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[1] Text with EEA relevance.

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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.

The titles of all other acts are printed in bold type and preceded by an asterisk.

[1] Text with EEA relevance.

I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2021/847 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 20 May 2021

establishing the 'Fiscalis' programme for cooperation in the field of taxation and repealing Regulation (EU) No 1286/2013

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 114 and 197 thereof,

Having regard to the proposal from the European Commission,

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

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

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

Whereas:

(1) The Fiscalis 2020 programme, which was established by Regulation (EU) No 1286/2013 of the European Parliament and of the Council ([3]) and is implemented by the Commission in cooperation with the Member States and associated countries, as well as its predecessor programmes, have significantly contributed to facilitating and enhancing cooperation between tax authorities within the Union. The added value of those programmes, including as regards the protection of the financial and economic interests of the Member States and of the taxpayer, has been recognised by the tax authorities of the participating countries. The challenges for the next decade can only be tackled if Member States look beyond the borders of their administrative territories and cooperate intensively with their counterparts.

(2) The Fiscalis 2020 programme offers Member States a Union framework within which to develop cooperation activities. That framework is more cost-effective than if each Member State were to set up individual cooperation frameworks on a bilateral or multilateral basis. It is therefore appropriate to ensure the continuation of the Fiscalis 2020 programme by establishing a new programme in the same area, the Fiscalis programme (the 'Programme').

(3) In providing a framework for actions which supports the internal market, fosters the competitiveness of the Union and protects the financial and economic interests of the Union and its Member States, the Programme should contribute to: supporting tax policy and the implementation of Union law relating to taxation; preventing and fighting tax fraud, tax evasion, aggressive tax planning and double non-taxation; preventing and reducing

([1]) OJ C 62, 15.2.2019, p. 118.

([2]) Position of the European Parliament of 17 April 2019 (not yet published in the Official Journal) and position of the Council at first reading of 10 May 2021 (not yet published in the Official Journal). Position of the European Parliament of 19 May 2021 (not yet published in the Official Journal).

([3]) Regulation (EU) No 1286/2013 of the European Parliament and of the Council of 11 December 2013 establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC (OJ L 347, 20.12.2013, p. 25).

unnecessary administrative burdens for citizens and businesses in cross-border transactions; supporting fairer and more efficient tax systems; achieving the full potential of the internal market and fostering fair competition in the Union; supporting a joint Union approach in international fora; supporting the administrative capacity building of tax authorities including by modernising reporting and auditing techniques; as well as supporting training the staff of tax authorities in that regard.

(4) This Regulation lays down a financial envelope for the Programme, which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources ([4]), for the European Parliament and the Council during the annual budgetary procedure.

(5) In order to support the process of accession and association by third countries, the Programme should be open to the participation of acceding countries and candidate countries as well as potential candidates and partner countries of the European Neighbourhood Policy if certain conditions are fulfilled. It might also be open to other third countries, in accordance with the conditions laid down in specific agreements between the Union and those countries covering their participation in any Union programme.

(6) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ([5]) (the 'Financial Regulation') applies to this Programme. The Financial Regulation lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts.

(7) The actions under the Fiscalis 2020 programme have proven to be adequate and should therefore be maintained. In order to provide more simplicity and flexibility in the execution of the Programme and thereby better deliver on its objectives, the actions should be defined only in terms of overall categories, with a list of illustrative examples of concrete activities, such as meetings and similar ad hoc events, including, where appropriate, presence in administrative offices and participation in administrative enquiries, project-based structured collaboration, including, where appropriate, joint audits, and IT capacity building, including, where appropriate, access by tax authorities to interconnected registers. Where appropriate, actions should also aim to address priority topics in order to fulfil the objectives of the Programme. Through cooperation and capacity building, the Programme should also promote and support the uptake and leverage of innovation to further improve the capabilities to deliver on the core priorities of taxation.

(8) Given the increasing mobility of taxpayers, the number of cross-border transactions, the internationalisation of financial instruments and the resulting increased risk of tax fraud, tax evasion and aggressive tax planning, all of which go well beyond Union borders, adaptations of or extensions to European electronic systems for cooperation with third countries not associated with the Programme and international organisations could be of interest to the Union or to Member States. In particular, such adaptations or extensions would avoid the administrative burden and the costs inherent in developing and operating two similar electronic systems for Union and international exchanges of information. Therefore, when duly justified by that interest, such adaptations or extensions should be eligible for funding under the Programme.

(9) Considering the importance of globalisation and the importance of combating tax fraud, tax evasion and aggressive tax planning, the Programme should provide for the possibility of involving external experts within the meaning of Article 238 of the Financial Regulation. Such external experts should mainly be representatives of governmental authorities, including governmental authorities of non-associated third countries, including least developed countries, as well as representatives of international organisations, of economic operators, of taxpayers and of civil society. In that context, a least developed country should be understood to mean a third country or non-EU

([4]) OJ L 433 I, 22.12.2020, p. 28.

([5]) 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).

territory that is eligible to receive official development assistance in accordance with the relevant list made publicly available by the Development Assistance Committee of the Organisation for Economic Cooperation and Development and based on the United Nations' definition of least developed countries. The selection of experts in expert groups should be based on the Commission decision of 30 May 2016 establishing horizontal rules on the creation and operation of Commission expert groups. As regards experts appointed in their personal capacity for acting independently in the public interest, the Commission should ensure that those experts are impartial, that they have no possible conflicts of interest with their professional responsibilities and that information about their selection and participation is publicly available.

(10) In line with the Commission's commitment to ensure the coherence and simplification of funding programmes, set out in its Communication of 19 October 2010 on the EU Budget Review, resources should be shared with other Union funding instruments if the actions envisaged under the Programme pursue objectives that are common to various funding instruments, excluding double financing. Actions under the Programme should ensure coherence in the use of the Union's resources supporting tax policy and tax authorities.

(11) With a view to cost-effectiveness, the Programme should exploit possible synergies with other Union measures in related fields, such as the Customs Programme established by Regulation (EU) 2021/444 of the European Parliament and of the Council ([6]), the Union Anti-Fraud Programme established by Regulation (EU) 2021/785 of the European Parliament and of the Council ([7]), the Single Market Programme established by Regulation (EU) 2021/690 of the European Parliament and of the Council ([8]), the Recovery and Resilience Facility established by Regulation (EU) 2021/241 of the European Parliament and of the Council ([9]) and the Technical Support Instrument established by Regulation (EU) 2021/240 of the European Parliament and of the Council ([10]).

(12) Information Technology (IT) capacity-building actions are set to attract the greatest part of the budget under the Programme. Therefore, specific provisions should describe and distinguish between the common and national components of the European electronic systems. Moreover, the scope of actions and the responsibilities of the Commission and of Member States should be clearly defined. To the extent possible, there should be interoperability between the common and national components of the European electronic systems, and synergies with other electronic systems of relevant Union programmes.

(13) Currently, there is no requirement to draw up a Multi-Annual Strategic Plan for Taxation for creating a coherent and interoperable electronic environment for taxation in the Union. In order to ensure that IT capacity-building actions are coherent and coordinated, the Programme should provide for the requirement to draw up such a plan, a planning tool which should be compliant with and should not go beyond the obligations arising from the relevant legal acts of the Union.

(14) This Regulation should be implemented by means of work programmes. In view of the mid- to long-term nature of the objectives pursued and building on experience gained over time, it should be possible for work programmes to cover several years. A shift from annual to multiannual work programmes, which should each cover no more than three years, would reduce the administrative burden on both the Commission and Member States.

([6]) Regulation (EU) 2021/444 of the European Parliament and of the Council of 11 March 2021 establishing the Customs programme for cooperation in the field of customs and repealing Regulation (EU) No 1294/2013 (OJ L 87, 15.3.2021, p. 1).

([7]) Regulation (EU) 2021/785 of the European Parliament and of the Council of 29 April 2021 establishing the Union Anti-Fraud Programme and repealing Regulation (EU) No 250/2014 (OJ L 172, 17.5.2021, p. 110).

([8]) Regulation (EU) 2021/690 of the European Parliament and of the Council of 28 April 2021 establishing a programme for the internal market, competitiveness of enterprises, including small and medium-sized enterprises, the area of plants, animals, food and feed, and European statistics (Single Market Programme) and repealing Regulations (EU) No 99/2013, (EU) No 1287/2013, (EU) No 254/2014 and (EU) No 652/2014 (OJ L 153, 3.5.2021, p. 1).

([9]) Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

([10]) Regulation (EU) 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument (OJ L 57, 18.2.2021, p. 1).

(15) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council. ([11])

(16) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ([12]), this Programme should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of the Programme on the ground. The interim and final evaluations, which should be performed no later than four years after the start of the implementation and the completion of the Programme, respectively, should contribute to the decision-making process of the next multiannual financial frameworks. The interim and final evaluations should also address the remaining obstacles to the achievement of the Programme's objectives and make suggestions for best practices. In addition to the interim and final evaluations, as part of the performance reporting system, annual progress reports should be issued to monitor the progress made. Those reports should include a summary of the lessons learnt and, where appropriate, of the obstacles encountered, in the context of the activities of the Programme that have taken place in the year in question.

(17) The Commission should organise regular seminars of tax authorities at which representatives of beneficiary Member States discuss issues and suggest potential improvements related to the objectives of the Programme, including the exchange of information between tax authorities.

(18) In order to respond appropriately to changes in tax policy priorities, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of amending the list of indicators to measure the achievement of the specific objectives of the Programme and supplementing this Regulation with provisions on the establishment of a monitoring and evaluation framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(19) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ([13]) and Council Regulations (EC, Euratom) No 2988/95 ([14]), (Euratom, EC) No 2185/96 ([15]) and (EU) 2017/1939 ([16]), the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The European Public Prosecutor's Office

([11]) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

([12]) OJ L 123, 12.5.2016, p. 1.

([13]) Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

([14]) Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

([15]) Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

([16]) Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

(EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council ([17]). In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

(20) Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the Agreement on the European Economic Area ([18]), which provides for the implementation of the programmes on the basis of a decision adopted under that Agreement. Third countries may also participate on the basis of other legal instruments. A specific provision should be introduced in this Regulation requiring third countries to grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences.

(21) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.

(22) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the cost of controls, the administrative burden, and the expected risk of non-compliance. That choice should include the consideration of the use of lump sums, flat-rate financing and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation. The eligible costs should be determined by reference to the nature of the eligible actions. The coverage of travel, accommodation and subsistence costs for participants in meetings and similar ad hoc events and the coverage of costs linked to the organisation of events is of utmost importance in order to ensure the participation of national experts and tax authorities in joint actions.

(23) In accordance with Article 193(2) of the Financial Regulation, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, the costs incurred prior to the date of submission of the grant application are not eligible, except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to Union's interests, it should be possible to provide in the financing decision, during a limited period of time at the beginning of the multi-annual financial framework 2021-2027, and only in duly justified cases, for eligibility of activities and costs from the beginning of the 2021 financial year, even if they were implemented and incurred before the grant application was submitted.

(24) Since the objective of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(25) Regulation (EU) No 1286/2013 should therefore be repealed.

(26) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the multi-annual financial framework 2021-2027, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021,

([17]) Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

([18]) OJ L 1, 3.1.1994, p. 3.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

General Provisions

Article 1

Subject matter

This Regulation establishes the 'Fiscalis' programme for cooperation in the field of taxation (the 'Programme') for the period from 1 January 2021 to 31 December 2027.

This Regulation lays down the objectives of the Programme, its budget for the period 2021-2027, the forms of Union funding and the rules for providing such funding.

Article 2

Definitions

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

(1) 'taxation' means matters, including design, administration, enforcement and compliance, relating to the following taxes and duties:

(a) value added tax as provided for in Council Directive 2006/112/EC ([19]);

(b) excise duties on alcohol as provided for in Council Directive 92/83/EEC ([20]);

(c) excise duties on tobacco products as provided for in Council Directive 2011/64/EU ([21]);

(d) taxes on energy products and electricity as provided for in Council Directive 2003/96/EC ([22]);

(e) other taxes and duties referred to in point (a) of Article 2(1) of Council Directive 2010/24/EU ([23]) insofar as they are relevant for the internal market and for administrative cooperation between Member States;

(2) 'tax authorities' means public authorities and other bodies which are responsible for taxation or tax-related activities;

(3) 'European electronic system' means an electronic system that is necessary for taxation and for the execution of the missions of tax authorities.

Article 3

Programme objectives

1. The general objectives of the Programme are to support tax authorities and taxation in order to enhance the functioning of the internal market, to foster the competitiveness of the Union and fair competition in the Union, to protect the financial and economic interests of the Union and its Member States, including protecting those interests from tax fraud, tax evasion and tax avoidance, and to improve tax collection.

([19]) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).
([20]) Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages (OJ L 316, 31.10.1992, p. 21).
([21]) Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco (OJ L 176, 5.7.2011, p. 24).
([22]) Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).
([23]) Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).

2. The specific objectives of the Programme are to support tax policy and the implementation of Union law relating to taxation, to foster cooperation between tax authorities, including exchange of tax information, and to support administrative capacity building including as regards human competency and the development and operation of European electronic systems.

Article 4

Budget

1. The financial envelope for the implementation of the Programme for the period 2021 – 2027 shall be EUR 269 000 000 in current prices.

2. The amount referred to in paragraph 1 may also cover expenses for preparation, monitoring, control, audit, evaluation and other activities for managing the Programme and evaluating the achievement of its objectives. Moreover, it may cover expenses relating to studies, meetings of experts, information and communication actions, in so far as they are related to the objectives of the Programme, as well as expenses linked to information technology networks that focus on information processing and exchange, including corporate information technology tools and other technical and administrative assistance needed in connection with the management of the Programme.

Article 5

Third countries associated with the Programme

The Programme shall be open to the participation of the following third countries:

(a) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions, or similar agreements and in accordance with the specific conditions laid down in agreements between the Union and those countries;

(b) European Neighbourhood Policy countries, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions, or in similar agreements and in accordance with the specific conditions laid down in agreements between the Union and those countries, provided that those countries have reached a sufficient level of approximation of the relevant legislation and administrative methods to those of the Union;

(c) other third countries, in accordance with the conditions laid down in a specific agreement covering the participation of the third country in any Union programme, provided that the agreement:

  (i) ensures a fair balance as regards the contributions of and benefits for the third country participating in the Union programmes;

  (ii) lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes, and their administrative costs;

  (iii) does not confer on the third country any decision-making power in respect of the Programme;

  (iv) guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.

The contributions referred to in point (c)(ii) of the first paragraph shall constitute assigned revenues in accordance with Article 21(5) of the Financial Regulation.

Article 6

Implementation and forms of Union funding

1. The Programme shall be implemented in direct management in accordance with the Financial Regulation.

2. The Programme may provide funding in any of the forms laid down in the Financial Regulation, in particular through grants, prizes, procurement and the reimbursement of travel and subsistence expenses incurred by external experts.

CHAPTER II

Eligibility

Article 7

Eligible actions

1. Only actions implemented in order to attain the objectives set out in Article 3 shall be eligible for funding.

2. The actions referred to in paragraph 1 shall include the following:

(a) meetings and similar ad hoc events;

(b) project-based structured collaboration;

(c) IT capacity-building actions, in particular the development and operation of European electronic systems;

(d) human competency-building and other capacity-building actions;

(e) support actions and other actions, including:

(i) the preparation of studies and other relevant written material;

(ii) innovation activities, in particular proof-of-concepts, pilot projects and prototyping initiatives;

(iii) jointly developed communication actions;

(iv) any other relevant actions provided for in the work programmes referred to in Article 13 which are necessary for attaining the objectives set out in Article 3 or are in support of those objectives.

Annex I contains a non-exhaustive list of possible forms of relevant actions as referred to in points (a), (b) and (d) of the first subparagraph.

Annex III contains a non-exhaustive list of priority topics for actions.

3. Actions consisting in the development and operation of adaptations of or extensions to the common components of the European electronic systems for cooperation with third countries not associated with the Programme or international organisations shall be eligible for funding when they are of interest to the Union or to Member States. The Commission shall put in place the necessary administrative arrangements, which may provide for the third parties concerned to contribute financially to those actions.

4. Where an IT capacity-building action as referred to in point (c) of the first subparagraph of paragraph 2 of this Article concerns the development and operation of a European electronic system, only the costs related to the responsibilities conferred on the Commission pursuant to Article 11(2) shall be eligible for funding under the Programme. Member States shall bear the costs related to the responsibilities conferred on them pursuant to Article 11(3).

Article 8

Participation of external experts

1. Where beneficial for the completion of an action implementing the Programme objectives set out in Article 3, representatives of governmental authorities, including those from third countries not associated with the Programme, including from least developed countries, and, where relevant, representatives of international and other relevant organisations, representatives of economic operators, representatives of organisations representing economic operators and representatives of civil society may take part as external experts in such an action.

2. Costs incurred by the external experts referred to in paragraph 1 of this Article shall be eligible for reimbursement under the Programme in accordance with Article 238 of the Financial Regulation.

3. The external experts referred to in paragraph 1 shall be selected by the Commission, including from experts proposed by the Member States, on the basis of their skills, experience and knowledge relevant to the specific action, on an ad hoc basis, based on needs.

The Commission shall assess, inter alia, the impartiality of those external experts and the absence of conflict of interests with their professional responsibilities.

CHAPTER III

Grants

Article 9

Award, complementarity and combined funding

1. Grants under the Programme shall be awarded and managed in accordance with Title VIII of the Financial Regulation.

2. An action that has received a contribution from another Union programme may also receive a contribution under the Programme, provided that the different contributions do not cover the same costs. The rules of each contributing Union programme shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action, and the support from different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.

3. In accordance with point (f) of the first paragraph of Article 195 of the Financial Regulation, grants shall be awarded without a call for proposals where the eligible entities are tax authorities of the Member States and of third countries associated with the Programme as referred to in Article 5 of this Regulation, provided that the conditions set out in Article 5 of this Regulation are met.

4. In accordance with point (a) of the second subparagraph of Article 193(2) of the Financial Regulation, in duly justified cases specified in the financing decision and for a limited period, activities supported under this Regulation and the underlying costs may be considered eligible as of 1 January 2021, even if they were implemented and incurred before the grant application was submitted.

Article 10

Co-financing rate

1. By way of derogation from Article 190 of the Financial Regulation, the Programme may finance up to 100 % of the eligible costs of an action.

2. The applicable co-financing rate where actions require the awarding of grants shall be set out in the multiannual work programmes referred to in Article 13.

CHAPTER IV

Specific Provisions for IT Capacity-Building Actions

Article 11

Responsibilities

1. The Commission and the Member States shall jointly ensure the development and operation of the European electronic systems listed in the Multi-Annual Strategic Plan for Taxation referred to in Article 12 (the 'MASP-T'), including design, specification, conformance testing, deployment, maintenance, evolution, security, quality assurance and quality control of those systems.

2. The Commission shall, in particular, ensure the following:

(a) the development and operation of the common components established under the MASP-T;

(b) the overall coordination of the development and operation of European electronic systems with a view to their operability, interconnectivity and continuous improvement and their synchronised implementation;

(c) the coordination of European electronic systems at Union level with a view to their promotion and implementation at national level;

(d) the coordination of the development and operation of European electronic systems as regards their interaction with third parties, excluding actions designed to meet national requirements;

(e) the coordination of European electronic systems with other relevant actions at Union level relating to e-government.

3. Each Member State shall, in particular, ensure the following:

(a) the development and operation of national components established under the MASP-T;

(b) the coordination of the development and operation of the national components of European electronic systems at national level;

(c) the coordination of European electronic systems with other relevant actions at national level relating to e-government;

(d) the regular provision to the Commission of information regarding the measures it has taken to enable its authorities and economic operators to make full use of European electronic systems;

(e) the implementation of European electronic systems at national level.

Article 12

Multi-Annual Strategic Plan for Taxation

1. The Commission and the Member States shall draw up a Multi-Annual Strategic Plan for Taxation (MASP-T) and keep it up to date. The MASP-T shall be aligned with relevant legal acts of the Union. It shall list all tasks that are relevant for the development and operation of European electronic systems and shall classify each European electronic system, or part of such European electronic system, as:

(a) a common component, meaning a component of the European electronic systems developed at Union level, which is available for all Member States or has been identified by the Commission as common for reasons of efficiency, security and rationalisation;

(b) a national component, meaning a component of the European electronic systems developed at national level, which is available in the Member State that created it or contributed to its joint creation; or

(c) a combination of the components referred to in points (a) and (b).

2. The MASP-T shall also cover innovation and pilot actions, as well as the supporting methodologies and tools related to the European electronic systems.

3. Member States shall notify the Commission of the completion of each task allocated to them under the MASP-T. They shall also report regularly to the Commission on the progress of their tasks.

4. No later than 31 March of each year, Member States shall submit to the Commission annual progress reports on the implementation of the MASP-T in the period from 1 January to 31 December of the preceding year. Those annual reports shall be based on a pre-established format.

