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

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II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2020/473

of 20 January 2020

supplementing Directive (EU) 2017/2397 of the European Parliament and of the Council with regard to the standards for databases for the Union certificates of qualification, service record books and logbooks

THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2017/2397 of the European Parliament and of the Council of 12 December 2017 on the recognition of professional qualifications in inland navigation and repealing Council Directives 91/672/EEC and 96/50/EC ⁽¹⁾, and in particular Article 25(2) thereof,

Whereas:

- (1) In order to facilitate mobility and ensure the safety of navigation and the protection of human life and the environment, it is essential for crew members to hold certificates proving their qualifications. In order to obtain such certificates, crew members should record their navigation time by means of valid entries in the crew member's service record book that may be cross-checked with entries in the logbooks of the craft on which the crew member served.
- (2) In order to properly implement Directive (EU) 2017/2397 and to prevent fraud, the competent authorities that issue certificates in accordance with that Directive should ensure that crew members hold only a single specific certificate at a certain point of time. In the context of identifying a crew member, where relevant, due account should be taken of Regulation (EU) No 910/2014 of the European Parliament and of the Council ⁽²⁾.
- (3) In order to contribute to the efficient administration of Union certificates of qualification, pursuant to Article 25(1) of Directive (EU) 2017/2397 Member States that issue certificates in accordance with Directive (EU) 2017/2397 should set up registers for recording data on the Union certificates of qualification, service record books and logbooks as well as on documents recognised pursuant to Article 10(2) of Directive (EU) 2017/2397.
- (4) In order to facilitate the exchange of information between Member States and the Commission for the purpose of implementing, enforcing and evaluating Directive (EU) 2017/2397, as well as for statistical purposes, maintaining safety and ease of navigation, Member States should make available/include data on those documents and their status, using a database kept by the Commission.
- (5) For the purposes of the same objectives, this database should also serve to provide information on documents recognised pursuant to Article 10(2) or (3) of Directive (EU) 2017/2397.

⁽¹⁾ OJ L 345, 27.12.2017, p. 53.

⁽²⁾ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73). See also its implementing regulations, in particular Commission Implementing Regulation (EU) 2015/1501 of 8 September 2015 on the interoperability framework pursuant to Article 12(8) of Regulation (EU) No 910/2014.

- (6) The fact that certificates of qualifications and service record books are held by crew members while the logbook is linked to a craft requires the separate management of those data under two different frameworks. In this context, the existence of the European Hull Data Base established by Directive (EU) 2016/1629 of the European Parliament and of the Council ⁽³⁾, which includes information relating to inland waterway craft for the use of competent authorities, should be taken into account.
- (7) Due account should be taken of relevant data exchange specifications laid down in relevant Union law, as well as of the principles and recommendations set out in the EU eGovernment Action Plan 2016-2020 ⁽⁴⁾ and the European Interoperability Framework ⁽⁵⁾. Due care should also be taken that, as far as possible, the specifications remain technology-neutral and open to innovative technologies. The once-only and interoperability-by-default principles should be applied.
- (8) Whenever the measures provided for in this delegated Regulation entail the processing of personal data, it should be carried out in accordance with Union law on the protection of personal data, in particular Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁶⁾ with regard to the processing by the European Commission and Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽⁷⁾ with regard to the processing by the Member States competent authorities.
- (9) The Member States, represented by the relevant competent authorities, determine the purposes and means of processing of personal data in the national registers. The Commission, by keeping the database that is providing the solution to exchange the data among Member States is also a controller. Member States together with the Commission are joint controllers of the personal data processed in the Union database. Article 26 of Regulation (EU) 2016/679 and Article 28 of Regulation (EU) 2018/1725 place an obligation on joint controllers to determine, in a transparent manner, their respective responsibilities for compliance with the obligations under those Regulations. This Regulation determines those respective responsibilities.
- (10) In order to ensure equal access rights on the basis of Regulation (EU) 2016/679 and of Regulation (EU) 2018/1725, the Commission should be regarded as the controller of personal data relating to the management of access rights to the Union database.
- (11) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725.
- (12) In the interest of coherence, the provisions of this Regulation should generally apply from the same date as provided for the transposition of Directive (EU) 2017/2397. An exception should however be provided for the provisions concerning the operation of the database by the Commission during the test phase and its role as controller for the processing of access rights,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation sets the standards laying down the characteristics and conditions for use of the databases for Union certificates of qualification, service record books and logbooks issued in accordance with Directive (EU) 2017/2397 and for documents recognised pursuant to its Article 10(2)-(3).

⁽³⁾ Directive (EU) 2016/1629 of the European Parliament and of the Council of 14 September 2016 laying down technical requirements for inland waterway vessels, amending Directive 2009/100/EC and repealing Directive 2006/87/EC (OJ L 252, 16.9.2016, p. 118).

⁽⁴⁾ EU eGovernment Action Plan 2016-2020 Accelerating the digital transformation of government — Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (COM(2016) 179 final).

⁽⁵⁾ European Interoperability Framework — Implementation Strategy, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (COM(2017) 134).

⁽⁶⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

⁽⁷⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

*Article 2***Definitions**

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'Union database' means the database provided by the Commission pursuant to Article 25(2) of Directive (EU) 2017/2397 to record and exchange data on certificates of qualifications and service record books referred to in Article 25(1) of Directive (EU) 2017/2397 and on certificates of qualifications and service record books recognised pursuant to its Article 10(3);
- (b) 'European hull database (EHDB)' means the database provided by the Commission pursuant to Article 25(2) of Directive (EU) 2017/2397 to record and exchange the data on the logbooks referred to in Article 25(1) of that Directive;
- (c) 'National registers' means the registers of the Union certificates of qualification, service record books and logbooks and, where relevant, of documents recognised pursuant to Article 10(2) of Directive (EU) 2017/2397, which are established and kept by Member States pursuant to Article 25(1) of that Directive
- (d) 'crew member identification number' (CID) means a number generated by the Union database that identifies a crew member registered in that database and that is unique to the holder;
- (e) 'Status "active"' means that certificates of qualification and specific authorisations are valid;
- (f) 'Status "expired"' means that certificates of qualification and specific authorisations are no longer valid because the validity period came to an end or because they have been replaced by a new certification of qualification or specific authorisation following a need for change of administrative data or the validity period coming to an end;
- (g) 'Status "suspended"' means that certificates of qualification and specific authorisations are no longer valid because measures have been taken by competent authorities in accordance with Article 14(2) of Directive (EU) 2017/2397;
- (h) 'Status "withdrawn"' means that certificates of qualification and specific authorisations are no longer valid because measures have been taken by competent authorities in accordance with Article 14(1) of Directive (EU) 2017/2397;
- (i) 'Status "lost"' means that certificates of qualification and specific authorisations have been declared lost to the competent authority;
- (j) 'Status "stolen"' means that certificates of qualification and specific authorisations have been declared stolen to the competent authority;
- (k) 'Status "destroyed"' means that certificates of qualification and specific authorisations have been declared destroyed to the competent authority.
- (l) 'metadata' means data processed in the Union database for the purposes of sending or exchanging electronic communications content; including data used to trace and identify the source and destination of a communication, data on the location of the electronic communications content, and the date, time, duration and type of communication.

*Article 3***Information on the certificates of qualifications and service record books**

1. The Commission shall set up the Union database. It shall manage it in accordance with the requirements laid down in Annex I. It shall be responsible for its technical operations and its maintenance. The Commission shall take all measures necessary to ensure the confidentiality, integrity and availability of the Union database.

