) Several harmonised standards drafted by CEN and Cenelec replace the following harmonised standards, including their amendments, the references to which are published in the *Official Journal of the European Union* <sup>(3)</sup>: EN 50557:2011 replaced by EN 63024:2018; EN 60204-1:2006 replaced by EN 60204-1:2018; EN 60335-2-15:2002 replaced by EN 60335-2-15:2016; EN 60715:2001 replaced by EN 60715:2017; EN 60898-1:2003 replaced by EN 60898-1:2019; EN 60947-2:2006 replaced by EN 60947-2:2017; EN 60947-5-1:2004 replaced by EN 60947-5-1:2017; EN 61010-2-201:2013 replaced by EN IEC 61010-2-201:2018; and EN 61058-1:2002 replaced by EN IEC 61058-1:2018.
- (7) The amendments drafted by CEN and Cenelec amend the following harmonised standards: EN 60335-1:2012, EN 60335-2-4:2010, EN 60335-2-16:2003, EN 60335-2-28:2003, EN 60335-2-29:2004, EN 60335-2-55:2003, EN 60335-2-59:2003, EN 60335-2-74:2003, EN 60335-2-85:2003, EN 60335-2-109:2010, EN 60947-5-5:1997, EN 61008-1:2012, EN 61643-11:2012 and EN 62560:2012, EN 62606:2013, the references to which are published in the *Official Journal of the European Union* <sup>(4)</sup>; as well as EN 60335-2-15:2016 the reference to which is not yet published.
- (8) CEN and Cenelec also drafted the following corrigenda: corrigendum EN 60529:1991/AC:2016-12 correcting harmonised standard EN 60529:1991 and corrigendum EN 60529:1991/A2:2013/AC:2019-02 correcting harmonised standard EN 60529:1991/A2:2013 for enclosures, the references to which are published in the *Official Journal of the European Union* <sup>(5)</sup>; corrigenda EN 60598-2-22:2014/AC:2016-05 and EN 60598-2-22:2014/AC:2016-09 correcting harmonised standard EN 60598-2-22:2014 for lamps and related equipment, the reference to which is published in the *Official Journal of the European Union* <sup>(6)</sup>; corrigendum EN 61008-1:2012/A1:2014/AC:2016-06 correcting harmonised standard EN 61008-1:2012/A1 for circuit breakers and similar devices for household and similar applications, the reference to which is published in the *Official Journal of the European Union* <sup>(7)</sup>; and corrigendum EN 61851-23:2014/AC:2016-06 correcting harmonised standard EN 61851-23:2014 for electrical systems for electric road vehicles, the reference to which is published in the *Official Journal of the European Union* <sup>(8)</sup>. Due to the fact that these corrigenda introduce technical corrections and in order to ensure correct and consistent application of harmonised standards the references to which previously published, it is appropriate to publish the references of those harmonised standards together with the references of the corrigenda in the *Official Journal of the European Union*.
- (9) It is therefore necessary to withdraw the references of the standards that are replaced, amended or corrected, from the *Official Journal of the European Union*. In order to give manufacturers sufficient time to prepare for application of the replacing, the amending and the correcting harmonised standards, it is necessary to defer the withdrawal of the harmonised standards that are replaced, amended or corrected.
- (10) Compliance with a harmonised standard confers a presumption of conformity with the corresponding essential requirements, including the safety objectives, set out in Union harmonisation legislation from the date of publication of the reference of such standard in the *Official Journal of the European Union*. This Decision should therefore enter into force on the day of its publication,

HAS ADOPTED THIS DECISION:

#### Article 1

The references to harmonised standards for electrical equipment designed for use within certain voltage limits drafted in support of Directive 2014/35/EU, listed in Annex I to this Decision, are hereby published in the *Official Journal of the European Union*.

<sup>(3)</sup> OJ C 326, 14.9.2018, p. 4.

<sup>(4)</sup> OJ C 326, 14.9.2018, p. 4.

<sup>(5)</sup> OJ C 326, 14.9.2018, p. 4.

<sup>(6)</sup> OJ C 326, 14.9.2018, p. 4.

<sup>(7)</sup> OJ C 326, 14.9.2018, p. 4.

<sup>(8)</sup> OJ C 326, 14.9.2018, p. 4.

*Article 2*

The references to harmonised standards for electrical equipment designed for use within certain voltage limits drafted in support of Directive 2014/35/EU, listed in Annex II to this Decision, are hereby withdrawn from the *Official Journal of the European Union* as from the dates set out in that Annex.

*Article 3*

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

Done at Brussels, 26 November 2019.