5. No later than 31 October of each year, the Commission shall draw up a consolidated report on the basis of the annual reports referred to in paragraph 4, assessing the progress made by the Commission and Member States in the implementation of the MASP-T, and shall make that report public.

CHAPTER V

Programming, Monitoring, Evaluation and Control

Article 13

Work programme

1. The Programme shall be implemented through multiannual work programmes as referred to in Article 110(2) of the Financial Regulation.

2. The multiannual work programmes shall be adopted by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 18(2).

Article 14

Monitoring and reporting

1. Indicators to report on the progress of the Programme towards the achievement of the specific objectives laid down in Article 3(2) are set out in Annex II.

2. To ensure the effective assessment of the Programme's progress towards the achievement of its objectives, the Commission is empowered to adopt delegated acts, in accordance with Article 17, to amend Annex II to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.

3. The performance reporting system shall ensure that data for monitoring the implementation and the results of the Programme are collected efficiently, effectively and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds.

Article 15

Evaluation

1. Evaluations of the Programme shall be carried out so that they feed into the decision-making process in a timely manner. The Commission shall make the evaluations publicly available.

2. Once there is sufficient information available about the implementation of the Programme, but no later than four years after the start of its implementation, the Commission shall carry out an interim evaluation of the Programme.

3. At the end of the implementation of the Programme, but no later than four years after the end of the period referred to in Article 1, the Commission shall carry out a final evaluation of the Programme.

4. The Commission shall communicate the conclusions of the interim and final evaluations, including its observations, to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of the Regions.

Article 16

Protection of the financial interests of the Union

Where a third country participates in the Programme by means of a decision adopted pursuant to an international agreement or on the basis of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, as provided for in Regulation (EU, Euratom) No 883/2013.

CHAPTER VI

Exercise of the delegation and Committee Procedure

Article 17

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 14(2) shall be conferred on the Commission until 31 December 2028.

3. The delegation of power referred to in Article 14(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 14(2) shall enter into force if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 18

Committee procedure

1. The Commission shall be assisted by a committee referred to as the 'Fiscalis Programme Committee'. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER VII

Information, Communication and Publicity

Article 19

Information, communication and publicity

1. The recipients of Union funding shall acknowledge the origin of those funds and ensure the visibility of the Union funding, in particular when promoting the actions and their results, by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.

2. The Commission shall implement information and communication actions relating to the Programme, to actions taken pursuant to the Programme and to the results obtained. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives referred to in Article 3.

CHAPTER VIII

Transitional and Final Provisions

Article 20

Repeal

Regulation (EU) No 1286/2013 is repealed with effect from 1 January 2021.

Article 21

Transitional provisions

1. This Regulation shall not affect the continuation of or modification of actions initiated pursuant to Regulation (EU) No 1286/2013, which shall continue to apply to those actions until their closure.

2. The financial envelope for the Programme may also cover the technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted pursuant to Regulation (EU) No 1286/2013.

3. If necessary, appropriations may be entered in the Union budget beyond 2027 to cover the expenses provided for in Article 4(2), to enable the management of actions not completed by 31 December 2027.

Article 22

Entry into force and application

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

It shall apply from 1 January 2021.

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

Done at Brussels, 20 May 2021.

For the European Parliament	*For the Council*
The President	*The President*
D. M. SASSOLI	A.P. ZACARIAS

ANNEX I

NON-EXHAUSTIVE LIST OF POSSIBLE FORMS OF ACTIONS REFERRED TO IN POINTS (A), (B) AND (D) OF THE FIRST SUBPARAGRAPH OF ARTICLE 7(2)

Actions referred to in points (a), (b) and (d) of the first subparagraph of Article 7(2) may take the following forms, among others.

(1) as regards meetings and similar ad hoc events:

— seminars and workshops that are generally attended by participants from all participating countries, at which presentations are made and participants engage in intensive discussions on and activities relating to a particular subject,

— working visits that are organised to enable officials to acquire or increase their expertise or knowledge as regards tax policy,

— presence in administrative offices and participation in administrative enquiries;

(2) as regards project-based structured collaboration:

— project groups that are generally composed of representatives of a limited number of participating countries and are operational during a limited period of time for the purpose of pursuing a predefined objective with a precisely defined outcome, including coordination or benchmarking,

— task forces, namely structured forms of cooperation that have a permanent or non-permanent character and that pool expertise to perform tasks in specific domains or to carry out operational activities, possibly with the support of online collaboration services, administrative assistance and infrastructure and equipment facilities,

— multilateral or simultaneous control, consisting in the coordinated checking of the tax situation of one or more related taxable persons, that is organised by two or more participating countries, including at least two Member States, with common or complementary interests,

— joint audits, consisting in administrative enquiries into the tax situation of one or more related taxable persons carried out by a single audit team that is composed of two or more participating countries, including at least two Member States, with common or complementary interests,

— any other form of administrative cooperation established by Council Regulations (EU) No 904/2010 ([1]) or (EU) No 389/2012 ([2]) or Council Directives 2010/24/EU or 2011/16/EU ([3]);

(3) as regards human competency-building and other capacity-building actions:

— common training or development of e-learning to support the necessary professional skills and knowledge relating to tax,

— technical support aimed at improving administrative procedures, enhancing administrative capacity and improving the functioning and operations of tax administrations through initiating and sharing good practices.

([1]) Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268, 12.10.2010, p. 1).

([2]) Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004 (OJ L 121, 8.5.2012, p. 1).

([3]) Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

ANNEX II

INDICATORS REFERRED TO IN ARTICLE 14(1)

To report on the progress of the Programme towards the achievement of the specific objectives set out in Article 3(2), the following indicators shall be used.

A. Capacity Building (administrative, human and IT capacity)

(1) the Union Law and Policy Application and Implementation Index (the number of actions under the Programme organised in the context of the application and implementation of Union law and policy relating to taxation and the number of recommendations issued following those actions);

(2) the Learning Index (the number of e-learning modules used, the number of officials trained and the quality score given by participants);

(3) the availability of European electronic systems (in time percentage terms);

(4) the availability of the Common Communication Network (in time percentage terms);

(5) an index of IT-simplified procedures for the tax authorities and economic operators (the number of registered economic operators, the number of applications and the number of consultations in the different electronic systems funded by the Programme);

B. Knowledge sharing and networking

(6) the Collaboration Robustness Index (the degree of networking generated, the number of face-to-face meetings and the number of online collaboration groups);

(7) the Best Practices and Guideline Index (the number of actions under the Programme organised in this area, and the percentage of tax authorities that made use of a working practice/guideline developed with the support of the Programme).

ANNEX III

NON-EXHAUSTIVE LIST OF POSSIBLE PRIORITY TOPICS FOR ACTIONS REFERRED TO IN ARTICLE 7

In line with the specific and general objectives of the Programme, the actions referred to in Article 7 may focus, among others, on the following priority topics:

(1) supporting the implementation of Union law relating to taxation, including training of staff in that regard, and helping to identify possible ways to improve administrative cooperation between tax authorities, including assistance for the recovery of claims relating to taxes;

(2) supporting the effective exchange of information, including group requests, the development of standard IT formats, the access by tax authorities to beneficial ownership information and the improvement of the use of the information received;

(3) supporting the effective operation of mechanisms of administrative cooperation and exchange of best practices between tax authorities, including best practices on recovery of claims relating to taxes;

(4) supporting digitalisation and updating of methodologies in tax authorities;

(5) supporting the exchange of best practices for combating value added tax fraud.

II

(Non-legislative acts)

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) 2021/848

of 27 May 2021

implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011 [1], and in particular Article 32 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) On 18 January 2012 the Council adopted Regulation (EU) No 36/2012.

(2) On the basis of a review of the measures set out in Regulation (EU) No 36/2012, the entries for 25 natural persons and three entities in the list of natural and legal persons, entities or bodies set out in Annex II to Regulation (EU) No 36/2012 should be updated.

(3) The entries for five deceased individuals should be deleted from the list of natural and legal persons, entities or bodies set out in Annex II to Regulation (EU) No 36/2012.

(4) Annex II to Regulation (EU) No 36/2012 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EU) No 36/2012 is amended as set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 27 May 2021.

For the Council
The President
P. SIZA VIEIRA

[1] OJ L 16, 19.1.2012, p. 1.

ANNEX

Annex II to Regulation (EU) No 36/2012 is amended as follows:

(1) in Section A (Persons), the following entries are deleted:

115. General Ali Habib MAHMOUD;

153. Waleed AL MO'ALLEM;

180. Ahmad AL-QADRI;

274. Nader QALEI;

281. Mohammad Maen Zein Jazba AL-ABIDIN;

(2) in Section A (Persons), the following entries replace the corresponding entries in the list:

	Name	Identifying information	Reasons	Date of listing
‘14.	Brigadier General Mohammed BILAL (a.k.a. Lieutenant Colonel Muhammad Bilal)	Gender: male	As a senior officer in the Syrian Air Force Intelligence Service, he supports the Syrian regime and is responsible for the violent repression of the civilian population. He is also associated with the listed Scientific Studies Research Centre (SSRC).	21.10.2014
22.	Ihab MAKHLOUF (a.k.a. Ehab, Iehab) (ايهاب مخلوف)	Date of birth: 21.1.1973; Place of birth: Damascus, Syria; Passport no: N002848852; Gender: male	Leading businessman operating in Syria. He has business interests in several Syrian companies and entities, including Ramak Construction Co and Syrian International Private University for Science and Technology (SIUST). He is an influential member of the Makhlouf family and closely connected to the Assad family; cousin of President Bashar al-Assad. In 2020, Ehab Makhlouf took over Rami Makhlouf’s business activities and the Syrian government granted him the contracts to operate and manage the duty-free markets across the country.	23.5.2011
48.	Samir HASSAN (سمير حسن)	Gender: male	Leading businessperson operating in Syria, with interests and/or activities in multiple sectors of Syria’s economy. He holds interests in and/or has significant influence in the Amir Group and Cham Holding, two conglomerates with interests in the real estate, tourism, transport and finance sectors. President of the Syrian-Russian business council. Samir Hassan supports the Syrian regime’s war effort with cash donations. Samir Hassan is associated with persons benefitting from or supporting the regime. In particular, he is associated with Rami Makhlouf and Issam Anbouba, who have been designated by the Council and benefit from the Syrian regime.	27.9.2014
61.	George CHAOUI (جورج شاوي)	Gender: male	Member of the Syrian electronic army (territorial army intelligence service). Involved in the violent crackdown and call for violence against the civilian population across Syria.	14.11.2011
78.	Ali BARAKAT (a.k.a. Barakat Ali Barakat) (علي بركات; بركات علي بركات)	Gender: male	Military official involved in the violence in Homs. Currently serves in the 30th Mobile Infantry Division of the Republican Guard.	1.12.2011
96.	Brigadier General Jamal YUNES (a.k.a. Younes) (جمال يونس)	Position: Commander of the 555th Regiment; Gender: male	Gave orders to troops to shoot at protestors in Mo’adamiyeh. Head of the Military Security Committee in Hama in 2018.	23.1.2012

114.	Emad Abdul-Ghani SABOUNI (a.k.a. Imad Abdul Ghani Al Sabuni) (عماد عبدالغني صابوني)	Date of birth: 1964; Place of birth: Damascus, Syria; Gender: male	Former Minister of Telecommunications and Technology, in office until at least April 2014. As a former Government Minister, shares responsibility for the Syrian regime's violent repression of the civilian population. Appointed in July 2016 as the Head of Planning and International Cooperation Agency (PICC). The PICC is a government agency, affiliated to the Prime Ministry and produces, in particular, the five-year plans that provide the broad guidelines for the Government's economic and development policies.	27.2.2012
117.	Adnan Hassan MAHMOUD (عدنان حسن محمود)	Date of birth: 1966; Place of birth: Tartous, Syria; Gender: male	Former Syrian Ambassador to Iran until 2020. Former Minister of Information in power after May 2011. As a former Government Minister, shares responsibility for the Syrian regime's violent repression of the civilian population.	23.9.2011
132.	Brigadier General Abdul-Salam Fajr MAHMOUD (عبدالسلام فجر محمود)	Date of birth: 1959 Gender: male	Head of the Security Committee of the Southern Region since December 2020. Former Head of the Bab Tuma (Damascus) Branch of the Syrian Air Force Intelligence Service. Former Head of the Mezze Airport Air Force intelligence investigation branch. Responsible for the torture of opponents in custody. Under international arrest warrant for "complicity in acts of torture", "complicity in crimes against humanity" and "complicity in war crimes".	24.7.2012
134.	Colonel Qusay Ibrahim MIHOUB (قصي إبراهيم ميهوب)	Date of birth: 1961; Place of birth: Derghamo, Jableh, Lattakia, Syria; Gender: male	High-ranking officer at the Syrian Air Force Intelligence Service. Former Head of the Deraa branch of the air force's intelligence service (sent from Damascus to Deraa at the start of demonstrations there). Responsible for the torture of opponents in custody as well as the violent repression of peaceful protests in the southern region.	24.7.2012
137.	Brigadier General Ibrahim MA'ALA (a.k.a. Maala, Maale, Ma'la) معلى;معلا (ابراهيم)	Gender: male	Head of Branch 285 (Damascus) of the General Intelligence Directorate (replaced Brigadier General Hussam Fendi at the end of 2011). Responsible for the torture of opponents in custody.	24.7.2012
139.	Major General Hussam LUQA (a.k.a. Husam, Housam, Houssam; Louqa, Louca, Louka, Luka) (حسام لوقا)	Date of birth: 1964; Place of birth: Damascus, Syria; Gender: male	Former Head of the Security Committee of the Southern Region from 2018 to 2020. Former Head of the General Security Directorate. Major General. From April 2012 to 2.12.2018, was head of the Homs branch of the Political Security Directorate (succeeded Brigadier General Nasr al-Ali). Since 3.12.2018, head of the Political Security Directorate. Responsible for the torture of opponents in custody.	24.7.2012

140.	Brigadier General Taha TAHA (طه طه)	Gender: male	Deputy assistant to the Head of the Political Security Division. Former site manager of the Latakia branch of the Political Security Directorate. Responsible for the torture of opponents in custody.	24.7.2012
144.	Major General Ahmed AL-JARROUCHEH (a.k.a. Ahmad; al-Jarousha, al-Jarousheh, al-Jaroucha, al-Jarouchah, al-Jaroucheh) (احمد الجروشة)	Date of birth: 1957; Gender: male	Former head of the foreign branch of General Intelligence (Branch 279). As such, responsible for General Intelligence arrangements in Syrian embassies.	24.7.2012
146.	General Ghassan Jaoudat ISMAIL (a.k.a. Ismael) (غسان جودت اسماعيل)	Date of birth: 1960; Place of birth: Junaynat Ruslan – Darkoush, Tartous region, Syria; Gender: male	Head of the Syrian Air Force Intelligence Service since 2019. Former deputy director of the Air Force Intelligence Service and previously in charge of the missions branch of the Air Force Intelligence Service which, in cooperation with the special operations branch, manages the elite troops of the Air Force Intelligence Service, who play an important role in the repression conducted by the Syrian regime. As such, Ghassan Jaoudat Ismail is one of the top military leaders directly implementing the violent repression of opponents conducted by the Syrian regime as well as practices of disappearance of civilians.	24.7.2012
147.	Major General Amer AL-ACHI (a.k.a. Amer Ibrahim al-Achi; Amis al Ashi; Ammar Aachi; Amer Ashi) (عامر ابراهيم العشي)	Gender: male	Former Governor of the Sweida Governorate, appointed by President Bashar al-Assad in July 2016. Former Head of the intelligence branch of the Syrian Air Force Intelligence Service (2012-2016). Through his role in the Air Force Intelligence Service, Amer al-Achi is implicated in the repression of the Syrian opposition.	24.7.2012
156.	Hala Mohammad (a.k.a. Mohamed, Muhammad, Mohammed) AL NASSER (هاله محمد الناصر)	Date of birth: 1964; Place of birth: Raqqa, Syria; Gender: female	Former Minister of Tourism. As a former Government Minister, shares responsibility for the Syrian regime's violent repression of the civilian population.	16.10.2012
172.	Ali HADAR (a.k.a. HAIDAR)	Date of birth: 1962; Gender: male	Head of the National Reconciliation Agency and former State Minister for National Reconciliation Affairs. Chair of the Intifada wing of the Syrian Social Nationalist Party. As a former Government Minister, shares responsibility for the Syrian regime's violent repression of the civilian population.	16.10.2012

204.	Emad HAMSHO (a.k.a. Imad Hmisho; Hamchu; Hamcho; Hamisho; Hmeisho; Hemasho, حميشو) (حمشو عماد)	Address: Hamsho Building 31 Baghdad Street, Damascus, Syria; Gender: male	Occupies a senior management position in Hamsho Trading. As a result of his senior position in Hamsho Trading, a subsidiary of Hamsho International, which has been designated by the Council, he provides support to the Syrian regime. He is also associated with a designated entity, Hamsho International. He is also vice-president of the Syrian Council of Iron and Steel alongside designated regime businessmen such as Ayman Jaber. He is also an associate of President Bashar al-Assad.	7.3.2015
241.	Salam Mohammad AL-SAFFAF	Date of birth: 1979; Gender: female	Administrative Development Minister. Appointed in March 2017.	30.5.2017
265.	Mohamad Amer MARDINI (a.k.a. Mohammad Amer Mardini, Mohamed Amer MARDINI, Mohamad Amer AL-MARDINI, Mohamed Amer AL-MARDINI, Mohammad Amer AL-MARDINI)	Date of birth: 1959; Place of birth: Damascus, Syria; Gender: male	Former Minister of Higher Education in power after May 2011 (appointed 27.8.2014). As a former Government Minister, shares responsibility for the Syrian regime's violent repression of the civilian population.	21.10.2014
268.	Ghassan Ahmed GHANNAM (a.k.a. Major General Ghassan Ghannan, Brigadier General Ghassan Ahmad Ghanem)	Rank: Major General; Position: Commander of the 155th Missile Brigade; Gender: male	Member of the Syrian Armed Forces of the rank of Colonel and the equivalent or higher in post after May 2011. Major General and Commander of the 155th Missile Brigade. Associated with Maher al-Assad through his role in the 155th Missile Brigade. As Commander of the 155th Missile Brigade, he is supporting the Syrian regime and he is responsible for the violent repression of the civilian population. Responsible for firing scud missiles at various civilian sites between January and March 2013.	21.10.2014
285.	Samer FOZ (a.k.a. Samir Foz/Fawz; Samer Zuhair Foz; Samer Foz bin Zuhair) (سامر فوز)	Date of birth: 20 May 1973; Place of birth: Homs, Syria / Latakia, Syria; Nationalities: Syrian, Turkish;	Leading businessperson operating in Syria, with interests and activities in multiple sectors of Syria's economy, including a regime-backed joint venture involved in the development of Marota City, a luxury residential and commercial development. Samer Foz provides financial and other support to the Syrian regime, including funding the Military Security Shield Forces in Syria and brokering grain deals. He also benefits financially from access to commercial opportunities through the wheat trade and reconstruction projects as a result of his links to the regime.	21.1.2019

		Turkish passport number: U 09471711 (place of issue: Turkey; expiry date: 21.7.2024); Syrian national number: 06010274705 Address: Platinum Tower, office no. 2405, Jumeirah Lake Towers, Dubai, UAE Position: CEO of Aman Group; Gender: male Other information: Executive President of Aman Group. Subsidiaries: Foz for Trading, Al-Mohaimen for Transportation & Contracting. Aman Group is the private sector partner in joint venture Aman Damascus JSC with Damascus Cham Holding, in which Foz is an individual shareholder. Emmar Industries is a joint venture between Aman Group and the Hamisho Group, in which Foz has the majority stake and is the Chairman.		
291.	Amer FOZ (a.k.a. Amer Zuhair Fawz) (عامر فوز)	Date of birth: 11.3.1976; Nationality: Syrian; Saint Kitts and Nevis; National no: 06010274747; Passport no: 002-14-L169340 UAE resident card: 784-1976-7135283-5	Leading businessperson with personal and family business interests and activities in multiple sectors of the Syrian economy. He benefits financially from access to commercial opportunities and supports the Syrian regime. Between 2012 and 2019, he was General Manager of ASM International Trading LLC. He is also associated with his brother Samer Foz, who has been designated by the Council since January 2019 as a leading businessperson operating in Syria and for supporting or benefiting from the regime. Together with his brother, he implements a number of commercial projects, notably in the Adra al-Ummaliyya area (Damascus suburbs). These projects include a factory that manufactures cables and cable accessories as well as a project to produce electricity using solar power. They also engaged in various activities with ISIL (Da'esh) on behalf of the Assad regime, including the provision of weapons and ammunitions in exchange for wheat and oil.	17.2.2020