2. Member States that issue certificates in accordance with Directive (EU) 2017/2397 shall make available machine-to-machine to the Union database the registers referred to in Article 25(1) of Directive (EU) 2017/2397 concerning the data referred to in Article 25(1) of Directive (EU) 2017/2397.
3. Without prejudice to paragraph 4 each of the Member States' competent authority designated as controller for the data processed in the national registers and the Commission shall be joint controllers for the processing of personal data in the Union database. Responsibilities shall be allocated among joint controllers in accordance with Annex III.
4. The Commission shall be regarded as controller for the processing of personal data necessary to grant and manage access rights to the Union database.

Article 4

Information on the logbook

1. Member States shall record the data on the logbooks referred to in Article 25(1) of Directive (EU) 2017/2397 in the EHDB,
2. Conditions for the use of the EHDB for the purpose of recording the data related to logbooks in accordance with Article 25(2) of Directive (EU) 2017/2397 are laid down in Annex II.

Article 5

Entry into force and application

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

It shall apply from 18 January 2022 with the exception of its Article 3(1) and (4) that shall apply from the date of entry into force of this Regulation.

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

Done at Brussels, 20 January 2020.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Requirements for the Union database**1. General**

- 1.1. The Union database shall provide a consolidated overview of the data in the certificates of qualifications and on the service record books referred to in Article 25(1) of Directive (EU) 2017/2397 which are kept in Member States' national registers established and kept pursuant to Article 25(1) of that Directive.
- 1.2. The Union database shall also provide information on certificates of qualifications and service record books recognised pursuant to Article 10(2) or 10(3) of Directive (EU) 2017/2397 where the Commission has granted access to it to an authority of a third country, in accordance with Article 25(4) of Directive (EU) 2017/2397.
- 1.3. The Union database shall provide a user interface ('the Union database web portal') through which the authorised users shall be able to access data in accordance with their access rights.

2. Users and access rights

- 2.1. The Commission shall grant access rights to individual users corresponding to the user profiles laid down in Table 1, on the basis of a list provided by the Member States.
- 2.2. The Commission may also grant access to the Union database to international organisations and authorities of a third country, in accordance with Article 25(4) of Directive (EU) 2017/2397 and, in particular provided the requirements set out in Article 46 of Regulation (EU) 2018/1725 are fulfilled. User profiles referred to in Table 1 or their access rights can be limited following the result of the assessment concerning the level of protection of natural persons' personal data.

Table 1

| User profiles | Definitions | Access rights |
|-------------------------------------|---|--|
| Certification authorities | Competent authorities designated to issue, renew or withdraw certificates of qualifications, specific authorisations and services record books referred to in Article 26 of Directive (EU) 2017/2397. | Read and write in relation to functionalities 3.1 to 3.5. |
| Authorities in charge of suspension | Authorised users in competent authorities for the suspension of certificates of qualifications and specific authorisations referred to in Article 26 of Directive (EU) 2017/2397. | Read and write in relation to functionalities 3.3 and 3.4. |
| Enforcement authorities | Authorised users in competent authorities detecting and combating fraud and other unlawful practices referred to in Article 26 of Directive (EU) 2017/2397. | Read-only in relation to functionalities 3.1, 3.2, 3.3 and 3.5. |
| Registers' keepers | Authorised users in competent authorities designated to keep the registers referred to in Article 26 of Directive (EU) 2017/2397. | Read and write in relation to functionalities 3.1 to 3.5 if not exercised by certification authorities or authorities in charge of suspensions |

| User profiles | Definitions | Access rights |
|----------------------------------|--|--|
| Statistics offices | Authorised users in national or international offices in charge of collecting statistical data. | Read-only in relation to functionality 3.5. |
| International organisations | Authorised users in international organisations that have been provided access to, in accordance with Article 25(4) of Directive (EU) 2017/2397 and Article 46 of Regulation (EU) 2018/1725. | Read-only access to be determined in relation to functionalities 3.2, 3.3 and 3.5 following the result of the assessment concerning the level of protection of natural persons and compliance with this Regulation |
| Authorities from third countries | Authorised users in designated competent authorities from third countries that have been provided access to, in accordance with Article 25(4) of Directive (EU) 2017/2397 and Article 46 of Regulation (EU) 2018/1725. | To be determined in relation to functionalities 3.1 to 3.5 following the result of the assessment concerning the level of protection of natural persons and compliance with this Regulation |
| Commission | Authorised users in Commission staff 1. in charge of keeping the Union database; or 2. in charge of inland navigation policies. | — Provider of the technical solution for all functionalities; — Read-only in relation to functionality 3.5 |

3. Functionalities

The following functionalities shall be provided through the Union database:

3.1. Verification of the crew member's registration in the Union database:

The Union database shall allow certification and enforcement authorities to check, whether a crew member is already registered in the system. This shall be done either on the basis of a crew member identification number (CID) or of data contained in an identity document provided by the crew member. In the case of on-line services, the identification of a crew member shall be made with the support of the dataset as set out under Regulation (EU) 2015/1501.

Providing no person with a similar identity-related dataset is found in the system following a search by a certification authority, the crew member shall be registered in the system.

3.2. Consultation of data on certificates of qualification and service record books:

The Union database shall provide read access to data on certificates of qualifications and service record books as made available by the national registers.

3.3. Consultation and modification of the status of certificates of qualification:

The Union database shall provide read access to the status of certificates of qualifications and write access to record a suspension of a certificate of qualification in the Union database.

The standard certificate statuses are the following: 'active', 'expired', 'suspended', 'withdrawn', 'lost', 'stolen' or 'destroyed'.

3.4. Sending and receiving notification:

The Union database shall allow certification authorities and authorities in charge of suspensions to be notified of modifications or of requests in the registers concerning certificates of qualification or specific authorisation that they have issued or suspended.

3.5. Generating statistics:

The Union database shall contain features to provide data for authorised users to perform searches for statistical purposes.

3.6. Updating metadata:

The Commission shall update the metadata of the Union database upon notification of modification of corresponding data in a national register.

3.7. Information on incomplete transaction:

In case the system is not able to complete a functionality, this fact and its reason shall be notified to the relevant user. The request or the data shall be temporarily buffered in the Union database and the transaction automatically repeated until the error or deficiency has been addressed and the functionality completed.

3.8. Management of user access:

Users shall access the Union database through the Commission authentication service (EU Login).

3.9. Monitoring login and transactions:

The Union database shall log all login information and transactions for monitoring and debugging purposes and allow the generation of statistics about these logins and transactions for processing by Commission staff.

4. The Union database data

4.1. In order for the Union database to perform its functionalities, it shall keep the following data:

- (a) routing metadata;
- (b) access right tables;
- (c) CIDs with:
 - (i) the holder's list of types of certificates and of specific authorisations with their respective issuing authority and status;
 - (ii) the serial number of the holder's active service record book, where relevant;
 - (iii) the pointer to the national register that hosts the holder's most recent personal identity-related data.

4.2. The Union database may also keep data referred to under Article 25 of Directive (EU) 2017/2397 for certificates of qualifications and service record books recognised pursuant to Article 10(3) when the Commission has refused access to an authority of a third country, in accordance with Article 25(4) of Directive (EU) 2017/2397.

5. Communication between the Union database and the registers

5.1. The connection between the Union database and the national registers shall be based on the Commission's secure electronic registered delivery service (CEF eDelivery).

5.2. The exchange of information shall be based on standard data-structuring methods and shall be expressed in XML format.

5.3. The service time frame shall be 24/7 days, with an availability rate of the system of at least 98 % excluded scheduled maintenance.

6. Reference data of the Union database

6.1. The reference data such as code lists, controlled vocabularies and glossaries shall be kept in the European Reference Data Management System (ERDMS), including, where relevant, the translation in the EU official languages.

7. Personal data protection

7.1. Any processing of personal data by the authorised users in Member States shall be carried out in accordance with Union law on the protection of personal data, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council.