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

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## ANNEX I

No	Reference of the standard
1.	EN 60204-1:2018 Safety of machinery - Electrical equipment of machines - Part 1: General requirements IEC 60204-1:2016 (Modified)
2.	EN 60335-1:2012 Household and similar electrical appliances - Safety - Part 1: General requirements IEC 60335-1:2010 (Modified) EN 60335-1:2012/A11:2014 EN 60335-1:2012/A13:2017
3.	EN 60335-2-4:2010 Household and similar electrical appliances - Safety - Part 2-4: Particular requirements for spin extractors IEC 60335-2-4:2008 (Modified) EN 60335-2-4:2010/A1:2015 EN 60335-2-4:2010/A11:2018
4.	EN 60335-2-15:2016 Household and similar electrical appliances - Safety - Part 2-15: Particular requirements for appliances for heating liquids IEC 60335-2-15:2012 (Modified) EN 60335-2-15:2016/A11:2018
5.	EN 60335-2-16:2003 Household and similar electrical appliances - Safety - Part 2-16: Particular requirements for food waste disposers IEC 60335-2-16:2002 (Modified) EN 60335-2-16:2003/A1:2008 EN 60335-2-16:2003/A2:2012 EN 60335-2-16:2003/A11:2018
6.	EN 60335-2-28:2003 Household and similar electrical appliances - Safety - Part 2-28: Particular requirements for sewing machines IEC 60335-2-28:2002 (Modified)
	EN 60335-2-28:2003/A1:2008 EN 60335-2-28:2003/A11:2018
7.	EN 60335-2-29:2004 Household and similar electrical appliances - Safety - Part 2-29: Particular requirements for battery chargers IEC 60335-2-29:2002 + A1:2004 EN 60335-2-29:2004/A2:2010 EN 60335-2-29:2004/A11:2018
8.	EN 60335-2-55:2003 Household and similar electrical appliances - Safety - Part 2-55: Particular requirements for electrical appliances for use with aquariums and garden ponds IEC 60335-2-55:2002 EN 60335-2-55:2003/A1:2008 EN 60335-2-55:2003/A11:2018
9.	EN 60335-2-59:2003 Household and similar electrical appliances - Safety - Part 2-59: Particular requirements for insect killers IEC 60335-2-59:2002 (Modified) EN 60335-2-59:2003/A1:2006 EN 60335-2-59:2003/A2:2009 EN 60335-2-59:2003/A11:2018
10.	EN 60335-2-74:2003 Household and similar electrical appliances - Safety - Part 2-74: Particular requirements for portable immersion heaters IEC 60335-2-74:2002 EN 60335-2-74:2003/A1:2006 EN 60335-2-74:2003/A2:2009 EN 60335-2-74:2003/A11:2018
11.	EN 60335-2-85:2003 Household and similar electrical appliances - Safety - Part 2-85: Particular requirements for fabric steamers IEC 60335-2-85:2002 EN 60335-2-85:2003/A1:2008 EN 60335-2-85:2003/A11:2018

No	Reference of the standard
12.	EN 60335-2-109:2010 Household and similar electrical appliances - Safety - Part 2-109: Particular requirements for UV radiation water treatment appliances IEC 60335-2-109:2010 EN 60335-2-109:2010/A1:2018 EN 60335-2-109:2010/A2:2018
13.	EN 60529:1991 Degrees of protection provided by enclosures (IP Code) IEC 60529:1989 EN 60529:1991/AC:1993 EN 60529:1991/AC:2016-12 EN 60529:1991/A2 :2013/AC:2019-02 EN 60529:1991/A1:2000 EN 60529:1991/A2:2013
14.	EN 60598-2-22:2014 Luminaires - Part 2-22: Particular requirements - Luminaires for emergency lighting IEC 60598-2-22:2014 EN 60598-2-22/AC:2015 EN 60598-2-22:2014/AC:2016-05 EN 60598-2-22:2014/AC:2016-09
15.	EN 60715:2017 Dimensions of low-voltage switchgear and controlgear - Standardized mounting on rails for mechanical support of switchgear, controlgear and accessories IEC 60715:2017
16.	EN 60898-1:2019 Electrical accessories - Circuit-breakers for overcurrent protection for household and similar installations - Part 1: Circuit-breakers for a.c. operation IEC 60898-1:2015 (Modified)
17.	EN 60947-2:2017 Low-voltage switchgear and controlgear - Part 2: Circuit-breakers IEC 60947-2:2016
18.	EN 60947-5-1:2017 Low-voltage switchgear and controlgear - Part 5-1: Control circuit devices and switching elements - Electromechanical control circuit devices IEC 60947-5-1:2016
19.	EN 60947-5-5:1997 Low-voltage switchgear and controlgear - Part 5-5: Control circuit devices and switching elements - Electrical emergency stop device with mechanical latching function IEC 60947-5-5:1997 EN 60947-5-5:1997/A1:2005 EN 60947-5-5:1997/A2:2017 EN 60947-5-5:1997/A11:2013
20.	EN 61008-1:2012 Residual current operated circuit-breakers without integral overcurrent protection for household and similar uses (RCCBs) - Part 1: General rules IEC 61008-1:2010 (Modified) EN 61008-1:2012/A1:2014/AC:2016-06 EN 61008-1:2012/A1:2014 EN 61008-1:2012/A2:2014 EN 61008-1:2012/A11:2015 EN 61008-1:2012/A12:2017
21.	EN IEC 61010-2-201:2018 Safety requirements for electrical equipment for measurement, control, and laboratory use - Part 2-201: Particular requirements for control equipment IEC 61010-2-201:2017
22.	EN IEC 61058-1:2018 Switches for appliances - Part 1: General requirements IEC 61058-1:2016
23.	EN 61643-11:2012 Low-voltage surge protective devices - Part 11: Surge protective devices connected to low-voltage power systems - Requirements and test methods IEC 61643-11:2011 (Modified) EN 61643-11:2012/A11:2018