		Position: Founder of District 6 Company; Founding partner of Easy life Company; Relatives/business associates/entities or partners/links: Samer Foz; Vice Chairman of Asas Steel Company; Aman Holding; Gender: male		
295.	Adel Anwar AL-OLABI (a.k.a. Adel Anouar el-Oulabi, Adil Anwar al-Olabi) (عادل أنور العلبي)	Date of birth: 1976; Nationality: Syrian; Position: Chairman of Damascus Cham Holding Company (DCHC); Governor of Damascus; Gender: male	Leading businessperson benefiting from and supporting the Syrian regime. Chairman of Damascus Cham Holding Company (DCHC), the investment arm of the Governorate of Damascus managing the properties of the Governorate of Damascus and implementing the Marota City project. Adel Anwar al-Olabi is also the Governor of Damascus, appointed by President Bashar al-Assad in November 2018. As Governor of Damascus and Chair of DCHC, he is responsible for efforts to implement regime policies of developing expropriated land in Damascus (including Decree No 66 and Law No 10), most notably through the Marota City project.	17.2.2020’

(3) in Section B (Entities), the following entries replace the corresponding entries in the list:

	Name	Identifying information	Reasons	Date of listing
‘1.	Bena Properties	Cham Holding Building, Daraa Highway, Ashrafiyat Sahnaya Rif Dimashq, Syria, P.O.Box 9525	Controlled by Rami Makhlouf. Syria’s largest real estate company and the real estate and investment arm of Cham Holding; provides funding to the Syrian regime.	23.6.2011
77.	Al Qatarji Company (a.k.a. Qatarji International Group; Al-Sham and Al-Darwish Company; Qatirji/Khatirji/Katarji/Katerji Group) (مجموعة/شركة قاطرجي)	Type of entity: private company; Business sector: import/export; trucking; supply of oil and commodities; Name of Director/Management: Hussam al-Qatirji, CEO (designated by the Council);	Prominent company operating across multiple sectors of the Syrian economy. By facilitating fuel, arms and ammunition trade between the regime and various actors including ISIL (Da’esh) under the pretext of importing and exporting food items, supporting militias fighting alongside the regime and taking advantage of its ties with the regime to expand its commercial activity, Al Qatarji Company – whose board is headed by designated person Hussam al-Qatirji, a member of the Syrian People’s Assembly – supports and benefits from the Syrian regime.	17.2.2020

		Ultimate beneficial owner: Hussam al-Qatirji (designated by the Council); Registered address: Mazzah, Damascus, Syria; Relatives/business associates/entities or partners/links: Arvada/Arfada Petroleum Company JSC		
78.	Damascus Cham Holding Company (a.k.a. Damascus Cham Private Joint Stock Company) (القابضة الشام دمشق)	Type of entity: public-owned company under private law; Business sector: real estate development; Name of Director/Management: Adel Anwar al-Olabi, Chairman of the Board of Directors and Governor of Damascus (designated by the Council); Ultimate beneficial owner: Governorate of Damascus; Relatives/business associates/entities or partners/links: Rami Makhlouf (designated by the Council); Samer Foz (designated by the Council); Mazen Tarazi (designated by the Council); Talas Group, owned by businessman Anas Talas (designated by the Council); Khaled al-Zubaidi (designated by the Council); Nader Qalei (designated by the Council)	Damascus Cham Holding Company was established by the regime as the investment arm of the Governorate of Damascus in order to manage the properties of the Governorate of Damascus and implement the Marota City project, a luxurious real estate project based on expropriated land under Decree No 66 and Law No 10 in particular. By managing the implementation of Marota City, Damascus Cham Holding (whose Chairman is the Governor of Damascus) supports and benefits from the Syrian regime and provides benefits to businesspeople with close ties to the regime who have struck lucrative deals with this entity through public-private partnerships.	17.2.2020’

COMMISSION DELEGATED REGULATION (EU) 2021/849

of 11 March 2021

amending, for the purposes of its adaptation to technical and scientific progress, Part 3 of Annex VI to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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 ([1]), and in particular Article 37(5) thereof,

Whereas:

(1) Table 3 of Part 3 of Annex VI to Regulation (EC) No 1272/2008 contains the list of harmonised classification and labelling of hazardous substances based on the criteria set out in Parts 2 to 5 of Annex I to that Regulation.

(2) Proposals to introduce harmonised classification and labelling of certain substances and to update or delete the harmonised classification and labelling of certain other substances have been submitted to the European Chemicals Agency ('Agency') pursuant to Article 37 of Regulation (EC) No 1272/2008. The Committee for Risk Assessment of the Agency (RAC) adopted opinions ([2]) on those proposals, after having taken account of the comments received from the parties concerned. Those RAC opinions are:

— Opinion of 15 March 2019 concerning 1,2,4-triazole,

— Opinion of 15 March 2019 concerning 1,4-dioxane,

— Opinion of 15 March 2019 concerning benzyl salicylate,

— Opinion of 15 March 2019 concerning flumioxazin (ISO),

— Opinion of 15 March 2019 concerning mancozeb (ISO),

— Opinion of 15 March 2019 concerning M-factors for long-term aquatic hazard for the copper substances listed in Commission Regulation (EU) 2016/1179,

— Opinion of 15 March 2019 concerning N-{2-[[1,1'-bi(cyclopropyl)]-2-yl]phenyl}-3-(difluoromethyl)-1-methyl-1H-pyrazole-4-carboxamide; sedaxane,

([1]) OJ L 353, 31.12.2008, p. 1.

([2]) The opinions are accessible via the following website:https://echa.europa.eu/registry-of-clh-intentions-until-outcome/-/dislist/name/-/ecNumber/-/casNumber/-/dte_receiptFrom/-/dte_receiptTo/-/prc_public_status/Opinion+Adopted/dte_withdrawnFrom/-/dte_withdrawnTo/-/sbm_expected_submissionFrom/-/sbm_expected_submissionTo/-/dte_finalise_deadlineFrom/-/dte_finalise_deadlineTo/-/haz_addional_hazard/-/lec_submitter/-/dte_assessmentFrom/-/dte_assessmentTo/-/prc_regulatory_programme/-/

— Opinion of 15 March 2019 concerning N-methoxy-N-[1-methyl-2-(2,4,6-trichlorophenyl)-ethyl]-3-(difluoromethyl)-1-methylpyrazole-4-carboxamide; pydiflumetofen,

— Opinion of 15 March 2019 concerning p-cymene; 1-isopropyl-4-methylbenzene,

— Opinion of 15 March 2019 concerning p-mentha-1,3-diene; alpha-terpinene; 1-isopropyl-4-methylcyclohexa-1,3-diene,

— Opinion of 15 March 2019 concerning prothioconazole,

— Opinion of 15 March 2019 concerning (R)-p-mentha-1,8-diene; d-limonene,

— Opinion of 15 March 2019 concerning thiophanate-methyl,

— Opinion of 15 March 2019 concerning tolclofos-methyl (ISO); O-(2,6-dichloro-p-tolyl) O,O-dimethyl thiophosphate,

— Opinion of 15 March 2019 concerning tolpyralate,

— Opinion of 15 March 2019 concerning trinickel disulphide,

— Opinion of 13 June 2019 concerning azamethiphos,

— Opinion of 13 June 2019 concerning 2-phenoxyethanol,

— Opinion of 13 June 2019 concerning 2,2-dibromo-2-cyanoacetamide,

— Opinion of 13 June 2019 concerning 3-aminomethyl-3,5,5-trimethylcyclohexylamine,

— Opinion of 13 June 2019 concerning 6,6'-di-tert-butyl-2,2'-methylenedi-p-cresol,

— Opinion of 13 June 2019 concerning diflufenican (ISO) *N*-(2,4-difluorophenyl)-2-[3-(trifluoromethyl)phenoxy]-3-pyridinecarboxamide,

— Opinion of 13 June 2019 concerning imidacloprid (ISO); 1-(6-chloropyridin-3-ylmethyl)-*N*-nitroimidazolidin-2-ylidenamine,

— Opinion of 13 June 2019 concerning pyriofenone,

— Opinion of 13 June 2019 concerning *S*-abscisic acid,

— Opinion of 13 June 2019 concerning tetrakis(2,6-dimethylphenyl)-m-phenylene biphosphate,

— Opinion of 20 September 2019 concerning 1,2-epoxy-4-epoxyethylcyclohexane,

— Opinion of 20 September 2019 concerning 4-methylpentan-2-one,

— Opinion of 20 September 2019 concerning boric acid; diboron trioxide; tetraboron disodium heptaoxide hydrate; disodium tetraborate anhydrous; orthoboric acid sodium salt; disodium tetraborate decahydrate; disodium tetraborate pentahydrate,

— Opinion of 20 September 2019 concerning citric acid,

— Opinion of 20 September 2019 concerning clomazone,

— Opinion of 20 September 2019 concerning desmedipham,

— Opinion of 20 September 2019 concerning dimethomorph,

— Opinion of 20 September 2019 concerning emamectin benzoate,

— Opinion of 20 September 2019 concerning esfenvalerate (ISO) (*S*)-α-cyano-3-phenoxybenzyl (*S*)-2-(4-chlorophenyl)-3-methylbutyrate,

— Opinion of 20 September 2019 concerning ethametsulfuron-methyl (ISO),

— Opinion of 20 September 2019 concerning mecoprop-*P* (ISO); (*R*)-2-(4-chloro-2-methylphenoxy)propionic acid and its salts,

— Opinion of 20 September 2019 concerning methyl salicylate,

— Opinion of 20 September 2019 concerning phenmedipham (ISO),

— Opinion of 20 September 2019 concerning trifloxystrobin (ISO),

— Opinion of 20 September 2019 concerning triticonazole,

— Opinion of 5 December 2019 concerning 1,4-dimethylnaphthalene,

— Opinion of 5 December 2019 concerning (3a*S*,5*S*,6*R*,7a*R*,7b*S*,9a*S*,10*R*,12a*S*,12b*S*)-10-[(2*S*,3*R*,4*R*,5*R*)-3,4-dihydroxy-5,6-dimethylheptan-2-yl]-5,6-dihydroxy-7a,9a-dimethylhexadecahydro-3*H*-benzo[c]indeno[5,4-e]oxepin-3-one; 24-epibrassinolide,

— Opinion of 5 December 2019 concerning 3-methylpyrazole,

— Opinion of 5 December 2019 concerning carbendazim (ISO); methyl benzimidazol-2-ylcarbamate,

— Opinion of 5 December 2019 concerning cypermethrin cis/trans +/- 40/60; (*RS*)-α-cyano-3-phenoxybenzyl (1*RS*,3*RS*;1*RS*,3*SR*)-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate,

— Opinion of 5 December 2019 concerning imazamox (ISO); (*RS*)-2-(4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl)-5-methoxymethylnicotinic acid,

— Opinion of 5 December 2019 concerning tetrafluoroethylene,

— Opinion of 5 December 2019 concerning thiamethoxam (ISO); 3-(2-chloro-thiazol-5-ylmethyl)-5-methyl[1,3,5] oxadiazinan-4-ylidene-*N*-nitroamine,

— Opinion of 5 December 2019 concerning trinexapac-ethyl (ISO); ethyl 4-[cyclopropyl(hydroxy) methylene]-3,5-dioxocyclohexanecarboxylate.

(3) Acute Toxicity Estimates (ATE) are mainly used to determine the classification for human health acute toxicity of mixtures containing substances classified for acute toxicity. The inclusion of harmonised ATE values in the entries listed in Annex VI to Regulation (EC) No 1272/2008 facilitates the harmonisation of the classification of mixtures and provides support for enforcement authorities. Following further scientific assessmentsof some substances, ATE values have been derived by the Agency for dicopper oxide, dicopper chloride trihydroxide, tetracopper hexahydroxide sulphate and tetracopper hexahydroxide sulphate hydrate, copper flakes (coated with aliphatic acid), copper(II) carbonate–copper(II) hydroxide (1:1), copper dihydroxide; copper(II) hydroxide, bordeaux mixture; reaction products of copper sulphate with calcium dihydroxide and copper sulphate pentahydrate, in addition to those proposed in the RAC opinions for other substances. Those ATE values should be inserted in the penultimate column of Table 3 of Part 3 of Annex VI to Regulation (EC) No 1272/2008.

(4) Additional information was received by the Commission contesting the scientific assessment set out in the RAC opinions of 15 March 2019 concerning mancozeb, of 20 September 2019 concerning 4-methylpentan-2-one, and of 20 September 2019 concerning dimethomorph. That information was assessed by the Commission and was not found sufficient to cast doubts on the scientific analysis contained in the RAC opinions.

(5) The Commission therefore considers appropriate to introduce, update or delete the harmonised classification and labelling of certain substances.

(6) Regulation (EC) No 1272/2008 should therefore be amended accordingly.

(7) Compliance with the new or updated harmonised classifications should not be required immediately as a certain period of time is necessary to allow suppliers to adapt the labelling and packaging of substances and mixtures to the new or revised classifications and to sell existing stocks subject to the pre-existing regulatory requirements. That period of time is also necessary to allow suppliers sufficient time to take the actions required to ensure continuing compliance with other legal requirements following the changes made under this Regulation. Such requirements may include those set out in point (f) of Article 22(1) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council ([3]) or those set out in Article 50 of Regulation (EU) No 528/2012 of the European Parliament and of the Council ([4]). Suppliers should, however, have the possibility to apply the new or updated harmonised classifications, and to adapt the labelling and packaging accordingly, on a voluntary basis before the date of application of this Regulation and as of the date of entry into force to ensure a high level of protection of human health and of the environment and to provide sufficient flexibility to suppliers,

([3]) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

([4]) 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 (OJ L 167, 27.6.2012, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 1272/2008

Table 3 of Part 3 of Annex VI to Regulation (EC) No 1272/2008 is amended as set out in the Annex to this Regulation.

Article 2

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 17 December 2022.

By way of derogation from the second paragraph of this Article, substances and mixtures may be classified, labelled and packaged in accordance with this Regulation from its date of entry into force.

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

Done at Brussels, 11 March 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

In Annex VI to Regulation (EC) No 1272/2008, Table 3 of Part 3 is amended as follows:

(1) the following entries are inserted:

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M-factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
‘601-093-00-6	1,4-dimethylnaphthalene	209-335-9	571-58-4	Acute Tox. 4 Asp. Tox. 1 Eye Irrit. 2 Aquatic Acute 1 Aquatic Chronic 3	H302 H304 H319 H400 H412	GHS07 GHS08 GHS09 Dgr	H302 H304 H319 H410		oral: ATE = 1 300 mg/kg bw M = 1’	
‘601-094-00-1	1-isopropyl-4-methylbenzene; *p*-cymene	202-796-7	99-87-6	Flam. Liq. 3 Acute Tox. 3 Asp. Tox. 1 Aquatic Chronic 2	H226 H331 H304 H411	GHS02 GHS06 GHS08 GHS09 Dgr	H226 H331 H304 H411		inhalation: ATE = 3 mg/l (vapours)’	
‘601-095-00-7	*p*-mentha-1,3-diene; 1-isopropyl-4-methylcyclohex-a-1,3-diene; alpha-terpinene	202-795-1	99-86-5	Flam. Liq. 3 Acute Tox. 4 Skin Sens. 1 Asp. Tox. 1 Aquatic Chronic 2	H226 H302 H317 H304 H411	GHS02 GHS07 GHS08 GHS09 Dgr	H226 H302 H317 H304 H411		oral: ATE = 1 680 mg/kg bw’	
‘602-110-00-X	tetrafluoroethylene	204-126-9	116-14-3	Carc. 1B	H350	GHS08 Dgr	H350’			
‘604-095-00-5	6,6’-di-*tert*-butyl-2,2’-methylenedi-*p*-cresol; [DBMC]	204-327-1	119-47-1	Repr. 1B	H360F	GHS08 Dgr	H360F’			
‘606-152-00-X	(5-chloro-2-methoxy-4-methyl-3-pyridyl) (4,5,6-trimethoxy-*o*-tolyl)methanone; pyriofenone	-	688046-61-9	Carc. 2 Aquatic Chronic 1	H351 H410	GHS08 GHS09 Wng	H351 H410		M = 1’	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M-factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'607-747-00-7	2,2-dibromo-2-cyanoacetamide; [DBNPA]	233-539-7	10222-01-2	Acute Tox. 2 Acute Tox. 3 STOT RE 1 Skin Irrit. 2 Eye Dam. 1 Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H330 H301 H372 (respiratory tract) (inhalation) H315 H318 H317 H400 H410	GHS06 GHS08 GHS05 GHS09 Dgr	H330 H301 H372 (respiratory tract) (inhalation) H315 H318 H317 H410		inhalation: ATE = 0,24 mg/l (dusts or mists) oral: ATE = 118 mg/kg bw M = 1 M = 1'	
'607-748-00-2	[*S*-(*Z*,*E*)]-5-(1-hydroxy-2,6,6-trimethyl-4-oxocyclohex-2-en-1-yl)-3-methylpenta-2,4-dienoic acid; *S*-abscisic acid	244-319-5	21293-29-8	Aquatic Acute 1 Aquatic Chronic 1	H400 H410	GHS09 Wng	H410		M = 1 M = 1'	
'607-749-00-8	methyl salicylate	204-317-7	119-36-8	Repr. 2 Acute Tox. 4 Skin Sens. 1B Aquatic Chronic 3	H361d H302 H317 H412	GHS07 GHS08 Wng	H361d H302 H317 H412		oral: ATE = 890 mg/kg bw'	
'607-750-00-3	citric acid	201-069-1	77-92-9	Eye Irrit. 2 STOT SE 3	H319 H335	GHS07 Wng	H319 H335'			
'607-751-00-9	ethametsulfuron-methyl (ISO); methyl 2-({[4-ethoxy-6-(methylamino)-1,3,5-triazin-2-yl]carbamoyl}sulfamoyl) benzoate	-	97780-06-8	Eye Irrit. 2 Aquatic Acute 1 Aquatic Chronic 1	H319 H400 H410	GHS07 GHS09 Wng	H319 H410		M = 1 000 M = 100'	
'607-752-00-4	trinexapac-ethyl (ISO); ethyl 4-[cyclopropyl (hydroxy) methylene]-3,5-dioxocyclohexanecarboxylate	-	95266-40-3	STOT RE 2 Skin Sens. 1B Aquatic Chronic 1	H373 (gastrointestinal tract) H317 H410	GHS08 GHS07 GHS09 Wng	H373 (gastrointestinal tract) H317 H410		M = 1'	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M-factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'607-753-00-X	(3aS,5S,6R,7aR,7bS,9a-S,10R,12aS,12bS)-10-[(2S,3R,4R,5R)-3,4--)-3,4-dihydroxy-5,6-dimethylheptan-2-yl]-5,6-dihydroxy-7a,9a-dimethylhexadecahydro-3H-benzo[c]indeno[5,4-e]oxepin-3-one; 24-epibrassinolide	-	78821-43-9	Aquatic Chronic 4	H413		H413'			
'607-754-00-5	benzyl salicylate	204-262-9	118-58-1	Skin Sens. 1B	H317	GHS07 Wng	H317'			
'607-755-00-0	(RS)-1-{1-ethyl-4-[4-mesyl-3-(2-methoxyethoxy)-o-toluoyl]pyrazol-5-yloxy} ethyl methyl carbonate; tolpyralate	-	1101132-67--5	Carc. 2 Repr. 2 STOT RE 2 Aquatic Acute 1 Aquatic Chronic 1	H351 H361fd H373 (eye) H400 H410	GHS08 GHS09 Wng	H351 H361fd H373 (eye) H410		M = 10 M = 100'	
'613-337-00-9	prothioconazole (ISO); 2-[2-(1-chlorocyclopropyl)-3-(2-chlorophenyl)-2-hydroxypropyl]-2,4-dihydro-3H-1,2,4-triazole-3-thione	-	178928-70-6	Aquatic Acute 1 Aquatic Chronic 1	H400 H410	GHS09 Wng	H410		M = 10 M = 1'	
'613-338-00-4	azamethiphos (ISO); S-[(6-chloro-2-oxooxazolo[4,5-b]pyridin-3(2H)-yl) methyl] O,O-dimethyl thiophosphate	252-626-0	35575-96-3	Carc. 2 Acute Tox. 3 Acute Tox. 4 STOT SE 1 Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H351 H331 H302 H370 (nervous system) H317 H400 H410	GHS06 GHS08 GHS09 Dgr	H351 H331 H302 H370 (nervous system) H317 H410		inhalation: ATE = 0,5 mg/l (dusts or mists) oral: ATE = 500 mg/kg bw M = 1 000 M = 1 000'	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M-factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'613-339-00-X	3-methylpyrazole	215-925-7	1453-58-3	Repr. 1B Acute Tox. 4 STOT RE 2 Skin Corr. 1 Eye Dam. 1	H360D H302 H373 (lung) H314 H318	GHS08 GHS07 GHS05 Dgr	H360D H302 H373 (lung) H314		oral: ATE = 500 mg/kg bw'	
'613-340-00-5	clomazone (ISO); 2-(2-chlorobenzyl)-4,4-dimethyl-1,2-oxazolidin-3-one	-	81777-89-1	Acute Tox. 4 Acute Tox. 4 Aquatic Acute 1 Aquatic Chronic 1	H332 H302 H400 H410	GHS07 GHS09 Wng	H332 H302 H410		inhalation: ATE = 4,85 mg/l (dusts or mists) oral: ATE = 768 mg/kg bw M = 1 M = 1'	
'614-030-00-2	emamectin benzoate (ISO); (4"*R*)-4"-deoxy-4"-(methylamino) avermectin B1 benzoate	-	155569-91-8	Acute Tox. 3 Acute Tox. 3 Acute Tox. 3 STOT SE 1 STOT RE 1 Eye Dam. 1 Aquatic Acute 1 Aquatic Chronic 1	H331 H311 H301 H370 (nervous system) H372 (nervous system) H318 H400 H410	GHS06 GHS05 GHS08 GHS09 Dgr	H331 H311 H301 H370 (nervous system) H372 (nervous system) H318 H410		inhalation: ATE = 0,663 mg/l (dusts or mists) dermal: ATE = 300 mg/kg bw oral: ATE = 60 mg/kg bw STOT RE 1; H372: C ≥ 5 %; STOT RE 2; H373: 0,5 % ≤ C < 5 % M = 10 000 M = 10 000'	
'616-234-00-7	*N*-methoxy-*N*-[1-methyl-2-(2,4,6-trichlorophenyl)-ethyl]-3-(difluoromethyl)-1-methylpyrazole-4-carboxamide; pydiflumetofen	-	1228284-64--7	Carc. 2 Repr. 2 Aquatic Acute 1 Aquatic Chronic 1	H351 H361f H400 H410	GHS08 GHS09 Wng	H351 H361f H410		M = 1 M = 1'	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M-factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'616-235-00-2	N-{2-[[1,1'-bi (cyclopropyl)]-2-yl] phenyl}-3-(difluoromethyl)-1-methyl-1*H*-pyrazole-4-carboxamide; sedaxane	-	874967-67-6	Carc. 2 Aquatic Acute 1 Aquatic Chronic 2	H351 H400 H411	GHS08 GHS09 Wng	H351 H410		M = 1'	