- 7.2. The Commission shall carry out all processing of personal data provided for in this Regulation in accordance with Regulation (EU) 2018/1725.
 - 7.3. The personal data referred to in Article 25(1) of Directive (EU) 2017/2397 shall be accessed and processed only for the execution of the functionalities referred to in Section 3 and by the authorised users.
 - 7.4. The personal data referred to in Section 4 shall not be stored in the Union database for longer than is necessary for the purposes for which the personal data are processed and not after crew members' retirement. The holder's list of types of certificates and of specific authorisations shall not include those certificates and authorisations that have expired, have been withdrawn or destroyed, have been declared lost or stolen once they have been replaced by a new certificate or authorisation.
 - 7.5. Personal data processed for the purpose of the functionality described under point 3.9 shall not be retained in the Union database for more than 6 months.
 - 7.6. Personal data other than those referred to in points 7.4 and 7.5 shall not be retained in the Union database for longer than strictly necessary for the transaction to be completed.
 - 7.7. The data available for statistical purposes shall be anonymised and aggregated. Statistical information that has been duly anonymised and aggregated may be retained indefinitely.
 8. **Single contact points**
 - 8.1. For the purposes related to the operation of the Union database, the Commission shall maintain contact with the Member States through a single contact point designated by each Member State among the competent authorities referred to in Article 26(g) of Directive (EU) 2017/2397.
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ANNEX II

Requirements for the operation of the European Hull Database for information on the logbooks

1. The data related to logbooks shall be accessed and processed only by the authorised users referred to in Table 1.
2. The Commission shall grant access rights to users corresponding to the user profiles laid down in Table 1, on the basis of a list provided by the Member States through the single contact points referred to in Delegated Regulation 2020/474 ⁽¹⁾, as well as to the international organisations and authorities of a third country, in accordance with Article 25(4) of Directive (EU) 2017/2397.
3. The instructions in Annex III and Annex IV on full access and read-only access to and processing of the data in the EHDB of Delegated Regulation 2020/474 on EHDB shall apply.
4. Any processing of personal data by authorised users shall be carried out in accordance with the Union law on the protection of personal data, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council.
5. The Commission shall carry out all processing of personal data provided for in this Regulation in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council.

Table 1

| User profiles | Definitions | Access rights |
|----------------------------------|---|--|
| Certification authorities | Authorised users in competent authorities for the issuing of logbooks in accordance with Article 26 of Directive (EU) 2017/2397. | Full-access |
| Enforcement authorities | Authorised users in competent authorities detecting and combating fraud and other unlawful practices in accordance with Article 26 of Directive (EU) 2017/2397. | Read-only |
| Statistics offices | Authorised users in national or international offices in charge of collecting statistical data. | Read-only |
| International organisations | Authorised users in international organisations that have been provided access to EHDB in accordance with Article 25(4) of Directive (EU) 2017/2397 and Article 46 of Regulation (EU) 2018/1725. | Read-only access to be determined following the result of the assessment concerning the level of protection of natural persons |
| Authorities from third countries | Authorised users in designated competent authorities from third countries that have been provided access to in accordance with Article 25(4) of Directive (EU) 2017/2397 and Article 46 of Regulation (EU) 2018/1725. | To be determined following the result of the assessment concerning the level of protection of natural persons |

⁽¹⁾ Commission Delegated Regulation (EU) 2020/474 of 20 January 2020 on the European Hull Data Base (OJ L 100, 1.4.2020, p. 12).

ANNEX III

Allocation of responsibilities among joint controllers

1. The Member States, represented by the competent authorities, determine the purposes and means of processing of personal data in the national registers. The Commission, by keeping/managing the Union database which provides for the exchange of data among Member States, is also a controller. The Member States and the Commission are joint controllers for the processing of personal data in the EU database.
2. Each of the joint controllers shall comply with relevant Union and national legislation to which the respective controller is subject.
3. The Commission shall be responsible for:
 - (a) ensuring that the Union database complies with the requirements applicable to Commission's communication and information systems, including those concerning the protection of personal data and the application of data protection rules on security of the processing ⁽¹⁾. The Commission shall carry out an information security risk assessment and ensure an appropriate level of security;
 - (b) responding to the requests of data subjects addressed directly to it in relation to the Union database and publishing a data protection information notice to fulfil information requirements. Where appropriate and in particular when the request concerns rectification and erasure of personal data, the Commission shall forward the request of the data subject to the relevant single contact point(s) that shall address it. In cases where a request is addressed directly to the Commission, it shall inform the data subject on the follow-up given to the request;
 - (c) communicating any personal data breaches within the Union database to the single contact points referred to in Section 8.1 of Annex I, to the European Data Protection Supervisor and to the relevant individuals where there is a high risk in accordance with Articles 34 and 35 of Regulation (EU) 2018/1725;
 - (d) identifying the categories of staff and other individuals to whom access to the Union database may be granted and ensuring that access by all those concerned is compliant with applicable data protection rules;
 - (e) ensuring that Commission staff who have access to crew members' personal data within the Union database, are adequately trained to ensure that they perform their tasks in compliance with the rules applicable to the protection of personal data, and are subject to the obligation of professional secrecy under Union law.
4. Member States' competent authorities shall be responsible for:
 - (a) collecting and processing the personal data of applicants, and for processing the personal data they obtain from/exchange through the Union database. Collecting and processing personal data shall be done in accordance with Regulation (EU) 2016/679, in particular to ensure lawful collection of data, provide appropriate information, keep the data accurate (including erasing outdated data or profiles where relevant) and ensure appropriate security of the data in the national register(s).
 - (b) acting as the contact point for the crew members, including when they exercise their rights, responding to the requests of crew members and ensuring that crew members whose data are processed through the Union database and national registers are enabled to exercise their rights in compliance with data protection legislation. In this context, they shall cooperate with other Member States' competent authorities via the single contact points and with the Commission to address appropriately the requests of data subjects addressed to it, to other Member States or to the Commission. Member States competent authorities that have received the data subject request shall inform the data subject on the follow-up given to the request;

⁽¹⁾ Commission Decision (EU, Euratom) 2017/46 of 10 January 2017 on the security of communication and information systems in the European Commission (OJ L 6, 11.1.2017, p. 40) and Commission Decision of 13 December 2017 laying down implementing rules for Articles 3, 5, 7, 8, 9, 10, 11, 12, 14, 15 of Decision 2017/46/EC on the security of communication and information systems in the Commission.

- (c) communicating any personal data breaches with regard to crew members data processed through the Union database to the Commission, to the single contact point referred to in section 8.1. of Annex I, to the competent supervisory authority at national level and, where so required, to relevant crew members, in accordance with Articles 33 and 34 of Regulation (EU) 2016/679 or if requested by the Commission;
 - (d) identifying, in compliance with access rights to users corresponding to the user profiles laid down in the table 1 of Annex I, staff whom shall be granted access to crew members' personal data within the Union database and communicating it to the Commission;
 - (e) ensuring that their staff who have access to crew members' personal data within the Union database, are adequately trained to ensure that they perform their tasks in compliance with the rules applicable to the protection of personal data, and are subject to the obligation of professional secrecy in accordance with national law or rules established by national competent authority.
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COMMISSION DELEGATED REGULATION (EU) 2020/474
of 20 January 2020
on the European Hull Data Base

THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2016/1629 of the European Parliament and of the Council of 14 September 2016 laying down technical requirements for inland waterway vessels, amending Directive 2009/100/EC and repealing Directive 2006/87/EC ⁽¹⁾, and in particular Article 19(7) thereof,

Whereas:

- (1) In order to ensure the smooth application of Directive (EU) 2016/1629 full access should be granted to the competent authorities of the Member States, the Contracting parties to the Revised Convention for Rhine Navigation and third countries entrusted with the tasks related to the application of Directive (EU) 2016/1629 and Directive 2005/44/EC of the European Parliament and of the Council ⁽²⁾.
- (2) Full access allows Member States to cooperate among themselves, as well as with third countries, and to coordinate their work with respect to the processing of data regarding the crafts entered in the EHDB.
- (3) Read only access to the EHDB should be provided to other authorities in order to perform administrative measures for ensuring waterway traffic and infrastructure management, maintaining or enforcing safety of navigation and collecting statistical data.
- (4) To ensure the smooth operation of the EHDB and to facilitate the verification of the access requests to the EHDB, Member States, contracting parties to the Revised Convention for Rhine Navigation and relevant third countries should designate a single contact point.
- (5) It is appropriate to set out the steps Member States should follow when providing the read-only access to the EHDB in order to ensure security of data and the smooth operation of the EHDB.
- (6) High-quality, comparable, up-to-date, reliable and harmonised data on inland navigation crafts are needed in order to facilitate the verification of a craft's present and past data and information related to the issued certificates and new applications for certificates. Consequently a detailed list of data related to the craft should be set out.
- (7) The specifications should remain technology-neutral and open to innovative Technologies and the once-only and interoperability-by-default principles should apply. Due account should be taken of the principles and recommendations set out in the EU eGovernment Action Plan 2016-2020 ⁽³⁾ and the European Interoperability Framework ⁽⁴⁾.
- (8) Whenever the measures provided for in this Regulation entail the processing of personal data, it should be carried out in accordance with Union law on the protection of personal data, in particular Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁵⁾ with regard to the processing by the European Commission and Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽⁶⁾ with regard to the processing by the Member States competent authorities.
- (9) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725,

⁽¹⁾ OJ L 252, 16.9.2016, p. 118.

⁽²⁾ Directive 2005/44/EC of the European Parliament and of the Council of 7 September 2005 on harmonised river information services (RIS) on inland waterways in the Community (OJ L 255, 30.9.2005, p. 152).

⁽³⁾ EU eGovernment Action Plan 2016-2020 Accelerating the digital transformation of government- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (COM(2016) 179 final).

⁽⁴⁾ European Interoperability Framework – Implementation Strategy, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (COM(2017) 134).

⁽⁵⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

⁽⁶⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation lays down rules on the collection, processing and access of the data kept in the European Hull Data Base (EHDB) referred to in Article 19 of Directive (EU) 2016/1629, as well as the types of access permitted and the instructions regarding the use and operation of the database.

Article 2

Collecting data

Member States shall enter in the EHDB the data for the identification of a craft referred to in Annex 1 to this Regulation.

Article 3

Full access of and processing of the data in the EHDB

1. The data shall be accessed and processed by the competent authorities of the Member States, by the contracting parties to the Revised Convention for Rhine Navigation and by third countries entrusted with the tasks related to the application of Directives (EU) 2016/1629 and 2005/44/EC in order to support the implementation of administrative measures for maintaining safety and ease of navigation and to ensure application of Directive (EU) 2016/1629.
2. Each Member State, contracting party to the Revised Convention for Rhine Navigation and third country referred to in paragraph 1 shall notify the Commission the names and addresses of the competent authorities referred to in paragraph 1.
3. Member States shall ensure consistency between the data kept in registers referred to in Article 17 of Directive (EU) 2016/1629 and data provided in the EHDB.
4. Full access to the EHDB shall be granted in accordance with Annex 3 to this Regulation.

Article 4

Read-only access to the EHDB

1. In order to perform administrative measures for ensuring waterway traffic and infrastructure management, maintaining or enforcing safety of navigation and collecting statistical data, read-only access to the EHDB may be granted to authorities, other than those referred to in Article 3 of Member States, of contracting parties to the Revised Convention for Rhine Navigation and of third countries referred to in Article 3(1) of this Regulation.
2. Each Member State, contracting party to the Revised Convention for Rhine Navigation or third country shall notify the Commission of the names and addresses of the bodies referred to in paragraph 1, indicating their user profiles in accordance with Annex 2 to this Regulation.
3. The read-only access to the EHDB shall be granted in accordance with Annex 4 to this Regulation.

Article 5

Single contact point for the EHDB

1. Each Member State, contracting party to the Revised Convention for Rhine Navigation and third country referred to in Article 3(1) shall designate a single contact point for the Commission and other Member States, in order to facilitate the exchange of information on the validation of the access in accordance with Articles 3 and 4. Notifications in accordance with paragraph (2) of Article 3 and paragraph (2) of Article 4 shall be done by recording the relevant information in the EHDB.

2. The single contact point shall be selected among the competent authorities referred to in Article 3(1) of this Regulation.
3. Each Member State, contracting party to the Revised Convention for Rhine Navigation and third country referred to in Article 3(1) of this Regulation shall notify the Commission the names and contact details of the single contact point for the EHDB.

Article 6

Entry into force

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

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

Done at Brussels, 20 January 2020.

For the Commission
The President
Ursula VON DER LEYEN

—

ANNEX 1

The data for the identification of a craft

The list of data for the identification of a vessel as set out in Annex 2 of the applicable European Standard laying down Technical Requirements for Inland Navigation vessels shall be those referred to in Annex II to Directive (EU) 2016/1629.

ANNEX 2

User profiles and access rights

- 1.1. The Commission shall grant access rights to individual users corresponding to the user profiles laid down in Table 1.
- 1.2. The Commission may also grant access to the EHDB to international organisations and authorities of a third country, in accordance with Article 19(5) of Directive (EU) 2016/1629 where the requirements set out in Article 46 of Regulation (EU) 2018/1725 are fulfilled. User profiles or their access rights can be limited following the result of the assessment concerning the level of protection of natural persons' personal data.

| User profiles | Definition | Access rights |
|-----------------------------------|---|---|
| Technical Certification Authority | Competent authority or inspection body for the issuance of the Union inland navigation certificates in accordance with Article 6 of Directive (EU) 2016/1629 Or Inspection body for the issuance of certificate pursuant to Article 22 of the Revised Convention for Rhine Navigation Or Similar competent authority of third countries that is entrusted with tasks related to the application of Directive (EU) 2016/1629 Or Competent authority for the issuance of the unique European vessel identification number in accordance with Article 18 of Directive (EU) 2016/1629 | Full access |
| RIS Authority | Competent authority for the RIS application and for the international exchange of data in accordance with Article 8 of Directive 2005/44/EC Or Organisation assigned or contracted to operate the RIS-System and to provide RIS-Services as defined in Directive 2005/44/EC | Full access (limited to the application of Directive 2005/44/EC) |
| Statistic office | National or international offices in charge of collecting statistical data. | Read-only access to be determined following the result of the assessment concerning the level of protection of natural persons' personal data |
| International organisations | Authorised users in international organisations | Read-only access to be determined following the result of the assessment concerning the level of protection of natural persons' personal data |
| Other bodies | All bodies ensuring waterway traffic and infrastructure management, as well as maintaining or enforcing safety of navigation, such as: <ul style="list-style-type: none"> — competent authority for traffic management — lock or bridge operator — rescue and emergency service provider — law enforcement authorities — accident investigation body | Read-only access |
| Commission staff | Authorised users <ul style="list-style-type: none"> (a) in charge of keeping the EHDB; or (b) in charge of inland navigation policies | Provider of the technical solution for all functionalities; Read-only access |

ANNEX 3

Full access and processing the data in the EHDB

1. Validation of full access and process of the data in the EHDB shall be carried out as follows:
 - (a) submission of a request through the EHDB for opening an account allowing full access and process of the data;
 - (b) validation shall be done by a relevant single contact point for the EHDB;
 - (c) activation of the account.
2. The Commission may deactivate the account if the user does not meet requirements of this Regulation.