No	Reference of the standard
24.	EN 61851-23:2014 Electric vehicle conductive charging system - Part 23: DC electric vehicle charging station IEC 61851-23:2014 EN 61851-23:2014/AC:2016-06
25.	EN 62560:2012 Self-ballasted LED-lamps for general lighting services by voltage > 50 V - Safety specifications IEC 62560:2011 (Modified) EN 62560:2012/AC:2015 EN 62560:2012/A1:2015/AC:2015 EN 62560:2012/A1:2015 EN 62560:2012/A11:2019
26.	EN 62606:2013 General requirements for arc fault detection devices IEC 62606:2013 (Modified) EN 62606:2013/A1:2017
27.	EN 63024:2018 Requirements for automatic reclosing devices (ARDs) for circuit-breakers, RCBOs and RCCBs for household and similar uses IEC 63024:2017 (Modified)

## ANNEX II

No	Reference of the standard	Date of withdrawal
1.	EN 50557:2011 Requirements for automatic reclosing devices (ARDs) for circuit breakers-RCBOs-RCCBs for household and similar uses	27 May 2021
2.	EN 60204-1:2006 Safety of machinery - Electrical equipment of machines - Part 1: General requirements IEC 60204-1:2005 (Modified) EN 60204-1:2006/A1:2009	27 May 2021
3.	EN 60335-1:2012 Household and similar electrical appliances - Safety - Part 1: General requirements IEC 60335-1:2010 (Modified) EN 60335-1:2012/A11:2014	27 May 2021
4.	EN 60335-2-4:2010 Household and similar electrical appliances - Safety - Part 2-4: Particular requirements for spin extractors IEC 60335-2-4:2008 (Modified) EN 60335-2-4:2010/A1:2015	27 May 2021
5.	EN 60335-2-15:2002 Household and similar electrical appliances - Safety - Part 2-15: Particular requirements for appliances for heating liquids IEC 60335-2-15:2002 EN 60335-2-15:2002/A1:2005 EN 60335-2-15:2002/A2:2008 EN 60335-2-15:2002/A11:2012	27 May 2021
6.	EN 60335-2-16:2003 Household and similar electrical appliances - Safety - Part 2-16: Particular requirements for food waste disposers IEC 60335-2-16:2002 (Modified) EN 60335-2-16:2003/A1:2008 EN 60335-2-16:2003/A2:2012	27 May 2021
7.	EN 60335-2-28:2003 Household and similar electrical appliances - Safety - Part 2-28: Particular requirements for sewing machines IEC 60335-2-28:2002 (Modified) EN 60335-2-28:2003/A1:2008	27 May 2021
8.	EN 60335-2-29:2004 Household and similar electrical appliances - Safety - Part 2-29: Particular requirements for battery chargers IEC 60335-2-29:2002 + A1:2004 EN 60335-2-29:2004/A2:2010	27 May 2021
9.	EN 60335-2-55:2003 Household and similar electrical appliances - Safety - Part 2-55: Particular requirements for electrical appliances for use with aquariums and garden ponds IEC 60335-2-55:2002 EN 60335-2-55:2003/A1:2008	27 May 2021
10.	EN 60335-2-59:2003 Household and similar electrical appliances - Safety - Part 2-59: Particular requirements for insect killers IEC 60335-2-59:2002 (Modified) EN 60335-2-59:2003/A1:2006 EN 60335-2-59:2003/A2:2009	27 May 2021