(2) the entries corresponding to index numbers 005-007-00-2; 005-008-00-8; 005-011-00-4; 005-011-01-1; 005-011-02-9; 006-069-00-3; 006-076-00-1; 015-113-00-0; 028-007-00-4; 029-002-00-X; 029-015-00-0; 029-016-00-6; 029-017-00-1; 029-018-00-7; 029-019-01-X; 029-020-00-8; 029-021-00-3; 029-022-00-9; 029-023-00-4; 601-029-00-7; 601-096-00-2; 603-024-00-5; 603-066-00-4; 603-098-00-9; 606-004-00-4; 607-421-00-4; 607-424-00-0; 607-434-00-5; 608-058-00-4; 612-067-00-9; 612-252-00-4; 613-048-00-8; 613-102-00-0; 613-111-00-X; 613-166-00-X; 613-208-00-7; 613-267-00-9; 613-282-00-0; 616-032-00-9; 616-106-00-0 and 616-113-00-9 are replaced by the following entries respectively:

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M-factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'005-007-00-2	boric acid [1] boric acid [2]	233-139-2 [1] 234-343-4 [2]	10043-35-3 [1] 11113-50-1 [2]	Repr. 1B	H360FD	GHS08 Dgr	H360FD'			
'005-008-00-8	diboron trioxide	215-125-8	1303-86-2	Repr. 1B	H360FD	GHS08 Dgr	H360FD'			
'005-011-00-4	tetraboron disodium heptaoxide, hydrate; [1] disodium tetraborate, anhydrous; [2] orthoboric acid, sodium salt [3]	235-541-3 [1] 215-540-4 [2] 237-560-2 [3] 215-540-4 [4] 215-540-4 [5]	12267-73-1 [1] 1330-43-4 [2] 13840-56-7 [3] 1303-96-4 [4] 12179-04-3 [5]	Repr. 1B	H360FD	GHS08 Dgr	H360FD'			

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M-factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
	disodium tetraborate decahydrate [4] disodium tetraborate pentahydrate [5]									
'006-069-00-3	thiophanate-methyl (ISO); dimethyl (1,2-phenylenedicarbamothioyl)biscarbamate; dimethyl 4,4′-(*o*-phenylene) bis(3-thioallophanate)	245-740-7	23564-05-8	Carc. 2 Muta. 2 Acute Tox. 4 Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H351 H341 H332 H317 H400 H410	GHS08 GHS07 GHS09 Wng	H351 H341 H332 H317 H410		inhalation: ATE = 1,7 mg/l (dusts and mists) M = 10 M = 10'	
'006-076-00-1	mancozeb (ISO); manganese ethylenebis (dithiocarbamate) (polymeric) complex with zinc salt	-	8018-01-7	Carc. 2 Repr. 1B STOT RE 2 Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H351 H360D H373 (thyroid, nervous system) H317 H400 H410	GHS08 GHS07 GHS09 Dgr	H351 H360D H373 (thyroid, nervous system) H317 H410		M = 10 M = 10'	
'015-113-00-0	tolclofos-methyl (ISO); *O*-(2,6-dichloro-*p*-tolyl) *O*,*O*-dimethyl thiophosphate	260-515-3	57018-04-9	Skin Sens. 1B Aquatic Acute 1 Aquatic Chronic 1	H317 H400 H410	GHS07 GHS09 Wng	H317 H410		M = 1 M = 1'	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M-factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'028-007-00-4	trinickel disulfide; nickel subsulfide; [1] heazlewoodite [2]	234-829-6 [1] - [2]	12035-72-2 [1] 12035-71-1 [2]	Carc. 1A Muta. 2 Acute Tox. 3 STOT RE 1 Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H350i H341 H331 H372** H317 H400 H410	GHS08 GHS06 GHS09 Dgr	H350i H341 H331 H372** H317 H410		inhalation: ATE = 0,92 mg/l (dusts or mists)'	
'029-002-00-X	dicopper oxide; copper (I) oxide	215-270-7	1317-39-1	Acute Tox. 4 Acute Tox. 4 Eye Dam. 1 Aquatic Acute 1 Aquatic Chronic 1	H332 H302 H318 H400 H410	GHS07 GHS05 GHS09 Dgr	H332 H302 H318 H410		inhalation: ATE = 3,34 mg/l (dusts or mists) oral: ATE = 500 mg/kg bw M = 100 M = 10'	
'029-015-00-0	copper thiocyanate	214-183-1	1111-67-7	Aquatic Acute 1 Aquatic Chronic 1	H400 H410	GHS09 Wng	H410	EUH032	M = 10 M = 10'	
'029-016-00-6	copper(II) oxide	215-269-1	1317-38-0	Aquatic Acute 1 Aquatic Chronic 1	H400 H410	GHS09 Wng	H410		M = 100 M = 10'	
'029-017-00-1	dicopper chloride trihydroxide	215-572-9	1332-65-6	Acute Tox. 4 Acute Tox. 3 Aquatic Acute 1 Aquatic Chronic 1	H332 H301 H400 H410	GHS06 GHS09 Dgr	H332 H301 H410		inhalation: ATE = 2,83 mg/l (dusts or mists) oral: ATE = 299 mg/kg bw M = 10 M = 10'	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M-factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'029-018-00-7	tetracopper hexahydroxide sulphate; [1] tetracopper hexahydroxide sulphate hydrate [2]	215-582-3 [1] 215-582-3 [2]	1333-22-8 [1] 12527-76-3 [2]	Acute Tox. 4 Aquatic Acute 1 Aquatic Chronic 1	H302 H400 H410	GHS07 GHS09 Wng	H302 H410		oral: ATE = 500 mg/kg bw M = 10 M = 10'	
'029-019-01-X	copper flakes (coated with aliphatic acid)	-	-	Acute Tox. 3 Acute Tox. 4 Eye Irrit. 2 Aquatic Acute 1 Aquatic Chronic 1	H331 H302 H319 H400 H410	GHS06 GHS09 Dgr	H331 H302 H319 H410		inhalation: ATE = 0,733 mg/l (dusts or mists) oral: ATE = 500 mg/kg bw M = 10 M = 10'	
'029-020-00-8	copper(II) carbonate—copper(II) hydroxide (1:1)	235-113-6	12069-69-1	Acute Tox. 4 Acute Tox. 4 Eye Irrit. 2 Aquatic Acute 1 Aquatic Chronic 1	H332 H302 H319 H400 H410	GHS07 GHS09 Wng	H332 H302 H319 H410		inhalation: ATE = 1,2 mg/l (dusts or mists) oral: ATE = 500 mg/kg bw M = 10 M = 10'	
'029-021-00-3	copper dihydroxide; copper(II) hydroxide	243-815-9	20427-59-2	Acute Tox. 2 Acute Tox. 4 Eye Dam. 1 Aquatic Acute 1 Aquatic Chronic 1	H330 H302 H318 H400 H410	GHS06 GHS05 GHS09 Dgr	H330 H302 H318 H410		inhalation: ATE = 0,47 mg/l (dusts or mists) oral: ATE = 500 mg/kg bw M = 10 M = 10'	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M-factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
‘029-022-00-9	bordeaux mixture; reaction products of copper sulphate with calcium dihydroxide	-	8011-63-0	Acute Tox. 4 Eye Dam. 1 Aquatic Acute 1 Aquatic Chronic 1	H332 H318 H400 H410	GHS07 GHS05 GHS09 Dgr	H332 H318 H410		inhalation: ATE = 1,97 mg/l (dusts or mists) M = 10 M = 1’	
‘029-023-00-4	copper sulphate pentahydrate	231-847-6	7758-99-8	Acute Tox. 4 Eye Dam. 1 Aquatic Acute 1 Aquatic Chronic 1	H302 H318 H400 H410	GHS07 GHS05 GHS09 Dgr	H302 H318 H410		oral: ATE = 481 mg/kg bw M = 10 M = 1’	
‘601-029-00-7	dipentene; limonene [1] (*S*)-*p*-mentha-1,8-diene; l-limonene [2] *trans*-1-methyl-4-(1-methylvinyl) cyclohexene; [3] (±)-1-methyl-4-(1-methylvinyl) cyclohexene [4]	205-341-0 [1] 227-815-6 [2] 229-977-3 [3] 231-732-0 [4]	138-86-3 [1] 5989-54-8 [2] 6876-12-6 [3] 7705-14-8 [4]	Flam. Liq. 3 Skin Irrit. 2 Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H226 H315 H317 H400 H410	GHS02 GHS07 GHS09 Wng	H226 H315 H317 H410			C’
‘601-096-00-2	(*R*)-*p*-mentha-1,8-diene; d-limonene	227-813-5	5989-27-5	Flam. Liq. 3 Skin Irrit. 2 Skin Sens. 1B Asp. Tox. 1 Aquatic Acute 1 Aquatic Chronic 3	H226 H315 H317 H304 H400 H412	GHS02 GHS07 GHS08 GHS09 Dgr	H226 H315 H317 H304 H410		M = 1’	
‘603-024-00-5	1,4-dioxane	204-661-8	123-91-1	Flam. Liq. 2 Carc. 1B STOT SE 3 Eye Irrit. 2	H225 H350 H335 H319	GHS02 GHS08 GHS07 Dgr	H225 H350 H335 H319	EUH019 EUH066		D’

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M-factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
‘603-066-00-4	7-oxa-3-oxiranylbicyclo [4.1.0]heptane; 1,2-epoxy-4-epoxyethylcyclohexane; 4-vinylcyclohexene diepoxide	203-437-7	106-87-6	Carc. 1B Muta. 2 Repr. 1B Acute Tox. 3 Acute Tox. 4	H350 H341 H360F H331 H302	GHS08 GHS06 Dgr	H350 H341 H360F H331 H302		inhalation: ATE = 0,5 mg/l (dusts or mists) oral: ATE = 1 847 mg/kg bw’	
‘603-098-00-9	2-phenoxyethanol	204-589-7	122-99-6	Acute Tox. 4 STOT SE 3 Eye Dam. 1	H302 H335 H318	GHS05 GHS07 Dgr	H302 H335 H318		oral: ATE = 1 394 mg/kg bw’	
‘606-004-00-4	4-methylpentan-2-one; isobutyl methyl ketone	203-550-1	108-10-1	Flam. Liq. 2 Carc. 2 Acute Tox. 4 STOT SE 3 Eye Irrit. 2	H225 H351 H332 H336 H319	GHS02 GHS07 GHS08 Dgr	H225 H351 H332 H336 H319	EUH066	inhalation: ATE = 11 mg/l (vapours)’	
‘607-421-00-4	cypermethrin (ISO); α-cyano-3-phenoxybenzyl 3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate; cypermethrin cis/trans +/- 40/60	257-842-9	52315-07-8	Acute Tox. 4 Acute Tox. 4 STOT SE 3 STOT RE 2 Aquatic Acute 1 Aquatic Chronic 1	H332 H302 H335 H373 (nervous system) H400 H410	GHS07 GHS08 GHS09 Wng	H332 H302 H335 H373 (nervous system) H410		oral; ATE = 500 mg/kg bw inhalation; ATE = 3,3 mg/l (dusts or mists) M = 100000 M = 100000’	
‘607-424-00-0	trifloxystrobin (ISO); methyl (*E*)-methoxyimino-{(*E*)-α-[1-(α,α,α-trifluoro-*m*-tolyl) ethylideneaminooxy]-*o*-tolyl}acetate	-	141517-21-7	Lact. Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H362 H317 H400 H410	GHS07 GHS09 Wng	H362 H317 H410		M = 100 M = 10’	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M-factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
‘607-434-00-5	mecoprop-P (ISO) [1] and its salts; (*R*)-2-(4-chloro-2-methylphenoxy) propionic acid [1] and its salts	240-539-0 [1]	16484-77-8 [1]	Acute Tox. 4 Eye Dam. 1 Aquatic Acute 1 Aquatic Chronic 1	H302 H318 H400 H410	GHS07 GHS05 GHS09 Dgr	H302 H318 H410		oral: ATE = 431 mg/kg bw M = 10 M = 10’	
‘608-058-00-4	esfenvalerate (ISO); (*S*)-α-cyano-3-phenoxybenzyl-(*S*)-2-(4-chlorophenyl)-3-methylbutyrate	-	66230-04-4	Acute Tox. 3 Acute Tox. 3 STOT SE 1 STOT RE 2 Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H331 H301 H370 (nervous system) H373 H317 H400 H410	GHS06 GHS08 GHS09 Dgr	H331 H301 H370 (nervous system) H373 H317 H410		oral; ATE = 88,5 mg/kg bw inhalation; ATE = 0,53 mg/l (dusts or mists) M = 10 000 M = 10 000’	
‘612-067-00-9	3-aminomethyl-3,5,5-trimethylcyclohexylamine	220-666-8	2855-13-2	Acute Tox. 4 Skin Corr. 1B Eye Dam. 1 Skin Sens. 1A	H302 H314 H318 H317	GHS05 GHS07 Dgr	H302 H314 H317		oral: ATE = 1 030 mg/kg bw Skin Sens. 1A; H317: C ≥ 0,001 %’	
‘612-252-00-4	imidacloprid (ISO); (*E*)-1-(6-chloro-3-pyridylmethyl)-*N*-nitroimidazolidin-2-ylideneamine; (2*E*)-1-[(6-chloropyridin-3-yl) methyl]-*N*-nitroimidazolidin-2-imine	428-040-8	138261-41-3	Acute Tox. 3 Aquatic Acute 1 Aquatic Chronic 1	H301 H400 H410	GHS06 GHS09 Dgr	H301 H410		oral: ATE = 131 mg/kg bw M = 100 M = 1 000’	
‘613-048-00-8	carbendazim (ISO); methyl benzimidazol-2-ylcarbamate	234-232-0	10605-21-7	Muta. 1B Repr. 1B Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H340 H360FD H317 H400 H410	GHS07 GHS08 GHS09 Dgr	H340 H360FD H317 H410		M = 10 M = 10’	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M-factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'613-102-00-0	dimethomorph (ISO); (*E*,*Z*)-4-(3-(4-chlorophenyl)-3-(3,4-dimethoxyphenyl) acryloyl)morpholine	404-200-2	110488-70-5	Repr. 1B Aquatic Chronic 2	H360F H411	GHS08 GHS09 Dgr	H360F H411'			
'613-111-00-X	1,2,4-triazole	206-022-9	288-88-0	Repr. 1B Acute Tox. 4 Eye Irrit. 2	H360FD H302 H319	GHS08 GHS07 Dgr	H360FD H302 H319		oral: ATE = 1 320 mg/kg bw'	
'613-166-00-X	flumioxazin (ISO); *N*-(7-fluoro-3,4-dihydro-3-oxo-4-prop-2-ynyl-2*H*-1,4-benzoxazin-6-yl)cyclohex-1-ene-1,2-dicarboximide	-	103361-09-7	Repr. 2 Aquatic Acute 1 Aquatic Chronic 1	H361d H400 H410	GHS08 GHS09 Wng	H361d H410		M = 1 000 M = 1 000'	
'613-208-00-7	imazamox (ISO); (*RS*)-2-(4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl)-5-methoxymethylnicotinic acid	-	114311-32-9	Repr. 2 Aquatic Acute 1 Aquatic Chronic 1	H361d H400 H410	GHS08 GHS09 Wng	H361d H410		M = 10 M = 10'	
'613-267-00-9	thiamethoxam (ISO); 3-(2-chloro-thiazol-5-ylmethyl)-5-methyl [1,3,5]oxadiazinan-4-ylidene-*N*-nitroamine	428-650-4	153719-23-4	Repr. 2 Acute Tox. 4 Aquatic Acute 1 Aquatic Chronic 1	H361fd H302 H400 H410	GHS07 GHS08 GHS09 Wng	H361fd H302 H410		oral: ATE = 780 mg/kg bw M = 10 M = 10'	
'613-282-00-0	triticonazole (ISO); (*RS*)-(*E*)-5-(4-chlorobenzylidene)-2,2-dimethyl-1-(1*H*-1,2,4-triazol-1-methyl)cyclopentanol	-	138182-18-0	Repr. 2 STOT RE 2 Aquatic Acute 1 Aquatic Chronic 1	H361f H373 H400 H410	GHS08 GHS09 Wng	H361f H373 H410		M = 1 M = 1'	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M-factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
‘616-032-00-9	diflufenican (ISO); *N*-(2,4-difluorophenyl)-2-[3-(trifluoromethyl) phenoxy]-3-pyridinecarboxamide; 2′,4′-difluoro-2-(α,α,α-trifluoro-*m*-tolyloxy) nicotinanilide	-	83164-33-4	Aquatic Acute 1 Aquatic Chronic 1	H400 H410	GHS09 Wng	H410		M = 10 000 M = 1 000’	
‘616-106-00-0	phenmedipham (ISO); methyl 3-(3-methylcarbaniloyloxy) carbanilate	237-199-0	13684-63-4	Aquatic Acute 1 Aquatic Chronic 1	H400 H410	GHS09 Wng	H410		M = 10 M = 10’	
‘616-113-00-9	desmedipham (ISO); ethyl 3-phenylcarbamoyloxyphe-nylcarbamate	237-198-5	13684-56-5	Repr. 2 Aquatic Acute 1 Aquatic Chronic 1	H361d H400 H410	GHS08 GHS09 Wng	H361d H410		M = 10 M = 10’	

(3) the entry corresponding to index number 015-192-00-1 is deleted.

COMMISSION REGULATION (EU) 2021/850

of 26 May 2021

amending and correcting Annex II and amending Annexes III, IV and VI to Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products ([1]), and in particular Article 15(1), the fourth subparagraph of Article 15(2) and Article 31(1) thereof,

Whereas:

(1) Regulation (EC) No 1272/2008 of the European Parliament and of the Council ([2]) provides for a harmonised classification of substances as carcinogenic, mutagenic or toxic for reproduction (CMR) based on an opinion prepared by the Committee for Risk Assessment of the European Chemicals Agency. The substances are classified as CMR substances of category 1A, CMR substances of category 1B or CMR substances of category 2 depending on the level of evidence of their CMR properties.

(2) Article 15 of Regulation (EC) No 1223/2009 provides that substances which have been classified as CMR substances of category 1A, category 1B or category 2 under Part 3 of Annex VI to Regulation (EC) No 1272/2008 (CMR substances) are prohibited from use in cosmetic products. A CMR substance may however be used in cosmetic products where the conditions laid down in the second sentence of Article 15(1) or in the second subparagraph of Article 15(2) of Regulation (EC) No 1223/2009 are fulfilled.