ANNEX 4

Read-only access to the EHDB

1. Validation of read-only access to the EHDB shall be carried out as follows:
 - (a) submission of a request through the EHDB to open an account allowing read-only access to the database;
 - (b) validation shall be done by a relevant single contact point for the EHDB;
 - (c) activation of the account.
 2. The Commission may deactivate the account if the user does not meet requirements of this Regulation.
 3. The competent authorities are responsible for the regular monitoring and verification of the access provided by them to the authorities referred to in Article 4(1).
-

ANNEX 5

Functionalities

The following functionalities shall be provided through the EHDB:

1. Verification of the vessel's unique European vessel identification number (ENI) in the EHDB:

The EHDB shall allow competent authorities to check, either on the basis of a ENI or of data for the identification of a craft, whether a craft is already registered in the system.

2. Consultation of data on certificates of crafts:

The EHDB shall provide access to data on certificates (issued in accordance with Directive (EU) 2016/1629) of crafts and of data for the identification of a craft as made available by the national registers.

3. Consultation of data on any rejected or pending applications for certificates:

The EHDB shall provide access to data on status (rejected or pending) on applications for certificates in accordance with Directive (EU) 2016/1629.

4. Access to a digital copy of a craft's certificates:

The EHDB shall provide access to a digital copy of all certificates issued by competent authorities in accordance with Directive (EU) 2016/1629.

5. Generating statistics:

The EHDB shall contain features to provide data for authorised users to perform queries for statistical purposes.

6. Management of user access:

Users shall access the EHDB through the Commission authentication service (EU Login).

COMMISSION REGULATION (EU) 2020/475**of 27 March 2020****establishing a temporary fisheries closure for redfish in NAFO 3M area for vessels flying the flag of a Member State of the European Union**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

Whereas:

- (1) Council Regulation (EU) 2020/123 ⁽²⁾ lays down quotas for 2020.
- (2) According to the information received by the Commission, catches of the stock of redfish in NAFO 3M area by vessels flying the flag of or registered in a Member State of the European Union have exhausted the mid-term quota allocated for the period before 1 July 2020.
- (3) It is therefore necessary to prohibit directed fishing activities for that stock until 30 June 2020,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to Member States of the European Union for the stock of redfish in NAFO 3M area for the period from 1 January 2020 until 30 June 2020 included shall be deemed to be exhausted from the date set out in the Annex to this Regulation.

*Article 2***Prohibitions**

Directed fishing activities for the stock referred to in Article 1 by vessels flying the flag of or registered in a Member State of the European Union shall be prohibited from the date set out in the Annex to this Regulation until 30 June 2020 included.

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ Council Regulation (EU) 2020/123 of 27 January 2020 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters (OJ L 25, 30.1.2020, p. 1).

*Article 3***Entry into force**

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

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

Done at Brussels, 27 March 2020.

*For the Commission,
On behalf of the President,
Virginijus SINKEVIČIUS
Member of the Commission*

ANNEX

| | |
|----------------|--|
| No | 03/TQ123 |
| Member State | European Union (All Member States) |
| Stock | RED/N3M. |
| Species | Redfish (<i>Sebastes</i> spp.) |
| Zone | NAFO 3M |
| Closing period | 25 February 2020 at 24.00 UTC until 30 June 2020 |

COMMISSION REGULATION (EU) 2020/476
of 27 March 2020

establishing a fisheries closure for white marlin in the Atlantic Ocean for vessels flying the flag of Spain

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

Whereas:

- (1) Council Regulation (EU) 2020/123 ⁽²⁾ lays down quotas for 2020.
- (2) According to the information received by the Commission, catches of the stock of white Marlin in the Atlantic Ocean by vessels flying the flag of or registered in Spain have exhausted the quota allocated for 2020.
- (3) It is therefore necessary to prohibit certain fishing activities for that stock,

HAS ADOPTED THIS REGULATION:

Article 1

Quota exhaustion

The fishing quota allocated to Spain for the stock of white marlin in the Atlantic Ocean for 2020 referred to in the Annex shall be deemed to be exhausted from the date set out in that Annex.

Article 2

Prohibitions

Fishing activities for the stock referred to in Article 1 by vessels flying the flag of or registered in Spain referred to in the Annex shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

Article 3

Entry into force

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

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

Done at Brussels, 27 March 2020.

For the Commission
Virginijus SINKEVIČIUS
On behalf of the President
Member of the Commission

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ Council Regulation (EU) 2020/123 of 27 January 2020 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters (OJ L 25, 30.1.2020, p. 1).

ANNEX

| | |
|--------------|---|
| No | 02/TQ/123 |
| Member State | Spain |
| Stock | WHM/ATLANT |
| Species | White marlin (<i>Tetrapturus albidus</i>) |
| Zone | Atlantic Ocean |
| Closing date | 1.1.2020 |

COMMISSION IMPLEMENTING REGULATION (EU) 2020/477**of 31 March 2020****amending Commission Implementing Regulation (EU) 2020/39 imposing a definitive anti-dumping duty on imports of peroxosulphates (persulphates) originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 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) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation') and in particular Articles 13(3) and 14(5) thereof,

Whereas:

1. PROCEDURE**1.1. Existing measures**

- (1) On 11 October 2007, the Council imposed, by Council Regulation (EC) No 1184/2007 ⁽²⁾, a definitive anti-dumping duty on imports of peroxosulphates originating, inter alia, in the People's Republic of China ('the original measures'). Two companies were granted market economy treatment (MET). One received an individual anti-dumping duty rate of 24,5 %. The other company, ABC Chemicals (Shanghai) Co., Ltd. (hereafter referred to as 'ABC Shanghai'), was found not to be dumping and therefore received an individual anti-dumping duty rate of 0 %. All other companies are subject to an anti-dumping duty rate of 71,8 %. The investigation that led to the original measures will be hereinafter referred to as 'the original investigation'.
- (2) On 17 December 2013, the Council, following an expiry review, extended the anti-dumping measures against imports from the People's Republic of China ('the PRC') by Council Regulation (EU) No 1343/2013 ('the extended measures') ⁽³⁾.
- (3) On 17 December 2018, following the publication of a notice of impending expiry of the measure in force ⁽⁴⁾, the Commission announced, by a notice published in the *Official Journal of the European Union* ⁽⁵⁾ ('the Notice of Initiation'), the initiation of a second expiry review of the measures pursuant to Article 11(2) of the basic Regulation.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21, as last amended by Regulation (EU) 2018/825 of the European Parliament and of the Council of 30 May 2018 amending Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union (OJ L 143, 7.6.2018, p. 1).

⁽²⁾ Council Regulation (EC) No 1184/2007 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of peroxosulphates (persulphates) originating in the United States of America, the People's Republic of China and Taiwan (OJ L 265, 11.10.2007, p. 1).

⁽³⁾ Council Implementing Regulation (EU) No 1343/2013 imposing a definitive anti-dumping duty on imports of peroxosulphates (persulphates) originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 (OJ L 338, 17.12.2013, p. 11).

⁽⁴⁾ Notice of the impending expiry of certain anti-dumping measures (OJ C 110, 23.3.2018, p. 29).

⁽⁵⁾ Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of peroxosulphates (persulphates) originating in the People's Republic of China (OJ C 454, 17.12.2018, p. 7).

- (4) On 17 January 2020, following its second expiry review, the Commission maintained the original measures by Commission Implementing Regulation (EU) 2020/39 ⁽⁶⁾. These measures will hereinafter be referred to as ‘the measures currently in force’.