No	Reference of the standard	Date of withdrawal
11.	EN 60335-2-74:2003 Household and similar electrical appliances - Safety - Part 2-74: Particular requirements for portable immersion heaters IEC 60335-2-74:2002 EN 60335-2-74:2003/A1:2006 EN 60335-2-74:2003/A2:2009	27 May 2021
12.	EN 60335-2-85:2003 Household and similar electrical appliances - Safety - Part 2-85: Particular requirements for fabric steamers IEC 60335-2-85:2002 EN 60335-2-85:2003/A1:2008	27 May 2021
13.	EN 60335-2-109:2010 Household and similar electrical appliances - Safety - Part 2-109: Particular requirements for UV radiation water treatment appliances IEC 60335-2-109:2010	27 May 2021
14.	EN 60529:1991 Degrees of protection provided by enclosures (IP Code) IEC 60529:1989 EN 60529:1991/AC:1993 EN 60529:1991/A1:2000 EN 60529:1991/A2:2013	27 May 2020
15.	EN 60598-2-22:2014 Luminaires - Part 2-22: Particular requirements - Luminaires for emergency lighting IEC 60598-2-22:2014 EN 60598-2-22/AC:2015	27 May 2020
16.	EN 62560:2012 Self-ballasted LED-lamps for general lighting services by voltage > 50 V - Safety specifications IEC 62560:2011 (Modified) EN 62560:2012/A1:2015 EN 62560:2012/AC:2015 EN 62560:2012/A1:2015/AC:2015	27 May 2021
17.	EN 60715:2001 Dimensions of low-voltage switchgear and controlgear - Standardized mounting on rails for	27 May 2021
	mechanical support of electrical devices in switchgear and controlgear installations IEC 60715:1981 + A1:1995	
18.	EN 60898-1:2003 Electrical accessories - Circuit breakers for overcurrent protection for household and similar installations - Part 1: Circuit-breakers for a.c. operation IEC 60898-1:2002 (Modified) EN 60898-1:2003/A1:2004 EN 60898-1:2003/A11:2005 EN 60898-1:2003/A13:2012	27 May 2021
19.	EN 60947-2:2006 Low-voltage switchgear and controlgear - Part 2: Circuit-breakers IEC 60947-2:2006 EN 60947-2:2006/A1:2009 EN 60947-2:2006/A2:2013	27 May 2021
20.	EN 60947-5-1:2004 Low-voltage switchgear and controlgear - Part 5-1: Control circuit devices and switching elements - Electromechanical control circuit devices IEC 60947-5-1:2003 EN 60947-5-1:2004/A1:2009	27 May 2021

No	Reference of the standard	Date of withdrawal
21.	EN 60947-5-5:1997 Low-voltage switchgear and controlgear - Part 5-5: Control circuit devices and switching elements - Electrical emergency stop device with mechanical latching function IEC 60947-5-5:1997 EN 60947-5-5:1997/A1:2005 EN 60947-5-5:1997/A11:2013	27 May 2021
22.	EN 61008-1:2012 Residual current operated circuit-breakers without integral overcurrent protection for household and similar uses (RCCBs) - Part 1: General rules IEC 61008-1:2010 (Modified) EN 61008-1:2012/A1:2014 EN 61008-1:2012/A11:2015 EN 61008-1:2012/A2:2014	27 May 2021
23.	EN 61010-2-201:2013 Safety requirements for electrical equipment for measurement, control and laboratory use - Part 2-201: Particular requirements for control equipment IEC 61010-2-201:2013 EN 61010-2-201:2013/AC:2013	27 May 2021
24.	EN 61058-1:2002 Switches for appliances - Part 1: General requirements IEC 61058-1:2000 (Modified) + A1:2001 EN 61058-1:2002/A2:2008	27 May 2021
25.	EN 61643-11:2012 Low-voltage surge protective devices - Part 11: Surge protective devices connected to low voltage power systems - Requirements and test methods IEC 61643-11:2011 (Modified)	27 May 2021
26.	EN 61851-23:2014 Electric vehicle conductive charging system - Part 23: DC electric vehicle charging station IEC 61851-23:2014	27 May 2020
27.	EN 62560:2012 Self-ballasted LED-lamps for general lighting services by voltage > 50 V - Safety specifications IEC 62560:2011 (Modified) EN 62560:2012/A1:2015 EN 62560:2012/A1:2015/AC:2015	27 May 2021
28.	EN 62606:2013 General requirements for arc fault detection devices IEC 62606:2013 (Modified)	27 May 2021