(3) In order to uniformly implement the prohibition of CMR substances within the internal market, to ensure legal certainty, in particular for economic operators and national competent authorities, and to ensure a high level of protection of human health, CMR substances should be included in the list of prohibited or, as applicable, restricted substances in Annex II or Annex III, respectively, to Regulation (EC) No 1223/2009 and, where relevant, deleted from the lists of restricted or authorised substances in Annexes III to VI to that Regulation. Where the conditions laid down in the second sentence of Article 15(1) or the second subparagraph of Article 15(2) of Regulation (EC) No 1223/2009 are fulfilled, the lists of restricted or authorised substances in Annexes III to VI to that Regulation should be amended accordingly.

(4) By Commission Delegated Regulation (EU) 2020/217 ([3]), which is to apply from 1 October 2021, certain substances have been classified as CMR substances in accordance with Regulation (EC) No 1272/2008. It is therefore necessary to prohibit the use of those CMR substances in cosmetic products from the same date.

(5) In particular, Delegated Regulation (EU) 2020/217 provides for a classification of the substance TiO_2 (INCI name: titanium dioxide) as 'Carcinogen Category 2 (inhalation)', that applies to titanium dioxide in powder form containing 1 % or more of particles with aerodynamic diameter of ≤ 10 μm.

([1]) OJ L 342, 22.12.2009, p. 59.

([2]) 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).

([3]) Commission Delegated Regulation (EU) 2020/217 of 4 October 2019 amending, for the purposes of its adaptation to technical and scientific progress, Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures and correcting that Regulation (OJ L 44, 18.2.2020, p. 1).

(6) Titanium dioxide is currently listed in entry 143 of Annex IV to Regulation (EC) No 1223/2009 and allowed for use as colorant in cosmetic products, provided that it complies with the purity criteria as set out in entry E 171 (titanium dioxide) of the Annex to Commission Regulation (EU) No 231/2012 ([4]). Titanium dioxide is also listed in entries 27 and 27a (nano form) of Annex VI to Regulation (EC) No 1223/2009 as UV filter and only allowed in cosmetic products in concentrations of up to 25 %. In addition, titanium dioxide (nano) is allowed in ready for use preparation, except in applications that may lead to exposure of the end user's lungs by inhalation and subject to the other conditions listed in that entry.

(7) Following the classification of titanium dioxide as a CMR substance, a request for its use in cosmetic products by way of exception pursuant to the second sentence of Article 15(1) of Regulation (EC) No 1223/2009 was submitted on 28 January 2020.

(8) On 6 October 2020, the Scientific Committee on Consumer Safety (SCCS) adopted a scientific opinion on titanium dioxide ([5]) ('the SCCS opinion') for the purpose of the adoption of the necessary measures in accordance with Article 15(1) of Regulation (EC) No 1223/2009. The SCCS opinion, which covered titanium dioxide (inhalable) in powder form containing 1 % or more of particles with aerodynamic diameter ≤ 10 μm, concluded that, based on the available data, TiO_2 was safe for general consumers when used in face products in loose powder form up to a maximum concentration of 25 % and in hair products in aerosol spray form up to a maximum concentration of 1,4 %. As regards professional use, TiO_2 was considered safe when used in hair products in aerosol spray form up to a maximum concentration of 1,1 %.

(9) Finally, the SCCS concluded that those results were drawn from cosmetic products based on only one type of titanium dioxide material (pigmentary) and that, in the absence of more information, it could not be established whether those conclusions would be also applicable to other cosmetic applications containing other types of titanium dioxide not explicitly covered by the SCCS opinion.

(10) In the light of the SCCS conclusions, titanium dioxide in powder form containing 1 % or more of particles with aerodynamic diameter ≤ 10 μm should not be authorised for use in applications that may give rise to inhalation exposure by the end user and should, therefore, be added to the list of restricted substances in Annex III to Regulation (EC) No 1223/2009 and its use should be allowed only in face products in loose powder form and in hair aerosol spray products as indicated in those conclusions. In addition to the inclusion of titanium dioxide in Annex III to Regulation (EC) No 1223/2009, it should be provided that the use of titanium dioxide as colorant in accordance with entry 143 of Annex IV to that Regulation, as well as the use of titanium dioxide as UV filter in accordance with entry 27 of Annex VI to that Regulation should be allowed without prejudice to its restricted use under Annex III to that Regulation. To this aim, a reference to the restricted use of titanium dioxide under Annex III to Regulation (EC) No 1223/2009 should be added in the relevant entries in Annex IV and Annex VI to that Regulation. As regards the use of titanium dioxide (nano) as UV filter in accordance with entry 27a of Annex VI to Regulation (EC) No 1223/2009, no additional measures are required, as entry 27a already provides that titanium dioxide (nano) is not to be used in applications that may lead to exposure of the end-user's lungs by inhalation.

(11) With regard to substances other than titanium dioxide, which were classified as CMR substances pursuant to Regulation (EC) No 1272/2008 by Delegated Regulation (EU) 2020/217, no request for use in cosmetic products by way of exception has been submitted. This concerns cobalt, metaldehyde (ISO), methylmercuric chloride, benzo[rst] pentaphene, dibenzo[b,def]chrysene; dibenzo[a,h]pyrene, ethanol, 2,2'-iminobis-,N-(C13-15-branched and linear alkyl) derivs, cyflumetofen (ISO), diisohexyl phthalate, halosulfuron-methyl (ISO), 2-methylimidazole, metaflumizone (ISO), dibutylbis(pentane-2,4-dionato-O,O')tin, nickel bis(sulfamidate), 2-Benzyl-2-dimethylamino-4′- morpholinobutyrophenone and ethylene oxide. Those substances are currently neither subject to the restrictions laid down in Annex III nor authorised in accordance with Annexes IV, V or VI to Regulation (EC) No 1223/2009. Three of those substances, namely nickel bis(sulfamidate), ethylene oxide and 2-Benzyl-2-dimethylamino-4′- morpholinobutyrophenone, are currently listed in Annex II to that Regulation. The substances that are not yet listed in Annex II to Regulation (EC) No 1223/2009 should be added to the list of substances prohibited in cosmetic products in that Annex.

([4]) Commission Regulation (EU) No 231/2012 of 9 March 2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council (OJ L 83, 22.3.2012, p. 1).

([5]) SCCS (Scientific Committee on Consumer Safety), Opinion on Titanium dioxide (TiO_2), preliminary version of 7 August 2020, final version of 6 October 2020, SCCS/1617/20.

(12) Commission Regulation (EU) 2019/1966 ([6]), that was adopted to uniformly implement the prohibition of substances classified as CMR, pursuant to Regulation (EC) No 1272/2008, by Commission Regulation (EU) 2018/1480 ([7]), introduced changes to entry 98 of Annex III to Regulation (EC) No 1223/2009 with regard to the substance benzoic acid, 2-hydroxy- (INCI name: salicylic acid). In order to fully align those changes with the conclusion of the original SCCS opinion ([8]), it is appropriate to authorise the use of that substance, for purposes other than preservative function, in body lotion, eye shadow, mascara, eyeliner, lipstick and roll-on deodorant in a concentration of up to 0,5 %. Entry 98 of Annex III to Regulation (EC) No 1223/2009 should therefore be amended accordingly.

(13) Additionally, the substance nickel bis(tetrafluoroborate) (CAS number: 14708-14-6) has been introduced twice by error in Annex II to Regulation (EC) No 1223/2009 (entries 1401 and 1427) by Commission Regulation (EU) 2019/831 ([9]), that was adopted to uniformly implement the prohibition of substances classified as CMR, pursuant to Regulation (EC) No 1272/2008, by Commission Regulation (EU) 2017/776 ([10]). The second of those entries is therefore redundant and should be removed.

(14) Regulation (EC) No 1223/2009 should therefore be amended and corrected accordingly.

(15) The amendments to Regulation (EC) No 1223/2009 provided for in this Regulation that are based on the classifications of the relevant substances as CMR substances by Delegated Regulation (EU) 2020/217 should apply from the same date as that Delegated Regulation.

(16) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Cosmetic Products,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes II, III, IV and VI to Regulation (EC) No 1223/2009 are amended in accordance with the Annex to this Regulation.

Article 2

In Annex II to Regulation (EC) No 1223/2009, the entry 1427, corresponding to the substance nickel bis(tetrafluoroborate) (CAS number: 14708-14-6), is deleted.

Article 3

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

Article 1 shall apply from 1 October 2021 with respect to points (1), (2) (b), (3) and (4) of the Annex.

([6]) Commission Regulation (EU) 2019/1966 of 27 November 2019 amending and correcting Annexes II, III and V to Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (OJ L 307, 28.11.2019, p. 15).

([7]) Commission Regulation (EU) 2018/1480 of 4 October 2018 amending, for the purposes of its adaptation to technical and scientific progress, Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures and correcting Commission Regulation (EU) 2017/776 (OJ L 251, 5.10.2018, p. 1).

([8]) SCCS (Scientific Committee on Consumer Safety), Opinion on salicylic acid, Corrigendum of 20-21 June 2019, SCCS/1601/18.

([9]) Commission Regulation (EU) 2019/831 of 22 May 2019 amending Annexes II, III and V to Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (OJ L 137, 23.5.2019, p. 29).

([10]) Commission Regulation (EU) 2017/776 of 4 May 2017 amending, for the purposes of its adaptation to technical and scientific progress, Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures (OJ L 116, 5.5.2017, p. 1).

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

Done at Brussels, 26 May 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Regulation (EC) No 1223/2009 is amended as follows:

(1) in Annex II the following entries are added:

Reference number	Substance identification		
	Chemical name/INN	CAS number	EC number
a	b	c	d
‘x	Cobalt	7440-48-4	231-158-0
x	Metaldehyde (ISO); 2,4,6,8-tetramethyl- 1,3,5,7-tetraoxacyclooctane	108-62-3	203-600-2
x	Methylmercuric chloride	115-09-3	204-064-2
x	Benzo[rst]pentaphene	189-55-9	205-877-5
x	Dibenzo[b,def]chrysene; dibenzo[a,h]pyrene	189-64-0	205-878-0
x	Ethanol, 2,2’-iminobis-, N- (C13-15-branched and linear alkyl) derivs.	97925-95-6	308-208-6
x	Cyflumetofen (ISO); 2-methoxyethyl (RS)-2- (4-tert-butylphenyl)-2-cyano-3-oxo-3-(α,α,α-trifluoro-o-tolyl)propionate	400882-07-7	-
x	Diisohexyl phthalate	71850-09-4	276-090-2
x	halosulfuron-methyl (ISO); methyl 3-chloro-5-{[(4,6- dimethoxypyrimidin-2-yl) carbamoyl] sulfamoyl}-1- methyl-1H-pyrazole-4- carboxylate	100784-20-1	-
x	2-methylimidazole	693-98-1	211-765-7
x	Metaflumizone (ISO); (EZ)-2’-[2-(4-cyanophenyl)-1-(α,α,α -trifluoro-m- tolyl)ethylidene]-[4-(trifluoromethoxy)phenyl] carbanilohydrazide [E-isomer ≥ 90 %, Z-isomer ≤ 10 % relative content]; [1] (E)-2’-[2-(4-cyanophenyl)- 1-(α,α,α -trifluoro-m-tolyl) ethylidene]-[4-(trifluoromethoxy)phenyl] carbanilohydrazide [2]	139968-49-3 [1] 852403-68-0 [2]	-
x	Dibutylbis(pentane-2,4- dionato-O,O’)tin	22673-19-4	245-152-0’;

(2) Annex III is amended as follows:

(a) entry 98 is replaced by the following:

Reference number	Substance identification				Restrictions			Wording of conditions of use and warnings
	Chemical Name/INN	Name of Common Ingredients Glossary	CAS number	EC number	Product type, Body parts	Maximum concentration in ready for use preparation	Other	
a	b	c	d	e	f	g	h	i
'98	Benzoic acid, 2-hydroxy- (1)	Salicylic acid	69-72-7	200-712-3	(a) Rinse-off hair products (b) Other products except body lotion, eye shadow, mascara, eyeliner, lipstick, roll-on deodorant (c) Body lotion, eye shadow, mascara, eyeliner, lipstick, roll-on deodorant	(a) 3,0 % (b) 2,0 % (c) 0,5 %	(a) (b) (c) Not to be used in preparations for children under 3 years of age. Not to be used in applications that may lead to exposure of the end-user's lungs by inhalation. Not to be used in oral products. For purposes other than inhibiting the development of micro-organisms in the product. This purpose has to be apparent from the presentation of the product. These levels are inclusive of any use of salicylic acid.	(a) (b) (c) Not to be used for children under 3 years of age (2)

(1) For use as a preservative see Annex V, No 3.
(2) Solely for products which might be used for children under 3 years of age.';

(b) the following entry is added:

Reference number	Substance identification				Restrictions			Wording of conditions of use and warnings
	Chemical Name/INN	Name of Common Ingredients Glossary	CAS number	EC number	Product type, Body parts	Maximum concentration in ready for use preparation	Other	
a	b	c	d	e	f	g	h	i
'x	Titanium dioxide in powder form containing 1 % or more of particles	Titanium Dioxide	13463-67-7/ 1317-70-0/ 1317-80-2	236-675-5/ 215-280-1/ 215-282-2	(a) face products in loose powder form	(a) 25 %; (b) 1,4 % for general consumers, and 1.1 % for professional use.	(a) (b) Only in the pigmentary form	

	with aerodynamic diameter ≤ 10 μm				(b) hair aerosol spray products (c) other products		(c) Not to be used in applications that may lead to exposure of the end-user's lungs by inhalation';	

(3) in Annex IV 143 is replaced by the following:

Reference number	Substance identification					Conditions			Wording of conditions of use and warnings
	Chemical Name	Colour index Number/Name of Common Ingredients Glossary	CAS number	EC number	Colour	Product type, Body parts	Maximum concentration in ready for use preparation	Other	
a	b	c	d	e	f	g	h	i	j
'143	Titanium dioxide ([1])	77891		236-675-5	White			— Purity criteria as set out in Commission Directive 95/45/E (E 171) — Titanium dioxide in powder form containing 1 % or more of particles with aerodynamic diameter ≤ 10 μm, to be used in compliance with Annex III, No [321]	

([1]) For use as a UV filter, see Annex VI, No 27.';

(4) in Annex VI entry 27 is replaced by the following:

Reference number	Substance identification				Conditions			Wording of conditions of use and warnings
	Chemical name/INN/XAN	Name of Common Ingredients Glossary	CAS number	EC number	Product type, body parts	Maximum concentration in ready for use preparation	Other	
a	b	c	d	e	f	g	h	i
'27	Titanium dioxide ([2])	Titanium Dioxide	13463-67-7/ 1317-70-0/ 1317-80-2	236-675-5/ 215-280-1/ 215-282-2		25 % ([4])	Titanium dioxide in powder form containing 1 % or more of particles with aerodynamic diameter ≤ 10 μm, to be used in compliance with Annex III, No [321]. For the product types under letter (c) of	

							column (f) in Annex III, No [321], the maximum concentration in ready for use preparation provided in column (g) of this entry applies.	

([2]) For use as a colorant, see Annex IV, No 143.'.

COMMISSION IMPLEMENTING REGULATION (EU) 2021/851

of 26 May 2021

amending Regulation (EC) No 1484/95 as regards fixing representative prices in the poultrymeat and egg sectors and for egg albumin

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([1]), and in particular Article 183(b) thereof,

Having regard to Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products and repealing Council Regulations (EC) No 1216/2009 and (EC) No 614/2009 ([2]), and in particular Article 5(6)(a) thereof,

Whereas:

(1) Commission Regulation (EC) No 1484/95 ([3]) lays down detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.

(2) Regular monitoring of the data used to determine representative prices for poultrymeat and egg products and for egg albumin shows that the representative import prices for certain products should be amended to take account of variations in price according to origin.

(3) Regulation (EC) No 1484/95 should therefore be amended accordingly.

(4) Given the need to ensure that this measure applies as soon as possible after the updated data have been made available, this Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is replaced by the text set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day 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, 26 May 2021.

For the Commission,
On behalf of the President,
Wolfgang BURTSCHER
Director-General
Directorate-General for Agriculture and Rural Development

([1]) OJ L 347, 20.12.2013, p. 671.
([2]) OJ L 150, 20.5.2014, p. 1.
([3]) Commission Regulation (EC) No 1484/95 of 28 June 1995 laying down detailed rules for implementing the system of additional import duties and fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and repealing Regulation No 163/67/EEC (OJ L 145, 29.6.1995, p. 47).

ANNEX

'*ANNEX I*

CN code	Description of goods	Representative price (EUR/100 kg)	Security under Article 3 (EUR/100 kg)	Origin [1]
0207 14 10	Fowls of the species *Gallus domesticus*, boneless cuts, frozen	170,6	45	AR
		158,3	51	BR
		236,8	19	TH

[1] Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7).'

COMMISSION IMPLEMENTING REGULATION (EU) 2021/852

of 27 May 2021

amending Council Regulation (EC) No 32/2000 and Commission Regulation (EC) No 847/2006 as regards the exclusion of imports of products originating in the United Kingdom from tariff quotas

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 32/2000 of 17 December 1999 opening and providing for the administration of Community tariff quotas bound in GATT and certain other Community tariff quotas and establishing detailed rules for adjusting the quotas, and repealing Council Regulation (EC) No 1808/95 ([1]), and in particular the first indent of Article 9(1)(b) thereof,

Having regard to Council Decision 2006/324/EC of 27 February 2006 on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Kingdom of Thailand pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the course of their accession to the European Union ([2]), and in particular Article 2 thereof,

Whereas:

(1) The Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part ('the Agreement') ([3]) was signed, on behalf of the Union, on 29 December 2020. It is to be applied on a provisional basis from 1 January 2021.

(2) Regulation (EC) No 32/2000 opens and provides for the administration of Community tariff quotas bound in GATT and certain other Community tariff quotas and establishes detailed rules for adjusting the quotas, and repeals Council Regulation (EC) No 1808/95 ([4]).

(3) Commission Regulation (EC) No 847/2006 ([5]) opens and provides for the administration of Community tariff quotas for certain prepared or preserved fish.

(4) The Agreement states that products originating in the United Kingdom are not eligible to be imported into the Union under existing WTO tariff quotas as defined in the Agreement. It refers to tariff quotas apportioned between the parties pursuant to Article XXVIII GATT negotiations initiated by the Union in WTO document G/SECRET/42/Add.2 ([6]) and by the United Kingdom in WTO document G/SECRET/44 ([7]) and as set out in each party's respective internal legislation. The Agreement further states that the originating status of the products is to be determined on the basis of non-preferential rules of origin applicable in the importing party.

(5) The existing WTO tariff quotas as defined in the Agreement refer to WTO concessions of the Union included in the draft EU28 schedule of concessions and commitments under GATT 1994 submitted to the WTO in document G/MA/TAR/RS/506 ([8]) as amended by documents G/MA/TAR/RS/506/Add.1 and G/MA/TAR/RS/506/Add.2 ([9]).

(6) Regulations (EC) No 32/2000 and (EC) No 847/2006 currently apply to such imports originating in the United Kingdom. In order to comply with the Agreement, those Regulations should be amended to exclude import of products originating in the United Kingdom from existing WTO tariff quotas.

([1]) OJ L 5, 8.1.2000, p. 1.
([2]) OJ L 120, 5.5.2006, p. 17.
([3]) OJ L 444, 31.12.2020, p. 14.
([4]) Council Regulation (EC) No 1808/95 of 24 July 1995 opening and providing for the administration of Community tariff quotas bound in GATT for certain agricultural, industrial and fisheries products and establishing the detailed provisions for adapting these quotas (OJ L 176, 27.7.1995, p. 1).
([5]) Commission Regulation (EC) No 847/2006 of 8 June 2006 opening and providing for the administration of Community tariff quotas for certain prepared or preserved fish (OJ L 156, 9.6.2006, p. 8).
([6]) https://docs.wto.org
([7]) https://docs.wto.org
([8]) https://docs.wto.org
([9]) https://docs.wto.org

(7) The Agreement is to be applied on a provisional basis from 1 January 2021. Therefore, import of products originating in the United Kingdom should also be excluded from the application of tariff quotas the quota periods of which started before 1 January 2021 and were still ongoing on that date, as regards imports that took place on or after 1 January 2021.

(8) In order to ensure conformity with the Agreement, this Regulation should enter into force as a matter of urgency on the day of its publication in the *Official Journal of the European Union* and apply from 1 January 2021 the date of application of the Agreement.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

In Title II of Regulation (EC) No 32/2000 the following Section 4 is added:

'Section 4

List of Community tariff quotas bound in GATT

Article 7a

The Community tariff quotas listed in Annex I shall apply to imports originating in all third countries except the United Kingdom.'

Article 2

Article 2 of Regulation (EC) No 847/2006 is amended as follows:

(1) in paragraph 1, the words 'all countries' are replaced by the words 'all third countries except the United Kingdom';

(2) in paragraph 2, the words 'all countries' are replaced by the words 'all third countries except the United Kingdom'.