1.2. *Ex-officio* initiation

- (5) In the first half of 2019, the Commission analysed available evidence on the patterns and channels of sales of peroxosulphates since the imposition of the original measures. Import statistics showed a change in the pattern of trade following the imposition of the definitive anti-dumping duty on the product concerned. Those statistics also showed that Chinese imports are now mainly entering the Union under the TARIC additional code for products manufactured by ABC Shanghai, and are not subject to anti-dumping duties. However, evidence in the possession of the Commission showed that ABC Shanghai was no longer producing peroxosulphates, so the change in the pattern of trade seemed to be due to channelling of exports. There seemed to be no due cause or economic justification for this channelling of exports other than the existing 0 % duty for ABC Shanghai.
- (6) Furthermore, the Commission had sufficient evidence that the remedial effects of the existing anti-dumping measures on peroxosulphates were being undermined both in terms of quantities and prices.
- (7) Finally, the Commission had sufficient evidence that the prices of exports of peroxosulphates by ABC Shanghai were currently dumped in relation to the normal value previously established.
- (8) The Commission therefore decided, after having informed the Member States, to initiate, on its own initiative, an investigation pursuant to Article 13 of the basic Regulation concerning the possible circumvention of the anti-dumping measures currently in force by the company ABC Shanghai and to make imports of peroxosulphates from ABC Shanghai subject to registration. The initiation of the investigation was announced by the publication of an Implementing Regulation in the *Official Journal of the European Union* on 26 September 2019 (‘the Initiating Regulation’) ⁽⁷⁾.

1.3. Investigation

- (9) The Commission informed the authorities of the People’s Republic of China (‘PRC’), the company ABC Shanghai and the Union industry about the initiation of the investigation. Interested parties were given the opportunity to make their views known in writing, as well as to request a hearing.
- (10) In addition, the Commission specifically requested ABC Shanghai to inform the Commission whether it wished to cooperate in the proceeding and fill in a questionnaire. On 8 October 2019, ABC Shanghai confirmed that it would cooperate with the Commission in order to prove that its practice and pattern of sales are economically and legally justified. Consequently, on 9 October 2019, a questionnaire was sent to it.
- (11) On 19 November 2019, the Commission received questionnaire replies from ABC Shanghai and its two related companies, i.e. Siancity Xiamen Co., Ltd (‘Siancity’) and Fujian Hongguan Chemical Corp (‘Hongguan’).
- (12) On 28 January 2020, the Commission informed all interested parties of the essential facts and considerations based on which it intended to make ABC Shanghai subject to the residual duty rate of 71,8 %. All parties were granted a period within which they could make comments on the disclosure.
- (13) On 12 February 2020, ABC Shanghai commented on the Commission’s disclosure. These comments were analysed and taken into account where appropriate. No other interested party submitted comments on the Commission’s disclosure.

⁽⁶⁾ Commission Implementing Regulation (EU) 2020/39 of 16 January 2020 imposing a definitive anti-dumping duty on imports of peroxosulphates (persulphates) originating in the People’s Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 (OJ L 13, 17.1.2020, p. 18).

⁽⁷⁾ Commission Implementing Regulation (EU) 2019/1584 initiating an investigation concerning possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No 1343/2013 on imports of peroxosulphates (persulphates) originating in the People’s Republic of China, and making such imports subject to registration (OJ L 246, 26.9.2019, p. 19).

1.4. Reporting period and investigation period

- (14) The investigation period covered the period from 1 January 2016 to 30 June 2019 (the 'IP'). For the IP data were collected to investigate, inter alia, the alleged change in the pattern of trade and the practice, process or work behind it. For the period from 1 July 2018 to 30 June 2019 (the reporting period or 'the RP'), more detailed data were requested in order to examine the possible undermining of the remedial effects of the measures in force and the existence of dumping.

2. RESULTS OF THE INVESTIGATION

2.1. General considerations

- (15) The Commission analysed, pursuant to Article 13(1) of the basic Regulation, (i) whether there was a change in the pattern of trade with respect to individual exporting producers in the PRC, (ii) whether this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty, (iii) whether there was evidence of injury or that the remedial effects of the duty were being undermined in terms of prices and/or quantities of the product under investigation, and (iv) whether there was evidence of dumping in relation to the normal values previously established for the like product.

2.2. Product concerned and product under investigation

- (16) The product concerned is peroxosulphates (persulphates), including potassium peroxydisulphate sulphate, currently falling under CN codes 2833 40 00 and ex 2842 90 80 (TARIC code 2842 90 80 20) and originating in the PRC ('the product concerned').
- (17) Peroxosulphates are used as an initiator or as an oxidising agent in a number of processes. Some examples include their use as polymerisation initiator in the production of polymers, as an etching agent in the production of printed circuit boards, or as a bleaching agent in hair cosmetics.
- (18) The product under investigation during this proceeding is the same as that defined in recital (16), currently falling under the same codes as the product concerned and imported under the TARIC additional code A820 ('the product under investigation').

2.3. Detailed findings of the investigation

2.3.1. Information received from national customs authorities

- (19) On 14 June 2019, the German customs authorities informed the Commission that the invoices of Siancity, a trader related to ABC Shanghai, systematically included a declaration certifying that the imported peroxosulphates had been produced by the company ABC Shanghai, and therefore the consignments were cleared for free circulation in Germany under the TARIC additional code A820. ⁽⁸⁾
- (20) On 2 September 2019, the French customs authorities informed the Commission that they had received an invoice dated 3 June 2019 from Siancity, including a declaration certifying that the imported peroxosulphates had been produced by the company ABC Shanghai.

2.3.2. The questionnaire reply from ABC Shanghai and its related companies Siancity and Hongguan

- (21) As mentioned in recital (11), on 19 November 2019, the Commission received questionnaire replies from ABC Shanghai and its two related companies, i.e. Siancity and Hongguan (hereafter 'ABC Group' and/or 'ABC Shanghai and its related companies'). The ABC Group also submitted, on the same day, a more detailed explanatory note, with some detailed preliminary comments on the initiation of this anti-circumvention proceeding.

⁽⁸⁾ Email dated 14 June 2019 from the German customs authorities to the European Commission.

- (22) The main elements of the statements in these documents can be summarised as follows:
- Before and in 2017, ABC Shanghai, which is located in Shanghai, was producing the product concerned.
 - In February 2017, one of the shareholders of ABC Shanghai acquired 20 % shareholding in Hongguan by contributing both cash and ABC Shanghai's production facilities. Hongguan is located in Fujian province, about 900 km from Shanghai. Since then, ABC Shanghai and Hongguan are related companies. The latter had been set up in November 2009 and was restructured into a joint stock company in December 2016.
 - Due to a series of enactments and modifications of the environmental protection laws, including an enactment to relocate dangerous chemical enterprises located in urban and residential areas, the controlling shareholder of ABC Shanghai was compelled to cease the production at its premises in Shanghai. It relocated the production to its related company Hongguan in Fujian province. ABC Shanghai ceased 'officially' its production on 31 December 2017 and became a trading company from 1 January 2018 onwards.
 - ABC Shanghai moved all its production facilities from its premises in Shanghai to the premises of its related company Hongguan in 2018 ⁽⁹⁾. Since 2018 ⁽¹⁰⁾, Hongguan produced and sold its peroxosulphates to ABC Shanghai, which in its turn is selling to its customers, including its related company Siancity, which is exporting the product under investigation to the Union market.
 - ABC Shanghai's decision and action were allegedly not meant to evade the measures in force.