**COMMISSION IMPLEMENTING DECISION (EU) 2019/1957****of 25 November 2019****on the assessment made pursuant to Regulation (EU) 2018/1139 of the European Parliament and of the Council as regards an exemption from certain substantive requirements laid down in Commission Implementing Regulation (EU) No 923/2012 granted by the United Kingdom***(notified under document C(2019) 8345)***(Only the English text is authentic)****(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 Article 71(2) thereof,

Whereas:

- (1) On 20 September 2019, the United Kingdom notified the Commission, the European Union Aviation Safety Agency ('the Agency') and the other Member States, that it had granted an exemption, pursuant to Article 71(1) of Regulation (EU) 2018/1139, to all operators of aircraft flown within the United Kingdom at or below 3 000 feet above mean sea level and within Class D airspace, from the requirements laid down in point SERA.5005(a) (visual flight rules (VFR)) of the Annex to Commission Implementing Regulation (EU) No 923/2012 <sup>(2)</sup>. The exemption as notified specifies inter alia that the previous, identical exemption, which had been notified to the Commission on 17 April 2019, is revoked with effect from 12 September.
- (2) The above exemption is permitted when an aircraft is flying under the following cumulative conditions: (i) by day only; (ii) at a speed which, according to its airspeed indicator, is 140 knots or less, to give adequate opportunity to observe other traffic and any obstacles in time to avoid a collision; (iii) clear of cloud with the surface in sight and if the aircraft is not a helicopter, in a flight visibility of at least 5 km or if the aircraft is a helicopter, in a flight visibility of at least, 1 500 m.
- (3) The United Kingdom has granted this exemption to facilitate the safe transition to future airspace requirements as formulated in its revised high level action plan and in particular to allow time to implement the air traffic service procedural changes that are necessary to safely apply the relevant SERA requirements and to consider airspace modernisation. Finally, the United Kingdom provided a description of various mitigation measures accompanying that exemption.
- (4) The exemption was granted for the period of 12 September 2019 to 25 March 2020. Since 2014, the United Kingdom has issued eight exemptions from point SERA.5005(a) of the Annex to Implementing Regulation (EU) No 923/2012 of a cumulative duration of sixty one months <sup>(3)</sup>. Based on the principle according to which new rules apply immediately to the future effects of a situation which arose under the old rule, the eight months periods referred to in Article 71(2) of Regulation (EU) 2018/1139 are to be calculated by including periods prior to the entry into force of that Regulation. Taking that into account, the Agency assessed whether the conditions laid down in Article 71(1) of that Regulation were met and concluded that some of them were not.
- (5) The Commission agrees with the Agency's recommendation.

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

<sup>(2)</sup> Commission Implementing Regulation (EU) No 923/2012 of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010 (OJ L 281, 13.10.2012, p. 1).

<sup>(3)</sup> E 4869, E 4919, E 4761, E 4312, E 4163, E 4073, E 3982, E3960.

- (6) Under Article 71(1) of Regulation (EU) 2018/1139 a Member State is allowed to grant an exemption only if it is granted to any natural or legal person subject to this Regulation 'in the event of urgent unforeseeable circumstances affecting those persons or urgent operational needs of those persons' and provided that all the conditions stipulated in points (a) to (d) of that article are met.
- (7) The Commission considers that the exemption does not meet the condition of 'urgent operational needs'. This conclusion is confirmed by the repetitive issuing of the same kind of exemption since 13 November 2014. The continuous repetition of the exemption indicates that its duration is not limited and demonstrates that a real objective is to maintain a long-term derogation from point SERA.5005(a) rather than addressing a specific urgent operational need of a person to whom those provisions apply. Furthermore, the fact that the United Kingdom stated in its notification that it has not imposed the minimum distance from cloud in Class D airspace and that it had declared that it would take action to comply with Implementing Regulation (EU) No 923/2012 in the long term does not change that conclusion.
- (8) In view of the above considerations, there is no need for the Commission to assess whether conditions of points (a) to (d) of Article 71(1) of Regulation (EU) 2018/1139 have been met. The Commission nevertheless observes the following.
- (9) The Commission considers that the exemption does not meet the condition of point (a) of Article 71(1) of Regulation (EU) 2018/1139, because the needs triggered by that exemption can be adequately addressed by other means which are in compliance with the Regulation. In fact, despite the United Kingdom's claims, Implementing Regulation (EU) No 923/2012 allows for adequately meeting the needs without granting the exemption. Under that Regulation, flights can be operated as 'special VFR flights' as provided in point SERA.5010 (Special VFR in control zones) that are cleared by air traffic control to operate within a control zone in meteorological conditions below visual meteorological conditions. Alternatively, wherever there is a need to accommodate within a given airspace class operations compatible with a less restrictive class, consideration could be given to solutions such as: reclassification of the airspace concerned, or redesigning the volume of airspace concerned by defining airspace restrictions or reservations, or sub-volumes of less restrictive classes of airspace (e.g. corridors), as provided in point SERA.6001(a).
- (10) Finally, the exemption does not meet the requirements for safety and is not compliant with the essential requirements of Regulation (EU) 2018/1139. In this regard the Commission refers to its earlier Decision (recitals 11-13) concerning an exemption from point SERA.5005(a) of the Annex to Implementing Regulation (EU) No 923/2012 <sup>(4)</sup>.
- (11) As a consequence, the level of safety is adversely affected by the implementation of the exemption notified on 17 April 2019, and the exemption does not comply with the general safety objectives of Regulation (EU) 2018/1139.
- (12) The Commission also notes that, pursuant to Commission's previous Decision concerning an exemption from point SERA.5005(a) of the Annex to Implementing Regulation (EU) No 923/2012 <sup>(5)</sup>, the United Kingdom was required to revoke the exemption, rather than extending its application in time as it has done.
- (13) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union (TEU). In accordance with Article 50(3) TEU, the Treaties are to cease to apply to the withdrawing State from the date of entry into force of a withdrawal agreement or, failing that, two years after the notification, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period. The period has been extended three times, last time by European Council Decision (EU) 2019/1810 <sup>(6)</sup>, which extended it until 31 January 2020, at the latest.