Article 3

Entry into force and application

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

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 27 May 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2021/853

of 27 May 2021

renewing the approval of the active substance *Streptomyces* strain K61 in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ([1]) and in particular Article 20(1) thereof,

Whereas:

(1) Commission Directive 2008/113/EC ([2]) included *Streptomyces* K61 (formerly '*S. griseoviridis*') as an active substance in Annex I to Council Directive 91/414/EEC ([3]).

(2) The concerned active substance is a bacterium, that was first named '*Streptomyces griseoviridis*'. Subsequently, for scientific reasons, that name was changed into *Streptomyces K61*. More recently, it was changed again into its current name *Streptomyces* strain K61.

(3) Active substances included in Annex I to Directive 91/414/EEC are deemed to have been approved under Regulation (EC) No 1107/2009 and are listed in Part A of the Annex to Commission Implementing Regulation (EU) No 540/2011 ([4]).

(4) The approval of the active substance *Streptomyces* strain K61, as set out in Part A of the Annex to Implementing Regulation (EU) No 540/2011, expires on 30 April 2022.

(5) An application for the renewal of the approval of the active substance *Streptomyces* strain K61 was submitted in accordance with Article 1 of Commission Implementing Regulation (EU) No 844/2012 ([5]) within the time period provided for in that Article.

(6) The applicant submitted the supplementary dossiers required in accordance with Article 6 of Implementing Regulation (EU) No 844/2012. The application was found to be complete by the rapporteur Member State.

(7) The rapporteur Member State prepared a draft renewal assessment report in consultation with the co-rapporteur Member State and submitted it to the European Food Safety Authority ('the Authority') and the Commission on 15 January 2019.

(8) The Authority communicated the draft renewal assessment report to the applicant and to the Member States for comments and forwarded the comments received to the Commission. The Authority also made the supplementary summary dossier available to the public.

([1]) OJ L 309, 24.11.2009, p. 1.

([2]) Commission Directive 2008/113/EC of 8 December 2008 amending Council Directive 91/414/EEC to include several microorganisms as active substances (OJ L 330, 9.12.2008, p. 6).

([3]) Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1).

([4]) Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

([5]) Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ L 252, 19.9.2012, p. 26).

(9) On 19 June 2020, the Authority communicated to the Commission its conclusion ([6]) on whether *Streptomyces* strain K61 can be expected to meet the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009. The Commission presented a renewal report on the 3 December 2020 and a draft Regulation regarding *Streptomyces* strain K61 to the Standing Committee on Plants, Animals, Food and Feed on 25 January 2021.

(10) The Commission invited the applicant to submit its comments on the conclusion of the Authority and, in accordance with the third paragraph of Article 14(1) of Implementing Regulation (EU) No 844/2012, on the renewal report. The applicant submitted its comments, which have been carefully examined.

(11) It has been established with respect to one or more representative uses of at least one plant protection product containing the active substance *Streptomyces* strain K61 that the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009 are satisfied. It is therefore appropriate to renew the approval of *Streptomyces* strain K61.

(12) The risk assessment for the renewal of the approval of the active substance *Streptomyces* strain K61 is based on a limited number of representative uses, which however do not restrict the uses for which plant protection products containing *Streptomyces* strain *K61* may be authorised. It is therefore appropriate not to maintain the restriction to use as a fungicide only.

(13) In accordance with Article 20(3) of Regulation (EC) No 1107/2009, in conjunction with Article 13(4) thereof, the Annex to Implementing Regulation (EU) No 540/2011 should therefore be amended accordingly.

(14) Commission Implementing Regulation (EU) 2021/566 ([7]) extended the approval period of *Streptomyces* strain K61 to 30 April 2022 in order to allow the renewal process to be completed before the expiry of that period. However, given that a decision on renewal is being taken ahead of the expiry of that extended approval period, this Regulation should start to apply earlier than that date.

(15) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Renewal of the approval of the active substance

The approval of the active substance *Streptomyces* strain K61, as specified in Annex I, is renewed subject to the conditions laid down in that Annex.

Article 2

Amendments to Implementing Regulation (EU) No 540/2011

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with Annex II to this Regulation.

([6]) *EFSA Journal* 2020;18(7):6182, 14 pp. doi:10.2903/j.efsa.2020.6182. Available online: www.efsa.europa.eu.

([7]) Commission Implementing Regulation (EU) 2021/566 of 30 March 2021 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances abamectin, *Bacillus subtilis* (Cohn 1872) strain QST 713, *Bacillus thuringiensis* subsp. Aizawai strains ABTS-1857 and GC-91, *Bacillus thuringiensis* subsp. Israeliensis (serotype H-14) strain AM65-52, *Bacillus thuringiensis* subsp. Kurstaki strains ABTS 351, PB 54, SA 11, SA12 and EG 2348, *Beauveria bassiana* strains ATCC 74040 and GHA, clodinafop, clopyralid, *Cydia pomonella Granulovirus* (CpGV), cyprodinil, dichlorprop-P, fenpyroximate, fosetyl, mepanipyrim, *Metarhizium anisopliae* (var. anisopliae) strain BIPESCO 5/F52, metconazole, metrafenone, pirimicarb, *Pseudomonas chlororaphis* strain MA342, pyrimethanil, *Pythium oligandrum* M1, rimsulfuron, spinosad, *Streptomyces* K61 (formerly '*S. griseoviridis*'), *Trichoderma asperellum* (formerly '*T. harzianum*') strains ICC012, T25 and TV1, *Trichoderma atroviride* (formerly '*T. harzianum*') strain T11, *Trichoderma gamsii* (formerly '*T. viride*') strain ICC080, *Trichoderma harzianum* strains T-22 and ITEM 908, triclopyr, trinexapac, triticonazole and ziram (OJ L 118, 7.4.2021, p. 1).

Article 3

Entry into force and date of 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 1 July 2021.

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

Done at Brussels, 27 May 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Common Name, Identification Numbers	IUPAC Name	Purity (1)	Date of approval	Expiration of approval	Specific provisions
Streptomyces strain K61	Not applicable	No relevant impurities	1 July 2021	30 June 2036	For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the renewal report on *Streptomyces* strain K61 and in particular Appendices I and II thereto, shall be taken into account. Member States shall pay particular attention to the protection of operators and workers, taking into account that microorganisms are considered as potential sensitisers, and shall ensure that adequate personal protective equipment is included as a condition of use. Producers shall ensure strict maintenance of environmental conditions and quality control analysis during the manufacturing process as laid down in Working Document SANCO/12116/2012 as regards the limits on microbiological contamination (2).

(1) Further details on the identity and the specification of the active substance are provided in the renewal report.
(2) https://ec.europa.eu/food/sites/food/files/plant/docs/pesticides_ppp_app-proc_guide_phys-chem-ana_microbial-contaminant-limits.pdf

ANNEX II

The Annex to Commission Implementing Regulation (EU) No 540/2011 is amended as follows:

(1) in Part A, entry 203 on *Streptomyces* K61 (formerly *S. griseoviridis*) is deleted;

(2) in Part B, the following entry is added:

'145	*Streptomyces* strain K61	Not applicable	No relevant impurities	1 July 2021	30 June 2036	For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the renewal report on *Streptomyces* strain K61 and in particular Appendices I and II thereto, shall be taken into account. Member States shall pay particular attention to the protection of operators and workers, taking into account that microorganisms are considered as potential sensitisers, and shall ensure that adequate personal protective equipment is included as a condition of use. Producers shall ensure strict maintenance of environmental conditions and quality control analysis during the manufacturing process as laid down in Working Document SANCO/12116/2012 as regards the limits on microbiological contamination (*).

(*) https://ec.europa.eu/food/sites/food/files/plant/docs/pesticides_ppp_app-proc_guide_phys-chem-ana_microbial-contaminant-limits.pdf.'

COMMISSION IMPLEMENTING REGULATION (EU) 2021/854

of 27 May 2021

imposing a provisional anti-dumping duty on imports of stainless steel cold-rolled flat products originating in India and Indonesia

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 Article 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 30 September 2020, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports of stainless steel cold-rolled flat products ('SSCR' or 'the product under investigation') originating in India and Indonesia ('the countries concerned'), on the basis of Article 5 of Regulation (EU) 2016/1036 of the European Parliament and of the Council. It published a Notice of Initiation in the Official Journal of the European Union ([2]) ('Notice of Initiation').

(2) The Commission initiated the investigation following a complaint lodged on 17 August 2020 by the European Steel Association ('Eurofer' or 'the complainant') on behalf of producers representing more than 25 % of the total Union production of stainless steel cold-rolled flat products. The complaint contained evidence of dumping from the countries concerned and resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Registration

(3) Following a request by the complainant supported by the required evidence, the Commission made imports of the product concerned subject to registration under Article 14(5) of the basic Regulation by Commission Implementing Regulation (EU) 2021/370 ([3]).

1.3. Interested parties

(4) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainant, known exporting producers in the countries concerned and the authorities of the countries concerned, known importers and users in the Union about the initiation of the investigation, and invited them to participate.

(5) Interested parties had the opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. The Commission held a hearing with the complainant, one exporting producer and one Union user. The Commission received comments that are addressed in Sections 2.3 and 5.2 and 7.2.

([1]) OJ L 176, 30.6.2016, p. 21.

([2]) Notice of Initiation of an anti-dumping proceeding concerning imports of stainless steel cold-rolled flat products originating in India and Indonesia, OJ C 322, 30.9.2020, p. 17.

([3]) Commission Implementing Regulation (EU) 2021/370 of 1 March 2021 making imports of stainless steel cold-rolled flat products originating in India and Indonesia subject to registration, OJ L 71, 2.3.2021, p. 18.

1.4. **Sampling**

(6) In the Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 17 of the basic Regulation.

1.4.1. *Sampling of Union producers*

(7) In the Notice of Initiation, the Commission stated that it had decided to limit to a reasonable number the Union producers that would be investigated by applying sampling, and that it had provisionally selected a sample of Union producers. The Commission selected the provisional sample on the basis of production and Union sales volumes reported by the Union producers in the context of the pre-initiation standing assessment analysis, taking also into account their geographical location. The provisional sample thus established consisted of three Union producers accounting for more than 60 % of production and around 70 % of sales in the Union of the like product, and located in four different Member States. Details of this provisional sample were made available in the file for inspection by interested parties, with the possibility for them to make comments. No comments were made.

(8) As a result of the above, the provisional sample of Union producers was confirmed. It consisted of Aperam Stainless Europe ('Aperam'), Acciai Speciali Terni S.p.A. ('AST') and Outokumpu Stainless Oy ('OTK'). The definitive sample is representative of the Union industry.

1.4.2. *Sampling of importers*

(9) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known unrelated importers to provide the information specified in the Notice of Initiation.

(10) Three unrelated importers made themselves known as interested parties and provided the requested information. In view of the low number of replies received, sampling was not necessary. No comments were made to this decision. The importers were invited to complete a questionnaire.

1.4.3. *Sampling of exporting producers in the countries concerned*

(11) In view of the potentially large number of exporting producers in the countries concerned, the Notice of Initiation provided for sampling in India and Indonesia and therefore, the Commission asked all known exporting producers in India and Indonesia to provide the information specified in the Notice of Initiation to decide whether sampling was necessary and, if so, to select a sample.

(12) In addition, the Commission asked the Mission of India to the European Union and the Embassy of the Republic of Indonesia in Brussels to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

1.4.3.1. India

(13) Upon initiation, seven potential exporting producers in India were contacted by the Commission. Two exporting producers in India provided the information required for sampling and they represented all exports of the product concerned to the Union. The Commission therefore abandoned sampling with regard to exporting producers in India.

1.4.3.2. Indonesia

(14) Upon initiation, 14 potential exporting producers in Indonesia were contacted by the Commission. Three exporting producers replied to the sampling questions and reported sales to the Union. According to the information provided in the sampling returns, their sales represented 72 % of Indonesian exports to the Union. On that basis, sampling was abandoned also for Indonesia.

1.5. **Questionnaire replies**

(15) The complaint provided sufficient *prima facie* evidence of raw material distortions in India and Indonesia regarding the product concerned. Therefore, as announced in the Notice of Initiation, the investigation covered those raw material distortions to determine whether to apply the provisions of Article 7(2a) and 7(2b) of the basic Regulation with regard to India and Indonesia. For this reason, the Commission sent questionnaires in this regard to the Governments of India ('GOI') and Indonesia ('GOIS').

(16) The Commission sent questionnaires to the three sampled Union producers, the complainant, the three unrelated importers, and the five exporting producers in the countries concerned. The same questionnaires had also been made available online ([4]) on the day of initiation.

(17) Questionnaire replies were received from the three sampled Union producers, the complainant, two unrelated importers, the two exporting producers from India and three exporting producers from Indonesia. Questionnaire replies were also received from the GOI and the GOIS.

1.6. **Verification visits**

(18) In view of the outbreak of COVID-19 and the confinement measures put in place by various Member States as well as by various third countries, the Commission could not carry out verification visits pursuant to Article 16 of the basic Regulation at provisional stage. The Commission instead cross-checked remotely all the information deemed necessary for its provisional determinations in line with its Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations ([5]).

(19) The Commission carried out remote crosschecks ('RCC') of the following companies / parties:

(a) Union producers and their association:

— Acciai Speciali Terni S.p.A., Terni, Italy ('AST')

— Aperam Stainless Europe, consisting of Aperam France, La Plaine Saint-Denis Cedex, France and Aperam Belgium, Châtelet and Genk, Belgium ('Aperam')

— Outokumpu Stainless Oy, Tornio, Finland ('OTK')

— Eurofer, Brussels, Belgium

(b) Importers in the Union:

— Gual Stainless S.L., Berga, Spain

— Nova Trading S.A., Torun, Poland

(c) Exporting producers:

Exporting producers in India:

— Chromeni Steels Private Limited, India

— Jindal Stainless Limited, Jindal Stainless Hisar Limited and Jindal Stainless Steelways Limited, India; Iberjindal S.L., Spain; and JSL Global Commodities Pte. Ltd., Singapore (jointly referred to as 'the Jindal Group')

Exporting producers in Indonesia:

— PT Indonesia Ruipu Nickel and Chrome alloy ('IRNC'), PT Ekasa Yad Resources ('EYR') and PT Hanwa ('Hanwa'), Indonesia; Cantostar Limited ('Cantostar') and Eternal Tsingshan Group Co., Ltd. ('Eternal Tsingshan'), Hong Kong; and Recheer Resources Pte. Ltd. ('Recheer'), Singapore (jointly referred to as 'the IRNC Group')

— PT Jindal Stainless Indonesia Limited ('PTJ'), Indonesia; JSL Global Commodities Pte. Ltd. ('JGC'), Singapore; and Iberjindal S.L. ('IBJ'), Spain (jointly referred to as 'the Jindal Indonesia Group')

([4]) Available at https://trade.ec.europa.eu/tdi/case_details.cfm?id=2484.

([5]) Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations (OJ C 86, 16.3.2020, p. 6).

(20) With regard to the procedure of Articles 7(2a) and 7(2b) of the basic Regulation, RCCs with the GOI and with the GOIS took place.

1.7. **Investigation period and period considered**

(21) The investigation of dumping and injury covered the period from 1 July 2019 to 30 June 2020 ('the investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2017 to the end of the investigation period ('the period considered').

2. **PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Product concerned**

(22) The product concerned by this investigation is flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), currently falling under CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7219 90 20, 7219 90 80, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81, 7220 20 89, 7220 90 20 and 7220 90 80 and originating in India and Indonesia. The CN codes are given for information only.

2.2. **Like product**

(23) The investigation showed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:

— the product concerned;

— the product produced and sold on the domestic markets of the countries concerned;

— the product produced and sold in the Union by the Union industry.

(24) The Commission decided at this stage that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

2.3. **Claims regarding product scope**

(25) At a very late stage of the provisional part of the investigation, one Union user came forward as an interested party and sent a submission concerning the product scope. The company requested the exclusion of products with steel grade 200 ('200 SSCRPs') from the product scope as, according to the company, those products have no or very limited production in the Union and such products have a specific and niche end use. According to the company, the exclusion of 200 SSCRP on the basis of their steel grade and end use would not risk circumvention of other types of products.

(26) The above claim was opposed by the complainant. Eurofer insisted that the 200 SSCRPs are produced by at least two of the Union producers. Moreover, Eurofer submitted that they can be easily replaced by other steel grades in end use, and are as such in direct competition with these product types. Furthermore, the 200 SSCRPs have the same basic physical, chemical and technical characteristics as well as distribution channels as other steel grades and cannot be easily identified without specialist tests – which, according to the complainant, clearly opens the possibility of circumvention. Considering the claims made by Eurofer, the Commission provisionally concluded that the product types are interchangeable.

(27) Taking into account the very late submission of the product scope request, the fact that there is Union production of the 200 SSCRPs and the interchangeability of 200 SSCRPs with other product types, the product exclusion request is provisionally rejected.

3. **DUMPING**

3.1. **Preliminary remark**

(28) Given the limited number of parties cooperating both in India and Indonesia, the details of certain findings on dumping are confidential and therefore only contained in the bilateral disclosures.

3.2. **India**

3.2.1. *Cooperation and partial application of Article 18 of the basic Regulation*

(29) The two co-operating exporting producers in India were Chromeni Steels Private Limited and the Jindal Group.

(30) Chromeni Steels Private Limited produced the product concerned in India and sold it on the domestic market mainly to unrelated and to a few related customers. All exports to the Union were made directly to unrelated customers.

(31) The following companies that were expressly named by the Jindal Group as being involved in the production and sales of the product concerned were involved in the investigation and RCC:

— Jindal Stainless Limited ('JSL'), an integrated exporting producer processing stainless steel scrap into the product under investigation;

— Jindal Stainless Hisar Limited ('JSHL'), an integrated exporting producer processing stainless steel scrap into the product under investigation;

— Jindal Stainless Steelways Limited ('JSS'), a party which cold-rolls hot rolled coils purchased from JSL and JSHL and sells them on the domestic market of India;

— Iberjindal S.L. ('IBJ'), a related trader located in Spain, which buys the product under investigation from JSL and JSHL and resells it to unrelated and related customers in the Union; and

— JSL Global Commodities Pte. Ltd. ('JGC'), a related trader located in Singapore, which buys the product under investigation from JSL and JSHL and resells it to unrelated customers in the Union.

(32) The RCC revealed that a related company of the Jindal Group in a third country was involved in the sales of the product concerned to the Union. Yet the relevant role of this party with regard to the product under investigation had not been reported as such in the correspondence by the Jindal Group, including in the questionnaire replies. Consequently, the Commission informed the Jindal Group, by letter of 23 March 2021, that it intended to apply the provisions of Article 18 of the basic Regulation and use facts available with regard to the information that had not been disclosed relating to the role of the related company. Following that letter, the related company located in a third country submitted comments on 29 March 2021. With their comments, the Jindal group also provided the related company's reply to the annex to the questionnaire.

(33) These comments were reiterated during a hearing with the Hearing Officer on 16 April 2021.

(34) The comments of the Jindal Group on the March 23 letter were duly assessed but they did not alter the Commission's appreciation of the facts. In particular, the reply to the annex to the questionnaire which was submitted in reply to the Commission's letter of 23 March 2021 could not be remotely cross-checked and therefore, the Commission could not assess the completeness of the information provided on behalf of that party.

(35) Consequently, the Commission confirmed its intention to apply the provisions of Article 18 of the basic Regulation at this stage.

3.2.2. *Normal value*

(36) The Commission first examined whether the total volume of domestic sales for each cooperating exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the investigation period.

(37) On this basis, the total sales volume by each cooperating exporting producer of the like product on the domestic market were found to be representative.

(38) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union.

(39) The Commission then examined whether the product types sold by each of the cooperating exporting producers on their domestic market compared with product types sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union.

(40) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value or whether to disregard the sales outside of the ordinary course of trade by reason of price, in accordance with Article 2(4) of the basic Regulation.

(41) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:

(a) the sales volume of the product type sold at a net sales price equal to or above the calculated cost of production represented more than 80 % of the total sales volume of this product type; and

(b) the weighted average sales price of that product type is equal to or higher than the unit cost of production.

(42) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the investigation period.

(43) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the investigation period, if:

(a) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type; or

(b) the weighted average price of this product type is below the unit cost of production.

(44) Where more than 80% of the domestic sales per product type during the investigation period were profitable, and where the weighted average sales price was equal to or higher than the weighted average unit cost of production, the normal value was calculated as a weighted average of the prices of all actual domestic sales during the investigation period in the situation described in recital (42). Alternatively, the normal value was calculated as a weighted average of the profitable sales in the situation described in recital (43).

(45) When a product type was not sold in representative quantities or not sold at all on the domestic market, and when there were no or insufficient sales of a product type of the like product in the ordinary course of trade, as provided for in Article 2 (2) and (4) of the basic Regulation, the Commission constructed the normal value in accordance with Article 2 (3) and (6) of the basic Regulation.