2.3.3. Analysis of the submitted documents by ABC Shanghai and its related companies

- (23) ABC Shanghai was the legal entity specifically identified as an exporting producer in all regulations imposing anti-dumping duties on peroxosulphates originating in the PRC. It is subject to an anti-dumping duty rate of 0 %, applicable to imports under company-specific TARIC additional code A820 ⁽¹¹⁾.
- (24) Furthermore, the original investigation as well as the two expiry review Regulations, referred to in recitals (1), (2) and (4) provided that the application of any individual duty rate – including the 0 % duty rate of ABC Shanghai – would be conditional upon the presentation of a valid commercial invoice, bearing a declaration that the product concerned was manufactured by (company name and address) (TARIC additional code).
- (25) Following the initiation of the present anti-circumvention investigation, ABC Shanghai informed the Commission, for the first time, on 19 November 2019, that it did not itself manufacture anymore the product under investigation since it ceased its production at the end of 2017. Nevertheless, as mentioned below in recital (39) and on the basis of the statements referred to in recital (40) below, ABC Shanghai still exported at least more than 85 % of the total Chinese import volumes of the product under investigation in 2018 and the RP respectively.
- (26) Moreover, as part of its questionnaire reply, Siancity submitted on 19 November 2019 three invoices issued in 2018 to Union importers. These three invoices bear a declaration that the legal entity ABC Shanghai with the TARIC additional code A820, subject to 0 % duty rate, was the manufacturer of the product under investigation covered by the invoice, i.e. peroxosulphates.
- (27) The declarations on these three invoices, which led to the application of the 0 % anti-dumping duty rate, were incorrect. As mentioned in recital (22), ABC Shanghai 'officially' ceased its production at the end of 2017. It was, therefore, not the manufacturer of the peroxosulphates covered by the three invoices. Those imports should have been declared under the TARIC additional code for 'all other companies' and should have been subject to an anti-dumping duty rate of 71,8 %, that is, the anti-dumping duty rate applicable to all other companies not specifically having an individual anti-dumping duty rate.

⁽⁹⁾ No specific date was provided in the questionnaire reply.

⁽¹⁰⁾ No specific date was provided in the questionnaire reply.

⁽¹¹⁾ Commission Implementing Regulation (EU) 2020/39 of 16 January 2020 imposing a definitive anti-dumping duty on imports of peroxosulphates (persulphates) originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 (OJ L 13, 17.1.2020, p. 18).

- (28) Based on the above, the Commission concluded that ABC Shanghai and its related companies intentionally concealed the fact that the legal entity ABC Shanghai was not anymore manufacturing the product under investigation as from 2018, as well as the other significant changes in its group structure, to continue to be able to benefit from ABC Shanghai's individual anti-dumping duty rate of 0 % for imports of product manufactured by its related company Hongguan. That practice constitutes 'channelling', as ABC Shanghai's 0 % individual duty rate is used to 'channel' products produced by another company to the Union without paying the otherwise-applicable duty rate on those products.
- (29) ABC Shanghai and its related companies have not put forward any evidence that would demonstrate the existence of any due cause or economic justification for this practice other than the potential to avoid the levying of anti-dumping duties on exports of peroxosulphates produced by Hongguan to the Union.
- (30) Following disclosure, ABC Shanghai repeated that 'such change was exclusively propelled and driven by environment requirements, which compelled ABC Shanghai to relocate its entire production facilities outside Shanghai to a different place'. Its decision to relocate was thus necessary for continuing commercial operations and not as a means to circumvent the duty. It also observed that ABC Shanghai is a company run by a private person who had no knowledge of anti-dumping law, circumvention or any reporting obligation to the Commission.
- (31) The Commission rejected these arguments.
- (32) First, the change in 2018 cannot be qualified as a mere relocation. ABC Shanghai was the legal entity specifically identified as an exporting producer in the regulation imposing anti-dumping duties on peroxosulphates originating in the PRC. In 2017, one of the shareholders of ABC Shanghai bought shares of an existing company (Hongguan), already producing the product concerned. From early 2018 onwards, ABC Shanghai's production equipment had been moved to this different legal entity (Hongguan). Therefore, Hongguan became the manufacturer of the product under investigation and ABC Shanghai the trader.
- (33) Second, ABC Shanghai had received Market Economy Treatment ('MET'). Granting such treatment depended largely on the economic situation of the production plant at the legal entity in Shanghai. It can neither be assumed, nor has it been demonstrated, that the same conditions exist at the factory of Hongguan in the Fujian province. Therefore, Hongguan could not be treated as having taken over ABC Shanghai's duty rate, which was based on an MET finding.
- (34) Third, the application of its individual duty rate was conditional upon the presentation of a valid commercial invoice, bearing a declaration that the product concerned was manufactured by the legal entity ABC Shanghai. However, the legal entity ABC Shanghai was still identified as the manufacturer of the product under investigation on the import documentation provided to the customs authorities in the EU despite the fact that it was not the legal entity actually having manufactured the goods from early 2018 onwards. Consequently, the duty rate applicable to goods manufactured by ABC Shanghai was wrongfully applied to imports that had, as a matter of fact, been produced by a different legal entity and should have been subject to a higher duty rate.
- (35) Fourth, with regard to the argument that the private person running the operations of ABC Shanghai did not have any knowledge of anti-dumping law, the Commission recalled that intention is not a legal requirement to establish the existence of circumvention pursuant to Article 13(1) of the basic Regulation. In any case, the repeated declarations from Siancity to the EU customs authorities that ABC Shanghai was the exporting producer seem to indicate an understanding that only ABC Shanghai would profit from the 0 % duty. It will be for the appropriate authority in the EU to investigate whether there has been customs fraud concerning the declarations on the invoices from the ABC Group.
- (36) The Commission therefore maintained its finding that ABC Shanghai and its related companies had not put forward evidence that would demonstrate the existence of any due cause or economic justification for declaring ABC Shanghai as the manufacturer of imports of the product concerned other than avoiding the levying of a higher anti-dumping duty rate on its exports of peroxosulphates to the Union.

2.4. Change in the pattern of trade

2.4.1. Import volumes from China

- (37) Company-specific data are available in the 14(6) database, set up pursuant to Article 14(6) of the basic Regulation ('the 14(6) database'). This database gathers, among others, the data reported each month to the Commission by Member States on imports of products subject to anti-dumping measures also including company specific TARIC additional codes. The Commission therefore used data from the 14(6) database to identify the change in the pattern of trade by comparing exporting producers with different level of duties for the purpose this investigation. That data is in line with the non-verified data which were received as part of the questionnaire reply on 19 November 2019 (see recital 11).
- (38) The import volumes of the product under investigation accounted for more than 85 % of the total Chinese import volumes of the product concerned to the Union during the investigation period, including the RP, as reported by the 14(6) database.

2.4.2. Change in the pattern of trade in China

- (39) Table 1 below shows the volume of imports of the product concerned in (non-confidential) ranges from the PRC into the Union from 1 January 2016 to the end of the reporting period.

Table 1

Total import volumes from the PRC (in tonnes, ranges) into the Union

| | 2016 | 2017 | 2018 | RP |
|-------------------|------------------|------------------|------------------|-----------------|
| VOLUME OF IMPORTS | 2 300 – 3 000 | 3 600 – 4 200 | 4 200 – 4 800 | 4 000- 4 800 |

Source: 14(6) database.

- (40) The volume of total imports from the PRC increased systematically during the years 2016 until 2018. Moreover, despite a small decrease of import volumes during the RP compared to the year 2018, those values are still significantly higher than the ones during the years 2016 and 2017. As mentioned in recital (38), the import volumes of the product under investigation accounted for more than 85 % of the total Chinese import volumes of the product concerned to the Union during the investigation period.
- (41) As explained in sections 2.3.2 and 2.3.3, the exporting producer ABC Shanghai ceased its production at the end of 2017, and became a trader from 2018 onwards. Moreover, its related company Hongguan became the manufacturer of the product under investigation in early 2018.
- (42) Nevertheless, imports to the Union of the product under investigation attributed to the legal entity ABC Shanghai, were still made during 2018 and the RP after it had ceased production. The import volumes during 2018 and the RP under this TARIC additional code (A820) were at higher levels than during the years 2016 and 2017, when ABC Shanghai was still the manufacturer of the imported peroxosulphates into the Union. In parallel, imports under the TARIC additional code for 'all other producers' A999 decreased during the investigation period.
- (43) Following disclosure, ABC Shanghai argued that its change of pattern and sales was legitimately justified due to the imposed environment rules, and that it did had no other options than to relocate.
- (44) The Commission rejected this claim. As explained above in recital (32) the events of 2018 cannot be qualified as a simple relocation of the production facilities but constituted a change of the corporate structure after which another legal entity produced the product under investigation. In addition, the original investigation had established a duty rate of 0 % in respect of the legal entity ABC Shanghai, which had been based on market economy treatment for that particular entity only (see recital 33 above). ABC Shanghai should therefore have informed the Commission of this change to allow it to examine the consequences, if any of that change for the application of anti-dumping measures to imports of the product under investigation by the new production company. However, ABC Shanghai chose not to do so.