<sup>(4)</sup> Commission Decision C(2016) 7654 final of 30 November 2016 on refusing permission to the United Kingdom to grant an exemption from certain substantive requirements laid down in Commission Regulation (EU) No 923/2012.

<sup>(5)</sup> Decision C(2016) 7654 final.

<sup>(6)</sup> European Council Decision (EU) 2019/1810 taken in agreement with the United Kingdom of 29 October 2019 extending the period under Article 50(3) TEU (OJ L 278 I, 30.10.2019, p. 1)

- (14) On 11 January 2019, by Decision (EU) 2019/274 <sup>(7)</sup>, the Council authorised the signature of the withdrawal agreement agreed at negotiators' level on 14 November 2018. The Union confirmed that it stands ready to proceed swiftly with its signature and conclusion in the event that the United Kingdom Parliament approves the withdrawal agreement. Part Four of the withdrawal agreement <sup>(8)</sup> provides for a transition period starting on the date of entry into force of the agreement, during which Union law is to continue to apply to and in the United Kingdom as laid down therein.
- (15) In any event, this Decision applies only as long as Union law applies to and in the United Kingdom,

HAS ADOPTED THIS DECISION:

*Article 1*

The exemption from the requirements laid down in point SERA.5005(a) of the Annex to Implementing Regulation (EU) No 923/2012, granted by United Kingdom and notified to the Commission, the European Union Aviation Safety Agency and the other Member States on 20 September 2019, which allows visual meteorological conditions, distance from cloud minima and visual flight rules not to comply with the requirement to maintain appropriate distance from cloud, does not meet the conditions set out in Article 71(1) of Regulation (EU) 2018/1139.

*Article 2*

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 25 November 2019.

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

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<sup>(7)</sup> Council Decision (EU) 2019/274 of 11 January 2019 on the signing, on behalf of the European Union and of the European Atomic Energy Community, of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 47 I, 19.2.2019, p. 1).

<sup>(8)</sup> Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ C 144 I, 25.4.2019, p. 1).

**COMMISSION IMPLEMENTING DECISION (EU) 2019/1958****of 25 November 2019****on a derogation from mutual recognition of an authorisation for a biocidal product containing hydrogen cyanide by Poland in accordance with Article 37 of Regulation (EU) No 528/2012 of the European Parliament and of the Council***(notified under document C(2019) 8346)***(Only the Polish text is authentic)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products <sup>(1)</sup>, and in particular Article 37(2)(b) thereof,

Whereas:

- (1) The company Lučební závody Draslovka a.s. Kolín ('the applicant') submitted an application to Poland for mutual recognition of an authorisation granted by the Czech Republic in respect of a biocidal product containing the active substance hydrogen cyanide ('the product'). The Czech Republic authorised the product for professional use for fumigation in specific area types against wood boring beetles (product-type 8), against rats (product-type 14) and against beetles, cockroaches and moths (product-type 18).