(46) Normal value was constructed per product type by adding the following to the average cost of production of the like product of the investigated exporting producers during the investigation period:

(a) the weighted average selling, general and administrative ('SG&A') expenses incurred by the investigated exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period; and

(b) the weighted average profit realised by the investigated exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period.

(47) For the product types not sold in representative quantities on the domestic market, the average SG&A expenses and profit of transactions made in the ordinary course of trade on the domestic market for those types were added. For the product types not sold at all on the domestic market, or where no sales were found in the ordinary course of trade, the weighted average SG&A expenses and profit of all transactions made in the ordinary course of trade on the domestic market were added.

3.2.3. *Export price*

(48) The exporting producers exported to the Union either directly to independent customers or through related companies.

(49) For the exporting producers that exported the product concerned directly to independent customers in the Union and for exporting producers that exported the product concerned to the Union through related companies located in a third country, the export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.

(50) For the exporting producers that exported the product concerned to the Union through related companies acting as an importer, the export price was established on the basis of the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. In this case, adjustments to the price were made for all costs incurred between importation and resale, including SG&A expenses and a reasonable profit.

3.2.4. *Comparison*

(51) The Commission compared the normal value and the export price of the exporting producers on an ex-works basis.

(52) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments to the export price were made for commission of the related trader in a third country (see recital(49)). Adjustments to the normal value and the export price were made for transport, insurance, packing, handling, loading and ancillary costs, credit cost, bank charges and conversion costs when applicable and discounts, including deferred discounts, where they affected price comparability.

(53) The Jindal Group made a claim under Article 2(10)(b) of the basic Regulation for a duty drawback adjustment to the normal value, arguing that the existence of a flat rate 'Duty Drawback Scheme' implies that all their domestic sales would incorporate an indirect tax compared to the export sales. However, the Jindal Group failed to establish that the claimed amounts were linked to the imports of incorporated raw materials or to the duties paid on them. The claim was therefore rejected.

(54) In view of the RCC findings with regard to Jindal's related company located in third country, as explained in recitals (32) to (35) above, the Commission replaced certain information with regard to the allowances applicable to Jindal Group's sales prices to the Union by facts available under Article 18 of the basic Regulation.

3.2.5. *Dumping margins*

(55) For the exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.

(56) The level of cooperation in this case was considered high as the exports of the cooperating exporting producers constitute 100% of the total exports to the EU during the IP. No other exporting producers than the cooperating two could be identified. Consequently, the Commission found it appropriate to set the residual dumping margin at the level of the exporting producer with the highest dumping margin.

(57) The provisional dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are therefore as follows:

Company	Provisional dumping margin
Jindal Group	13,6 %
Chromeni	36,9 %
All other companies	36,9 %

3.3. **Indonesia**

3.3.1. *Cooperation and application of Article 18 of the basic Regulation*

(58) As mentioned under recital (17) above, three Indonesian exporting producers provided the Commission with a questionnaire reply within the set deadline. However, one of these exporting producers, PT Bina Niaga Multiusaha, had not replied to most of the questions in the questionnaire. Indeed, the questionnaire reply received had most of its key sections empty (including T-by-T sales listings, cost of production table, profitability table), and the company only replied to some of the questions. The submission was found so substantially deficient that it was tantamount to a lack of reply altogether. Therefore, the Commission informed the party concerned by a letter of 20 November 2020 of the reasons for the Commission's intention to disregard the information provided, and to consider the company as non-cooperating. PT Bina Niaga Multiusaha was granted the opportunity to submit further comments, but it did not react to that letter by the set deadline.

(59) As a result of the above, only the two remaining Indonesian exporting producers, the IRNC Group and the Jindal Indonesia Group, were eventually considered as cooperating with the investigation. The investigation established that these two parties covered more than 90 % of the volume of the Indonesian exports of the product concerned to the Union in the investigation period.

(60) The following companies that were expressely named by the IRNC Group as being involved in the production and sales of the product concerned were involved in the investigation and RCC:

— PT Indonesia Guang Ching Nickel and Stainless Steel Industry ("GCNS"), which produces and provides hot-rolled coils (inputs, not the product concerned) to IRNC, for the production of the product concerned;

— PT Indonesia Tsingshan Stainless Steel ("ITSS"), which produces and provides hot-rolled coils (inputs, not the product concerned) to IRNC, for the production of product concerned.;

— PT Sulawesi Mining Investment ("SMI"), which produces and provides stainless slab to GCNS for the production of hot-rolled coils; and

— PT Tsingshan Steel Indonesia ("TSI"), which produces and provides ferro-nickel to ITSS and SMI for the production of slabs.

(61) During the RCC, the Commission discovered that the IRNC Group had failed to inform the Commission of the involvement of a related company, the Tsingshan Holding Group Co. located in China, in the activities related to the product under investigation. The information which the company failed to provide was considered crucial for the determination of both normal value and export price of the IRNC Group.

(62) In accordance with Article 18 of the basic Regulation and by letter of 23 March 2021, the company was therefore informed of the reasons of the Commission's intention to make certain adjustments to correct the normal value and export price by using facts available and the IRNC Group was granted the opportunity to provide comments.

(63) The company replied to the Commission's letter on 29 March 2021. In its reply, the company did not contest the fact that the deficiencies listed in the Commission's letter had existed. However the company replied that it would reserve the right to provide comments at a later stage.

(64) The following companies that were expressly named by the Jindal Indonesia Group, cooperated with the investigation by providing questionnaire replies and as being involved in the production and sales of the product concerned were involved in the investigation and RCC:

— PT Jindal Indonesia ('PTJ'), produced the product concerned in Indonesia and sold it on the domestic market to unrelated customers. PTJ exported either directly to EU customers or through related companies;

— Iberjindal S.L. ('IBJ'), a related trader located in Spain, which buys the product under investigation from PTJ and resells it to unrelated and related customers in the Union; and

— JSL Global Commodities Pte. Ltd. ('JGC'), a related trader located in Singapore, which buys the product under investigation from PTJ and resells it to unrelated customers in the Union.

3.3.2. *Normal value*

(65) The Commission first examined whether the total volume of domestic sales for each cooperating exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represented at least 5% of its total export sales volume of the product concerned to the Union during the investigation period.

(66) On this basis, the total sales volume by each exporting producer of the like product on the domestic market were found to be representative.

(67) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union.

(68) The Commission then examined whether the domestic sales by each cooperating exporting producer on its domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union.

(69) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the investigation period in order to decide whether to use all actual domestic sales for the calculation of the normal value or whether to disregard the sales outside of the ordinary course of trade by reason of price, in accordance with Article 2(4) of the basic Regulation.

(70) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:

(a) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and

(b) the weighted average sales price of that product type is equal to or higher than the weighted average unit cost of production.

(71) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the investigation period.

(72) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the investigation period, if:

(a) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type; or

(b) the weighted average price of this product type is below the weighted average unit cost of production.

(73) Where more than 80% of the domestic sales per product type during the investigation period were profitable, and where the weighted average sales price was higher than the weighted average unit cost of production, the normal value was calculated as a weighted average of the prices of all domestic sales during the investigation period in the situation described in recital (71) or as a weighted average of the profitable sales only in the situation described in recital (72).

(74) When a product type was not sold in representative quantities or not sold at all on the domestic market, and when there were no or insufficient sales of a product type of the like product in the ordinary course of trade, and when sales of a product type were made at prices below unit production costs plus selling, general and administrative costs, as provided for in Article 2 (2) and (4) of the basic Regulation, the Commission constructed the normal value in accordance with Article 2 (3) and (6) of the basic Regulation.

(75) Normal value was constructed per product type by adding the following to the average cost of production of the like product of the cooperating exporting producers during the investigation period:

(a) the weighted average selling, general and administrative ('SG&A') expenses incurred by the cooperating exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period; and

(b) the weighted average profit realised by the cooperating exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period.

(76) For the product types not sold in representative quantities on the domestic market, the average SG&A expenses and profit of transactions made in the ordinary course of trade on the domestic market for those types were added. For the product types not sold at all on the domestic market, or where no sales were found in the ordinary course of trade, the weighted average SG&A expenses and profit of all transactions made in the ordinary course of trade on the domestic market were added.

3.3.3. *Export price*

(77) The exporting producers exported to the Union either directly to independent customers or through related companies.

(78) For the exporting producers that exported the product concerned directly to independent customers in the Union and for exporting producers that exported the product concerned to the Union through related companies located in a third country, the export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.

(79) For the exporting producers that exported the product concerned to the Union through related companies acting as an importer, the export price was established on the basis of the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. In this case, adjustments to the price were made for all costs incurred between importation and resale, including SG&A expenses and a reasonable profit.

3.3.4. *Comparison*

(80) The Commission compared the normal value and the export price of the cooperating exporting producers on an ex-works basis.

(81) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments to the export price were made for commission of the related trader in a third country (see recital (78)).

(82) Adjustments to the normal value and the export price were made for transport, insurance, handling, loading and ancillary costs, credit cost, bank charges and conversion costs when applicable and discounts, including deferred discounts, where they affected price comparability.

(83) On the basis of an RCC exhibit it was established that the RCC findings with regard to Jindal India's related company located in a third country, as explained in recitals (32) to (35) above, also affected certain Union sales from the Jindal Indonesia Group. As provided in Article 18 of the basic Regulation facts available were used to complete the information related to this company. The same applies for the missing information with regard to the IRNC Group as referred to in recitals (61) to (63) above.

3.3.5. *Dumping margins*

(84) For the cooperating exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.

(85) The level of cooperation in this case was considered high because the exports of the cooperating exporting producers constituted more than 90% of the total volume of imports from Indonesia during the investigation period. Consequently, the Commission set the residual dumping margin at the level of the cooperating exporting producer with the highest dumping margin.

(86) The provisional dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are therefore as follows:

Company	Provisional dumping margin
Jindal Group	20,2 %
IRNC group	19,9 %
All other companies	20,2 %

4. **INJURY**

4.1. **Definition of the Union industry and Union production**

(87) The like product was manufactured by 13 known producers in the Union during the investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.

(88) The total Union production during the investigation period was established at around 3.1 million tonnes. The Commission established this figure on the basis of all the available information concerning the Union industry, namely the remotely cross-checked questionnaire replies received from Eurofer and the sampled Union producers.

(89) As indicated in recital (8), three Union producers were selected in the sample, representing over 60 % of total Union production of the like product. They are all vertically integrated producers.

4.2. **Union consumption**

(90) The Commission established the Union consumption on the basis of: (a) the cross-checked Eurofer data concerning Union industry's sales of the like product to unrelated customers, whether direct or indirect sales, partially cross-checked with the sampled Union producers; and (b) imports of the product under investigation into the Union from all third countries as reported in Eurostat.

(91) The Union consumption over the period considered developed as follows:

Table 1

Union consumption (tonnes)

	2017	2018	2019	IP
Union consumption	3 873 092	3 717 114	3 442 541	3 206 766
Index	*100*	*96*	*89*	*83*

Source: Eurofer, sampled Union producers and Eurostat

(92) During the period considered, the Union consumption decreased by 17 %.

4.3. **Imports from the countries concerned**

4.3.1. *Cumulative assessment of the effects of imports from the countries concerned*

(93) The Commission examined whether imports of SSCR originating in the countries concerned should be assessed cumulatively, in accordance with Article 3(4) of the basic Regulation.

(94) That provision stipulates that the imports from more than one country shall be cumulatively assessed only if it is determined that:

(a) the margin of dumping established in relation to the imports from each country is more than *de minimis* as defined in Article 9(3), and the volume of imports from each country is not negligible; and

(b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between imported products and the like Union product.

(95) The margins of dumping established in relation to the imports from each of the two countries concerned are summarised under recitals (57) and (86). They are all above the *de minimis* threshold laid down in Article 9(3) of the basic Regulation.

(96) The volume of imports from each of the two countries concerned was not negligible. Imports market shares in the investigation period were 3,4 % for India and 2,8 % for Indonesia.

(97) The conditions of competition between the dumped imports from each of the two countries concerned and between them and the Union like product were similar. Indeed, SSCR originating in India and Indonesia competed with each other when imported for sale on the Union market, and with the like product produced by the Union industry, as all of them are sold to similar categories of customers.

(98) Therefore, all criteria set out in Article 3(4) of the basic Regulation were met and imports from the countries concerned were examined cumulatively for the purposes of injury determination.

4.3.2. *Volume and market share of imports from the countries concerned*

(99) The Commission established the volume of imports on the basis of Eurostat data. The market share of imports was established by comparing the volume of imports with the Union consumption.

(100) Imports from the countries concerned over the period concerned developed as follows:

Table 2

Import volumes (tonnes) and market share

	2017	2018	2019	IP
India	114 865	120 729	105 359	108 885
Index	*100*	*105*	*92*	*95*
Market share	3,0 %	3,2 %	3,1 %	3,4 %
Index	*100*	*110*	*103*	*114*
Indonesia	13 830	34 648	72 739	89 131
Index	*100*	*251*	*526*	*644*
Market share	0,4 %	0,9 %	2,1 %	2,8 %
Index	*100*	*261*	*592*	*778*
Total countries concerned	128 695	155 377	178 098	198 016

Index	*100*	*121*	*138*	*154*
Market share	3,3 %	4,2 %	5,2 %	6,2 %
Index	*100*	*126*	*156*	*186*

Source: Eurostat

(101) Imports from the countries concerned increased by 54 % over the period considered, which allowed them to increase their joint market share from 3,3 % in 2017 to 6,2 % in the IP. This increase, both in volume of imports and in market share, can be attributed to the imports coming from Indonesia – it increased its import volumes almost 6 ½ times in the period considered and its market share increased from 0,4 % to 2,8 %. The imports from India increased from 2017 to 2018, but showed a drop afterwards. This resulted in an overall drop in absolute terms during the period considered. On 1 February 2019, the Commission published a Regulation imposing definitive safeguard measures against imports of certain steel products. ([6]) India received a country-specific tariff quota for the product under investigation, limiting imports subject to the in-quota duty to a lower level than the 2018 level. As Indonesia was not subject to a country-specifc tariff quota, but to the quota for all other countries, its imports were not as restricted as the Indian ones. However, the drop in Indian imports was less severe as the overall drop in Union consumption and thus India's market share still increased slightly from 3 % in 2017 to 3,4 % in the IP.

4.3.3. *Prices of the imports from the countries concerned and price undercutting*

(102) The Commission established the prices of imports on the basis of Eurostat data. The weighted average price of imports from the countries concerned during the period concerned developed as follows:

Table 3

Prices of the imports from the countries concerned (EUR/tonne)

	2017	2018	2019	IP
India	2 080	2 173	2 075	2 073
Index	*100*	*104*	*100*	*100*
Indonesia	1 818	1 923	1 917	1 962
Index	*100*	*106*	*105*	*108*
Average of the countries concerned	2 052	2 117	2 010	2 023
Index	*100*	*103*	*98*	*99*

Source: Eurostat

(103) In case of India, the average import prices went up from 2017 to 2018 by 4 %, but remained stable in the overall period considered, while for Indonesia they increased by 8 %. Nevertheless, throughout the whole period considered, the average import prices from both countries concerned were consistently lower than Union producers' prices (see Table 7).

(104) The Commission determined price undercutting during the investigation period by comparing:

(a) the weighted average sales prices per product type of the three sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and

(b) the corresponding weighted average prices per product type of imports from the cooperating exporting producers in the countries concerned to the first independent customer on the Union market, established on a cost, insurance, freight (CIF) basis, with appropriate adjustments for post-importation costs.

([6]) OJ L 31, 1.2.2019, p. 27.

(105) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the sampled Union producers' turnover during the investigation period. It showed undercutting margins of 4,8 % and 13,4 % for the Indian exporting producers and 12,0 % and 12,4 % for the Indonesian exporting producers.

4.4. **Economic situation of the Union industry**

4.4.1. *General remarks*

(106) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.

(107) As mentioned in recital (8), sampling was used for the determination of possible injury suffered by the Union industry.

(108) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data from the questionnaire reply of Eurofer relating to all Union producers, cross-checked where necessary with the questionnaire replies from the sampled Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies of the sampled Union producers. Both sets of data were cross-checked remotely and found to be representative of the economic situation of the Union industry.

(109) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity and magnitude of the dumping margin.

(110) The microeconomic indicators are: average unit prices, unit cost, labour costs, stocks, profitability, cash flow, investments and return on investments.

4.4.2. *Macroeconomic indicators*

4.4.2.1. Production, production capacity and capacity utilisation

(111) The total Union production, production capacity and capacity utilisation over the period considered developed as follows:

Table 4

Production, production capacity and capacity utilisation

	2017	2018	2019	IP
Total Union production (tonnes)	3 708 262	3 640 429	3 379 817	3 111 804
Index	*100*	*98*	*91*	*84*
Production capacity (tonnes)	4 405 623	4 517 379	4 530 146	4 572 365
Index	*100*	*103*	*103*	*104*
Capacity utilisation	84%	81%	75%	68%
Index	*100*	*96*	*89*	*81*

Source: Eurofer

(112) The Union industry's production volume decreased sharply by 16 % in the period considered. The reported capacity figures refer to actual capacity, which implies that adjustments considered as standard by the industry – for set-up time, maintenance, bottle necks and other normal stoppages – have been taken into account. After the imposition of anti-dumping measures on imports of SSCR from the People's Republic of China ('PRC') and Taiwan in 2015 ([7]), some Union producers initiated the modernisation of their production capacity. This modernisation has led to a slight production capacity increase of 4 % over the period considered.

(113) As a result of decreased production and slightly increased capacity, capacity utilisation decreased by 19 % over the period considered and dropped below 70 % in the IP.

4.4.2.2. Sales volume and market share

(114) The Union industry's sales volume and market share developed over the period considered as follows:

Table 5

Sales volume and market share

	2017	2018	2019	IP
Union industry sales volumes (tonnes)	2 735 448	2 711 044	2 530 259	2 330 537
Index	*100*	*99*	*92*	*85*
Market share	70,6 %	72,9 %	73,5 %	72,7 %
Index	*100*	*103*	*104*	*103*

Source: Eurofer and Eurostat

(115) The Union industry's sales volume decreased by 15 % over the period concerned.

(116) The Union industry managed however to maintain and even slightly increase by 2,1 percentage points its market share over the period considered as the decline in consumption was even larger than the decline in the Union industry's sales volume, as Union sales partially replaced imports from other countries than the countries concerned.

4.4.2.3. Growth

(117) The above figures in respect of production and sales volume in absolute terms, which show a clear decreasing trend over the period considered, demonstrate that the Union industry was not able to grow in absolute terms. A slight growth in relation to consumption was possible only because the Union industry chose to respond to the price pressure of the dumped imports by lowering its sales prices.

4.4.2.4. Employment and productivity

(118) Employment and productivity over the period considered developed as follows:

Table 6

Employment and productivity

	2017	2018	2019	IP
Number of employees	13 411	13 495	13 968	13 660
Index	*100*	*101*	*104*	*102*

([7]) Commission Implementing Regulation (EU) 2015/1429 of 26 August 2015 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ L 224, 27.08.2015, p. 10).

Productivity (tonnes per staff)	277	270	242	228
Index	*100*	*98*	*88*	*82*

Source: Eurofer

(119) The level of Union industry employment related to the production of SSCR increased by 4 % between 2017 and 2019 and showed a decrease of 2 percentage points between 2019 and IP, resulting in an increase of 2 % over the period considered. In view of the sharp decrease in production, the productivity of the Union industry's workforce, measured as tonnes per employee (in full time equivalent) produced per year, decreased significantly by 18 % over the period considered.

4.4.2.5. Magnitude of the dumping margin and recovery from past dumping

(120) All dumping margins were significantly above the *de minimis* level. The impact of the magnitude of the actual margins of dumping on the Union industry was not negligible, given the volume and prices of imports from the countries concerned.

(121) Imports of SSCR have already been subject to an anti-dumping investigation. The Commission found that the situation of the Union industry during 2013 was significantly affected by dumped imports from the PRC and Taiwan, resulting in the imposition of definitive anti-dumping measures on imports from these countries in October 2015 ([8]). The Union industry's situation was therefore unlikely to be more than marginally affected by the mentioned dumping practices throughout the period considered. An expiry review of the anti-dumping measures of imports originating in the PRC and Taiwan is currently ongoing ([9]).

4.4.3. *Microeconomic indicators*

4.4.3.1. Prices and factors affecting prices

(122) The weighted average unit sales prices of the sampled Union producers to unrelated customers in the Union developed over the period considered as follows:

Table 7

Sales prices in the Union

	2017	2018	2019	IP
Average unit sales price (EUR/tonne)	2 252	2 312	2 206	2 175
Index	*100*	*103*	*98*	*97*
Unit cost of production (EUR/tonne)	1 958	2 064	2 019	2 013
Index	*100*	*105*	*103*	*103*

Source: Sampled Union producers

([8]) Commission Implementing Regulation (EU) 2015/1429 of 26 August 2015 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ L 224, 27.08.2015, p. 10).