2.4.3. Nature of the circumvention practice in China

- (45) Article 13(1) of the basic Regulation requires that the change in the pattern of trade stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty. The practice, process or work includes, inter alia, the reorganisation by exporters or producers of their patterns and channels of sales in the country subject to measures in order to have their products exported to the Union through producers benefiting from an individual duty lower than that applicable to the products of the manufacturers.
- (46) As explained in section 2.3, the Commission found that ABC Shanghai and its related companies engaged in circumvention through channelling. Although Hongguan did not have its own company-specific additional code, it started to export large volumes of the product concerned from 2018 onwards into the Union under ABC Shanghai's company-specific TARIC additional code.
- (47) The import volumes into the Union under ABC Shanghai's company-specific TARIC additional code (A820) represent more than 85 % of the total import volumes into the Union during 2018 and the reporting period, as reported by the 14(6) database. However, the legal entity ABC Shanghai was not the producer of those import volumes, but Hongguan was.
- (48) The changes in trade flows to the Union constitute a change in the pattern of trade between the related companies Hongguan (the manufacturer of the product under investigation from 2018 onwards) and ABC Shanghai (the manufacturer of the product under investigation until the end of 2017) in the country subject to measures and the Union, which stems from a practice, process or work for which the investigation did not bring to light any due cause or economic justification other than the avoidance of the residual or the higher duty in force on peroxosulphates originating in the PRC.
- (49) In light of the considerations above, the Commission established that channelling practices of the product under investigation were taking place.

2.5. Insufficient due cause or economic justification other than the imposition of the anti-dumping duty

- (50) As explained in recitals 28-29, the investigation did not bring to light any due cause or economic justification for the channelling practices by the parties concerned other than the avoidance of the higher duty in force on Hongguan's imports of peroxosulphates originating in the PRC.

2.6. Evidence of dumping

- (51) In accordance with Article 13(1) of the basic Regulation, the Commission examined whether there was evidence of dumping in relation to the normal value previously established for the product concerned.
- (52) To establish normal value, the Commission decided to use the data from the latest investigation leading to the measures currently in force, namely the *ex works* normal value per product type established in section 3.1.4 of Implementing Regulation (EU) 2020/39.
- (53) The export price per product type was based on the data provided by Siancity, the related trader within the ABC Group, which was contained in the questionnaire reply received on 19 November 2019. Those export prices were adjusted to bring them to an *ex works* value.
- (54) The average normal value per product type was then compared with the weighted average export prices per product type during the RP.
- (55) Since these export prices for all product types were below the normal value for these product types, the existence of dumping was confirmed for the product under investigation.

2.7. Undermining the remedial effect of the anti-dumping duty

- (56) Finally, the Commission examined, in accordance with Article 13(1) of the basic Regulation, whether the imports of the product under investigation had, in terms of quantities and prices, undermined the remedial effects of the measures currently in force.

- (57) In recital 109 of Implementing Regulation (EU) 2020/39 the Commission established that the Union consumption amounted to between 37 000 and 43 000 tonnes during the expiry review investigation period (covering the period from 1 October 2017 to 30 September 2018), which is the most recent figure on Union consumption the Commission has in its possession. The market share of imports made under the company-specific TARIC additional code A820 during the RP according to the 14(6) database is more than 10 % of the total Union market, which is an important share of the market.
- (58) Regarding prices, an average non-injurious price was not established in the latest investigation leading to the measures currently in force. Therefore, the Commission found it appropriate to use the average cost of production of the Union industry, since such cost is lower than an average non-injurious price. The average cost of production of the Union industry – as established in the latest investigation leading to the measures currently in force – was compared with the weighted average CIF prices of the ABC Group found to be circumventing the measures during this investigation's RP as reported in the 14(6) database.
- (59) Since the CIF prices were below the average cost of production of the Union industry, the circumventing imports were undermining the remedial effects of the duty in terms of prices.
- (60) The Commission therefore concluded that the channelling practices described above undermined the remedial effects of the measures currently in force both in terms of quantities and prices.

3. MEASURES

- (61) Given the above, the Commission concluded that the definitive anti-dumping duty imposed on imports of peroxosulphates originating in the PRC has been circumvented by means of channelling practices via ABC Shanghai, which is subject to a 0 % anti-dumping duty.
- (62) Pursuant to the second subparagraph of Article 13(1) of the basic Regulation, the anti-dumping duty on imports of the product concerned originating in the PRC applicable to 'all other companies' should therefore be extended to imports of the same product declared to be manufactured by ABC Shanghai (i.e. the product under investigation), as they are actually being produced by Hongguan, which is not subject to any individual duty rate (but, instead, subject to the 'all other companies' rate).
- (63) Articles 13(3) and 14(5) of the basic Regulation provide that any extended measures should apply to imports, which entered the Union under registration imposed by the initiating Regulation. Therefore, duties should be collected on the registered imports of peroxosulphates originating in the PRC that were imported into the Union under the TARIC additional code A820 during the period of registration of imports. The amount of anti-dumping duties to be retroactively collected should be the residual duty of 71,8 %.

4. DISCLOSURE

- (64) The Commission informed all interested parties of the essential facts and considerations leading to the above conclusions and invited them to comment. The oral and written comments submitted by the parties were taken into consideration where appropriate.
- (65) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation.

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive anti-dumping duty of 71,8 % applicable to 'all other companies' imposed by Article 1(2) of Commission Implementing Regulation (EU) 2020/39 on imports of peroxosulphates (persulphates), including potassium peroxymonosulphate sulphate, currently falling under CN codes 2833 40 00 and ex 2842 90 80 (TARIC code 2842 90 80 20) and originating in the People's Republic of China, is as of 27 September 2019 extended to imports declared as manufactured by the company ABC Chemicals (Shanghai) Co., Ltd under TARIC additional code A820. Its TARIC additional code A820, as mentioned in Article 1(2) of Commission Implementing Regulation (EU) 2020/39, shall be maintained.

2. The table in Article 1(2) of Implementing Regulation (EU) 2020/39 is hereby replaced by the following table:

| Company | Duty (%) | TARIC Additional Code |
|---|----------|-----------------------|
| ABC Chemicals (Shanghai) Co., Ltd, Shanghai | 71,8 % | A820 |
| United Initiators Shanghai Co., Ltd | 24,5 % | A821 |
| All other companies | 71,8 % | A999 |

3. The duty extended by paragraph 1 of this Article shall be collected on imports registered in accordance with Article 2 of Implementing Regulation (EU) 2019/1584 of 26 September 2019 and Articles 13(3) and 14(5) of Regulation (EU) 2016/1036, for the company ABC Chemicals (Shanghai) Co., Ltd.

4. The amount of anti-dumping duties to be retroactively collected shall be that resulting from applying the anti-dumping duty of 71,8 % applicable to 'all other companies'. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

Customs authorities are hereby directed to discontinue the registration of imports, established in accordance with Article 2 of Commission Implementing Regulation (EU) 2019/1584 of 26 September 2019.

Article 3

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

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

Done at Brussels, 31 March 2020.

For the Commission
The President
Ursula VON DER LEYEN

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