The product is a mixture of approximately 98% of hydrogen cyanide and stabilising additives and is supplied completely soaked into a porous material in 1,5 kg gas-tight steel cans or as liquid in 27,5 kg stainless steel pressurised cylinders. Hydrogen cyanide is classified in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council <sup>(2)</sup> as follows: Acute Tox. Category 1, hazard codes H300, H310 and H330 (fatal if swallowed, in contact with skin or if inhaled) and STOT RE 1, hazard code H372 (causes damage to the thyroid through prolonged and repeated exposure).

- (2) Taking into account all the information included in the product assessment report and the summary of the biocidal product characteristics, especially the classification of the product and the risk for human health, the Polish competent authority expressed serious concerns in a letter to the applicant on 13 September 2017 with respect to the protection of health of Polish citizens if the product were to be placed on the Polish market.
- (3) In response to that letter the applicant proposed a meeting with the Polish competent authority to discuss the concerns expressed, which took place on 22 September 2017, and sent a letter containing its views on the arguments raised by the Polish competent authority on 29 September 2017. Following the discussion with the applicant, the Polish competent authority consulted the Polish authorities responsible for public health, for public security and for the enforcement of Regulation (EU) No 528/2012, to have their views on the placing on the market of the product. All the consulted authorities expressed serious concerns with respect to the placing of the product on the Polish market. On 21 June 2018, the Polish competent authority informed the applicant of its intention to propose to refuse to grant the product authorisation, on grounds of the protection of health and life of humans as referred to in point (c) of Article 37(1) of Regulation (EU) No 528/2012. The Polish competent authority invited the applicant to withdraw the application for mutual recognition of the product in Poland.
- (4) In its response of 20 July 2018 the applicant communicated its disagreement with the points raised by the Polish competent authority and made known its intention not to withdraw the application. As a result, on 23 October 2018, Poland informed the Commission of the continuing disagreement in accordance with the second subparagraph of Article 37(2).

<sup>(1)</sup> OJ L 167, 27.6.2012, p. 1.

<sup>(2)</sup> Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).



- (5) From the justification put forward by the Polish competent authority, it follows that some risks resulting from the chemical and physical properties of the active substance in the product cannot be managed in a satisfactory way in Poland. Those risks are related to the lack of available effective means to provide an immediate treatment in case of accidental poisoning during the product application
- (6) According to the summary of the biocidal product characteristics of the product, operators have to be equipped with a first-aid box containing, among other things, an antidote. The Polish competent authority pointed out that this condition cannot be fulfilled in Poland. In accordance with the Polish law, antidotes for hydrogen cyanide cannot be distributed or stored by entities other than pharmacies or hospital pharmacies. It would therefore not be possible for an authorisation holder to supply the antidote together with the biocidal product. Moreover, ambulances are not equipped with the antidotes. As ensuring an immediate administration of antidotes to possible victims of poisoning in the place where the fumigation takes place is impossible, according to the Polish competent authority, the poisoning would result in death of the victims or a severe health impact.
- (7) Other fumigation products, containing other active substances than hydrogen cyanide (e.g. aluminium phosphide releasing phosphine, magnesium phosphide releasing phosphine) are currently authorised for use on the Polish market. For none of those products the summary of the biocidal product characteristics requires that the operators be equipped with antidotes.
- (8) Having analysed the justification put forward by the Polish competent authority and the views expressed by the applicant in its letter of 20 July 2018, the Commission considers that, due to the hazardous properties of the active substance and the difficulties in managing health risks related to the use of the product in Poland, the derogation from mutual recognition proposed by the Polish competent authority, namely the proposed refusal to grant an authorisation, is justified on the grounds of protection of health and life of humans, referred to in point (c) of Article 37(1) of Regulation (EU) No 528/2012.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

#### *Article 1*

1. The derogation from mutual recognition proposed by Poland, namely the refusal to grant an authorisation, for the biocidal product referred to in paragraph 2 is justified on the grounds of protection of the health and life of humans, as referred to in point (c) of Article 37(1) of Regulation (EU) No 528/2012.

2. Paragraph 1 applies to the biocidal product identified by the following case number, as provided for by the Register for Biocidal Products:

BC-SV012547-08.

#### *Article 2*

This Decision is addressed to the Republic of Poland.

Done at Brussels, 25 November 2019.

*For the Commission*  
Vytenis ANDRIUKAITIS  
*Member of the Commission*

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**COMMISSION IMPLEMENTING DECISION (EU) 2019/1959****of 26 November 2019****not approving silver sodium hydrogen zirconium phosphate as an existing active substance for use in biocidal products of product-types 2 and 7****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products <sup>(1)</sup>, and in particular the third subparagraph of Article 89 (1) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) No 1062/2014 <sup>(2)</sup> establishes a list of existing active substances to be evaluated for their possible approval for use in biocidal products. That list includes silver sodium hydrogen zirconium phosphate (EC No: 422-570-3, CAS No: 265647-11-8).
- (2) Silver sodium hydrogen zirconium phosphate has been evaluated for use in products of product-type 2, disinfectants and algacides not intended for direct application to humans or animals, and of product-type 7, film preservatives, as described in Annex V to Regulation (EU) No 528/2012.
- (3) Sweden was designated as a rapporteur Member State and its competent authority submitted the assessment reports together with its conclusions to the European Chemicals Agency on 12 June 2017.
- (4) In accordance with Article 7(2) of Delegated Regulation (EU) No 1062/2014, the opinions of the European Chemicals Agency <sup>(3)</sup> were adopted on 17 October 2018 by the Biocidal Products Committee, having regard to the conclusions of the evaluating competent authority.
- (5) According to those opinions, biocidal products of product-types 2 and 7 containing silver sodium hydrogen zirconium phosphate may not be expected to meet the criteria laid down in Article 19(1)(b) of Regulation (EU) No 528/2012 as sufficient efficacy has not been demonstrated.
- (6) Taking into account the opinions of the European Chemicals Agency, it is not appropriate to approve silver sodium hydrogen zirconium phosphate for use in biocidal products of product-types 2 and 7, as the conditions laid down in Article 4(1) of Regulation (EU) No 528/2012 are not satisfied.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

*Article 1*

Silver sodium hydrogen zirconium phosphate (EC No: 422-570-3, CAS No: 265647-11-8) is not approved as an active substance for use in biocidal products of product-types 2 and 7.

<sup>(1)</sup> OJ L 167, 27.6.2012, p. 1.

<sup>(2)</sup> Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1).

<sup>(3)</sup> Biocidal Products Committee (BPC) opinion on the application for approval of the active substance Silver sodium hydrogen zirconium phosphate, Product type: 2, ECHA/BPC/211/2018, adopted on 17 October 2018; Biocidal Products Committee (BPC) opinion on the application for approval of the active substance Silver sodium hydrogen zirconium phosphate, Product type: 7, ECHA/BPC/214/2018, adopted on 17 October 2018.

*Article 2*

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

Done at Brussels, 26 November 2019.

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

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**COMMISSION IMPLEMENTING DECISION (EU) 2019/1960****of 26 November 2019****not approving silver zeolite as an existing active substance for use in biocidal products of product-types 2 and 7****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products <sup>(1)</sup>, and in particular the third subparagraph of Article 89 (1) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) No 1062/2014 <sup>(2)</sup> establishes a list of existing active substances to be evaluated for their possible approval for use in biocidal products. That list includes silver zeolite (EC No: n.a., CAS No: 130328-18-6).
- (2) Silver zeolite has been evaluated for use in products of product-type 2, disinfectants and algacides not intended for direct application to humans or animals, and of product-type 7, film preservatives, as described in Annex V to Regulation (EU) No 528/2012.
- (3) Sweden was designated as a rapporteur Member State and its competent authority submitted the assessment reports together with its conclusions to the European Chemicals Agency on 12 June 2017.
- (4) In accordance with Article 7(2) of Delegated Regulation (EU) No 1062/2014, the opinions of the European Chemicals Agency <sup>(3)</sup> were adopted on 17 October 2018 by the Biocidal Products Committee, having regard to the conclusions of the evaluating competent authority.
- (5) According to those opinions, biocidal products of product-types 2 and 7 containing silver zeolite may not be expected to meet the criteria laid down in Article 19(1)(b) of Regulation (EU) No 528/2012 as sufficient efficacy has not been demonstrated.
- (6) Taking into account the opinions of the European Chemicals Agency, it is not appropriate to approve silver zeolite for use in biocidal products of product-types 2 and 7, as the conditions laid down in Article 4(1) of Regulation (EU) No 528/2012 are not satisfied.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

*Article 1*

Silver zeolite (EC No: n.a., CAS No: 130328-18-6) is not approved as an active substance for use in biocidal products of product-types 2 and 7.

<sup>(1)</sup> OJ L 167, 27.6.2012, p. 1.

<sup>(2)</sup> Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1).

<sup>(3)</sup> Biocidal Products Committee (BPC) opinion on the application for approval of the active substance Silver zeolite, Product type: 2, ECHA/BPC/209/2018, adopted on 17 October 2018; Biocidal Products Committee (BPC) opinion on the application for approval of the active substance Silver zeolite, Product type: 7, ECHA/BPC/212/2018, adopted on 17 October 2018.

*Article 2*

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

Done at Brussels, 26 November 2019.

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

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