([9]) Notice of Initation of an expiry review of the anti-dumping measures applicable to imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ C 280, 25.8.2020, p. 6).

(123) After showing a slight increase of 3 % from 2017 to 2018, average unit sales prices decreased by 6 % from 2018 to the IP, resulting in a decrease of 3 % over the period considered. Over the same period, the costs of production showed a simultaneous increase of 5 %, after which they stabilised at a cost level which was 3 % higher than at the start of the period considered. To a large extent the cost evolution was driven by important raw material price increases, such as nickel and ferrochromium. Due to the price suppression from the dumped imports, the Union industry was not able to pass on this cost increase to its sales prices and was even forced to lower its sales prices.

4.4.3.2. Labour costs

(124) The average labour costs of the sampled Union producers developed over the period considered as follows:

Table 8

Average labour costs per employee

	2017	2018	2019	IP
Average labour costs per FTE (EUR)	72 366	70 663	71 659	70 324
Index	*100*	*98*	*99*	*97*

Source: Sampled Union producers

(125) The average labour costs per employee of the sampled Union producers fell by 3 % in the period considered. This shows that Union producers were able to lower labour costs as a reaction to the the deteriorating market circumstances in an attempt to limit its injury.

4.4.3.3. Inventories

(126) Stock levels of the sampled Union producers developed over the period considered as follows:

Table 9

Inventories

	2017	2018	2019	IP
Closing stocks (tonnes)	125 626	148 777	125 480	98 835
Index	*100*	*118*	*100*	*79*
Closing stocks as a percentage of production	5,54 %	6,53 %	6,09 %	5,13 %
Index	*100*	*118*	*110*	*93*

Source: Sampled Union producers

(127) During the period considered the level of closing stocks decreased by 21 %. This trend followed the decrease in production volume. Most types of the like product are produced by the Union industry based on specific orders of the users. Therefore, stocks are not considered to be an important injury indicator for this industry. This is also confirmed by analysing the evolution of the closing stocks as a percentage of production. As can be seen above, this indicator fluctuated between 5 and 7 % of the production volume of the sampled Union producers over the period considered.

4.4.3.4. Profitability, cash flow, investments and return on investments, and ability to raise capital

Table 10

Profitability, cash flow, investments, return on investments

	2017	2018	2019	IP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	7,6 %	6,0 %	1,5 %	0,4 %
Index	*100*	*79*	*19*	*6*
Cash flow (EUR)	387 200 359	273 674 277	237 840 311	184 024 688
Index	*100*	*71*	*61*	*48*
Investments (EUR)	111 578 442	111 637 871	96 541 925	96 585 152
Index	*100*	*100*	*87*	*87*
Return on investments	20 %	15 %	6 %	4 %
Index	*100*	*75*	*31*	*20*

Source: Sampled Union producers

(128) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales.

(129) Overall profitability fell from 7,6 % in 2017 to 0,4 % in the IP. As set out in section 4.3.3, this drop coincided with the increase of import volumes from the countries concerned and their market share at undercutting prices.

(130) All other financial indicators, i.e. cash flow, investments, and return on assets, clearly followed the same downward trend.

(131) The net cash flow is the ability of the Union producers to self-finance their activities. The cash flow showed a continuous decrease over the period considered, resulting in the IP at a level 52 % lower than the start of the investigation period.

(132) Investments are the net book value of assets. After staying stable from 2017 to 2018, a sharp drop of 13 percentage points can be seen from 2018 to 2019. The return on investments is the profit in percentage of the net book value of investments which reflects the level of depreciation of assets. It decreased continuously and significantly by 80 % over the period considered.

(133) The poor financial performance of the Union industry between 2017 and the investigation period limited its ability to raise capital. The Union industry is capital intensive and is characterised by substantial investments. The return on investment during the period considered is not sufficient to cover for such substantial investments.

4.5. **Conclusion on injury**

(134) The investigation indicated that the Union industry could only respond to the price pressure of the dumped imports from India and Indonesia by lowering its sales prices to maintain (and even slightly increase) its market share in the period considered. The effect of the dumped imports caused price suppression within the meaning of Article 3(3) of the basic Regulation, on the Union market during the investigation period. Prices of the Union industry decreased by 3 % during the period considered, while, under conditions of fair competition, they would have been expected to increase at a ratio comparable to rise of the cost of production, which increased by 3 %. This situation severely impacted the Union industry's profitability, which fell by 94 % over the period considered to end in a very low and unsustainable level during the IP.

(135) The Union consumption decreased significantly during the period considered and both sales volumes and production volumes on the Union industry followed this trend. Production capacity increased marginally, caused by a positive outlook for the Union industry following the imposition of anti-dumping measures against imports of the product under investigation originating in the PRC and Taiwan in 2015.

(136) However, Union producers experienced a sharp decrease in productivity and capacity utilisation in the period considered. These deteriorating figures can only be explained to a small degree by the small increase in employment and capacity and was mainly caused by the decrease in Union consumption and the simultaneous increase in imports from the countries concerned.

(137) However, it is the financial indicators of the Union producers which fully show the injury suffered. The Union industry experienced an increase in its costs of production in the period considered which, accompanied by a decrease in sales prices, resulted in a profitability drop from 7,6 % in 2017 to 0,4 % in the IP. A similar negative development can be seen in relation to the other financial indicators: investments (-13%), return on investments (-80%) and cash flow (-52%).

(138) Accordingly, the injury indicators show that the Union industry was suffering material injury in the IP, as it decreased its sales prices in spite of rising production costs, resulting in a collapse of its profitability, which negatively affected investments, return on investments and cash flow.

(139) On the basis of the above, the Commission concluded at this stage that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

5. **CAUSATION**

(140) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the countries concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could, at the same time, have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the dumped imports from the countries concerned was not attributed to the dumped imports. These factors are: imports from third countries, a decrease in consumption, the export performance of the Union industry, an increase in the cost of raw materials, and the competitive price behaviour of the Union industry.

5.1. **Effects of the dumped imports**

(141) Imports from the countries concerned increased by more than 50 % in the period considered and their market share almost doubled. This increase in market share was at the detriment of imports from third countries. However, the low priced dumped imports from the countries concerned created a price pressure on the Union industry. Prices of imports from India and Indonesia have been, during the period considered, between 5 and 19 % below prices of the Union industry. Due to these imports prices, the Union producers were not only unable to reflect raw material cost increases in their prices, they were even forced to decrease their sales prices in order to maintain their market share.

(142) As a result, the profitability of the Union producers, at a relatively high level in 2017, dropped down to almost zero in the IP, which had a further adverse effect on all the financial indicators of the companies in question.

(143) There is thus a strong causal link between the dumped imports from India and Indonesia and the injury suffered by the Union industry.

5.2. **Effects of other factors**

5.2.1. *Imports from third countries*

(144) The volume and prices of imports from other third countries developed over the period considered as follows:

Table 11

Country		2017	2018	2019	IP
Taiwan	Volume (tonnes)	199 553	223 110	185 618	165 540
	Index	*100*	*112*	*93*	*83*
	Market share	5,2 %	6,0 %	5,4 %	5,2 %
	Index	*100*	*116*	*105*	*100*
	Average price (EUR/tonne)	1 668	1 749	1 684	1 655
	Index	*100*	*105*	*101*	*99*
Republic of Korea	Volume (tonnes)	147 696	165 812	160 947	164 882
	Index	*100*	*112*	*109*	*112*
	Market share	3,8 %	4,5 %	4,7 %	5,1 %
	Index	*100*	*117*	*123*	*135*
	Average price (EUR/tonne)	1 859	1 944	1 860	1 853
	Index	*100*	*105*	*100*	*100*
South Africa	Volume (tonnes)	98 063	88 913	94 567	81 537
	Index	*100*	*91*	*96*	*83*
	Market share	2,5 %	2,4 %	2,7 %	2,5 %
	Index	*100*	*94*	*108*	*100*
	Average price (EUR/tonne)	2 004	2 013	1 831	1 785
	Index	*100*	*100*	*91*	*89*
Other third countries	Volume (tonnes)	563 637	372 858	293 052	266 255
	Index	*100*	*66*	*52*	*47*
	Market share	14,6 %	10,0 %	8,5 %	8,3 %
	Index	*100*	*69*	*58*	*57*
	Average price (EUR/tonne)	2 051	2 345	2 319	2 407
	Index	*100*	*114*	*113*	*117*
Total of all third countries except the countries concerned	Volume (tonnes)	1 008 949	850 693	734 184	678 213
	Index	*100*	*84*	*73*	*67*
	Market share	26,1 %	22,9 %	21,3 %	21,1 %
	Index	*100*	*88*	*82*	*81*
	Average price (EUR/tonne)	1 942	2 076	1 995	2 014
	Index	*100*	*107*	*103*	*104*

Source: Eurostat

(145) In the period considered, imports from third countries decreased significantly in terms of absolute volumes (by 33 %) and market share (from 26 % in 2017 to 21 % in the IP).

(146) As far as individual countries are concerned, only imports from Korea increased in the period considered, resulting in a slight increase in its market share. However, this absolute increase in market share during the period considered was marginal (from 4,7 % to 5,1 %). Although prices of Korean imports are below those of the countries concerned, they are likely to be affected by the existence of transfer prices, as a result of the relationship between the Korean stainless steel manufacturer Samsung STS and the EU cold roller Otelinox in Romania. No conclusion can be drawn as to whether these imports also undercut the Union industry prices, also in view of the unknown product mix of these imports.

(147) As set out in recital (121) above, the imports from Taiwan are currently subject to an anti-dumping duty of 6,8 % ([10]). An expiry review of the anti-dumping measures of imports originating in the PRC and Taiwan is currently ongoing ([11]).

(148) Imports from the PRC were very low throughout the period considered. Imports from Taiwan showed an increase of 12 % from 2017 to 2018, but decreased from 2018 to the IP with 26 %, keeping a market share of around 5 % during the period considered. The average price of imports from Taiwan were below the average prices of imports from the countries concerned. As the Commission did not receive any cooperation from the producers in Taiwan in the expiry review, it did not have any further details on Taiwanese import prices. Therefore, it cannot be excluded that these imports caused additional injury to the Union industry. However, even if imports from Taiwan contributed to injury caused to the Union industry, the imports from Taiwan decreased by 17 % over the the period considered and could therefore not have been the cause of the increasing negative trends found in the injury analysis.

(149) The Commission therefore provisionally concluded that imports from other countries do not attenuate the causal link between dumped Indian and Indonesian imports and material injury suffered by Union producers.

5.2.2. *Decrease in consumption*

(150) A significant decrease in consumption during the period considered has had an adverse effect on some of the injury indicators, especially on sales and production volumes. However, as explained in recital (134), the Union industry was suffering price injury rather than volume injury. Despite a shrinking market, the Union producers managed to slightly increase their market share through severe price competition with unfairly priced dumped imports which resulted in the deterioration of the profitability and financial indicators of the Union industry such as profitability, cash flow, investments, and return on investments.

(151) Therefore, the Commission provisionally concluded that the decrease in consumption did not attenuate the causal link between the dumped imports from countries concerned and the material injury suffered by the Union industry.

5.2.3. *Export performance of the Union industry*

(152) The volumes and prices of exports of the Union industry developed over the period considered as follows:

Table 12

	2017	2018	2019	IP
Export volume (tonnes)	450 587	450 687	410 840	374 378
Index	*100*	*100*	*91*	*83*

([10]) Commission Implementing Regulation (EU) 2015/1429 of 26 Augustus 2015 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ L 224, 27.8.2015, p. 10). One company, Cia Far Industrial Factory Co., Ltd, got a 0 % anti-dumping duty imposed.

([11]) Notice of Initation of an expiry review of the anti-dumping measures applicable to imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ C 280, 25.8.2020, p. 6).

Average price (EUR/tonne)	2 369	2 524	2 428	2 394
Index	*100*	*107*	*102*	*101*

Source: Sampled Union producers, Eurofer

(153) Export sales of the Union producers decreased by 17 % in the period considered, mainly caused by measures imposed by the United States on the product under investigation and increased competition on third markets with Chinese sales and sales from the countries concerned. However, the volumes exported were limited as compared to the total Union sales volumes, representing around 13 % of its total sales volume, and average price of export sales was in the period considered constantly higher than prices on the Union market.

(154) On that basis, the Commission provisionally concluded that the impact of the export performance of the Union industry on the injury suffered was, if any, marginal.

5.2.4. *Impact of raw material prices*

(155) Unrelated importers pointed at the issue of increasing costs of raw materials (nickel, ferrochrome) as a reason of the injurious situation of the Union industry.

(156) An increase in raw material prices is not per se a source of injury because it is generally accompanied by a subsequent price increase in selling prices. However, the decrease in the Union producers' profitability and all their financial indicators is more than just a reflection of the increasing costs of production. Low-priced imports surpressed prices in the Union market and not only did not allow Union producers to increase prices to cover the increase in costs, but forced them to even lower their prices, to avoid an imminent loss of market share. This resulted in a steep decrease in their profitability figures, declining to break even during the investigation period.

(157) On that basis, it is provisionally concluded that the increase in prices of certain raw materials as such did not cause injury to the Union industry.

5.2.5. Price behaviour of the Union producers

(158) One of the unrelated importers claimed that internal competition and price behaviour of the Union producers caused their deteriorating financial situation.

(159) However, the investigation did not confirm this claim. The imports from the countries concerned were consistenly sold at prices undercutting the Union industry and thus the main reason why the Union producers are not able to raise their prices and cover their increasing costs is the price pressure from dumped imports. Therefore, this claim was rejected.

5.3. **Conclusion on causation**

(160) A causal link was established between the dumped imports from India and Indonesia on the one hand and the injury suffered by the Union industry on the other hand. There was a coincidence in time between the increase in the volume of the dumped imports from the countries concerned and the worsening of the Union's performance during the period considered. The Union industry had no other choice but to follow the price level set by the dumped imports in order to avoid losing market share. This resulted in a situation where the Union industry made an unsustainable level of profit.

(161) The Commission has found that other factors that may have had an impact on the situation of the Union industry were: imports from third countries, the decrease in consumption, the export performance of the Union industry, the impact of raw material prices, and the price behaviour of the Union producers.

(162) The Commission distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports. The effect of imports from third countries, the decrease in consumption, the export performance of the Union industry, the impact of raw material prices, and the price behaviour of the Union producers on the Union industry's negative developments in terms of especially profitability and financial indicators was only limited.

(163) In light of the above considerations, the Commission provisionally established a causal link between the injury suffered by the Union industry and the dumped imports from the countries concerned. The dumped imports from the countries concerned have had a major determining impact on the material injury suffered by the Union industry. Other factors, individually or collectively, did not attenuate the causal link.

6. **LEVEL OF MEASURES**

(164) To determine the level of the measures, the Commission examined whether a duty lower than the margin of dumping would be sufficient to remove the injury caused by dumped imports to the Union industry.

6.1. **Underselling margin**

(165) The Commission first established the amount of duty necessary to eliminate the injury suffered by the Union industry in the absence of distortions under Article 7(2a) of the basic Regulation. In this case, the injury would be eliminated if the Union industry was able to cover its costs of production, including those costs resulting from multilateral environmental agreements, and protocols thereunder, to which the Union is a party, and of International Labour Organisation ('ILO') Conventions listed in Annex Ia, and was able to obtain a reasonable profit ('target profit').

(166) In accordance with Article 7(2c) of the basic Regulation, for establishing the target profit, the Commission took into account the following factors: the level of profitability before the increase of imports from the country concerned, the level of profitability needed to cover full costs and investments, research and development (R&D) and innovation, and the level of profitability to be expected under normal conditions of competition. Such profit margin should not be lower than 6 %.

(167) The complainant considered that a reasonable target profit should be 8,7 %, as used in a previous investigation into the imports of the same product from the People's Republic of China and Taiwan ([12]).

(168) In accordance with Article 7(2c) of the basic Regulation, the Commission assessed a claim made by 3 sampled Union producers on planned investments which were not implemented during the period considered. Based on the documentary evidence received, which could be reconciled with the companies' accounting systems, the Commission provisionally accepted these claims and added the corresponding amounts to the profit of those Union producers. The final target profit margins consequently ranged between 8,82 % and 9,12 %.

(169) In accordance with Article 7(2d) of the basic Regulation, as a final step, the Commission assessed the future costs resulting from Multilateral Environmental Agreements, and protocols thereunder, to which the Union is a party, that the Union industry will incur during the period of the application of the measure pursuant to Article 11(2). Based on the submitted information, which was supported by the companies' reporting tools and forecasts, the Commission established a cost in a range between 14,53 EUR /tonne and 28,90 EUR/tonne, in addition to the actual cost of compliance with such conventions during the investigation period. This difference was added to the non-injurious price.

(170) On this basis, the Commission calculated a non-injurious price of the like product for the Union industry by applying the above-mentioned target profit margin to the cost of production of the sampled Union producers during the investigation period and then adding the adjustments under Article 7(2d) on a type-by- type basis.

([12]) Commission Implementing Regulation (EU) 2015/1429 of 26 Augustus 2015 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ L 224, 27.8.2015, p. 10).

(171) The Commission then determined the injury elimination level on the basis of a comparison of the weighted average export price of the sampled exporting producers in the countries concerned on a type-by-type basis, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the sampled Union producers on the free Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.

(172) In view of the high level of cooperation in India and Indonesia (100 % and above 90 % respectively), the residual underselling margin for countries concerned was established at the level of the highest individual underselling margin of the Indian or Indonesian exporting producer, i.e. 34,6 % and 32,3 % respectively.

(173) The result of these calculations is shown in the table below.

Country	Company	Dumping margin	Underselling margin
India	Jindal Stainless Limited and Jindal Stainless Hisar Limited	13,6 %	23,2 %
	Chromeni Steels Private Limited	36,9 %	34,6 %
	All other companies	36,9 %	34,6 %
Indonesia	IRNC	19,9 %	32,3 %
	Jindal Stainless Indonesia	20,2 %	31,8 %
	All other companies	20,2 %	32,3 %

6.2. **Examination of the margin adequate to remove the injury to the Union industry**

(174) As explained in the Notice of Initiation, the complainant provided the Commission sufficient evidence that there are raw material distortions in India and Indonesia regarding the product under investigation. Therefore, in accordance with Article 7(2a) of the basic Regulation, this investigation examined the alleged distortions to assess whether, if relevant, a duty lower than the margin of dumping would be sufficient to remove injury.

(175) The existence of raw material distortions in both India and Indonesia was confirmed by the information provided in the questionnaire reply by and during the RCC with the GOI and GOIS respectively.

(176) Since the underselling margin calculated for the Indian exporting producer Chromeni was lower than the dumping margin, the Commission considered whether there were distortions on raw materials with regard to the product concerned pursuant to Article 7(2a) of the basic Regulation. The investigation established that Chromeni did not use the raw material subject to the distortion. Therefore, a further analysis as to the application of Article 7(2a) and 7(2b) of the basic regulation was not required. The duty level for Chromeni will thus be established on the basis of Article 7(2) of the basic Regulation.

(177) With regard also to India, for the Jindal Group, the margin adequate to remove injury is higher than the dumping margin and the examination according to Article 7(2a) is therefore not further addressed.

(178) With regard to Indonesia, as the margins adequate to remove injury are higher than the dumping margins, the Commission considered that, at this stage, it was not necessary to address this aspect.

6.3. **Conclusion**

(179) Following the above assessment the Commission concluded that it is appropriate to determine the amount of provisional duties in accordance with Article 7(2) of the basic Regulation. As a consequence, provisional anti-dumping duties should be set as below:

Country	Company	Provisional anti-dumping duty
India	Jindal Stainless Limited and Jindal Stainless Hisar Limited	13,6 %
	Chromeni Steels Private Limited	34,6 %
	All other companies	34,6 %
Indonesia	IRNC	19,9 %
	Jindal Stainless Indonesia	20,2 %
	All other companies	20,2 %

7. **UNION INTEREST**

(180) In accordance with Article 21 of the basic Regulation, the Commission examined whether it could clearly conclude that it was not in the Union interest to adopt measures in this case, despite the determination of injurious dumping. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers and users.

7.1. **Interest of the Union industry**

(181) The Union industry consists of 13 producers located in several Member States and it employs directly 13 660 employees in relation to the product under investigation. None of the Union producers opposed the initiation of the investigation. As shown in section 4 above when analysing the injury indicators, the whole Union industry experienced a deterioration of its situation and was negatively affected by the dumped imports.

(182) It is expected that the imposition of provisional anti-dumping duties will restore fair trading conditions on the Union market, end the price suppression and enable the Union industry to cover their increasing costs of production and improve their financial situation despite lost sales due to a shrinking market. This would result in an improvement of the Union industry's profitability towards levels considered necessary for this capital intensive industry. The Union industry has suffered material injury caused by imports at dumped prices from the countries concerned. It is recalled that a number of key injury indicators showed a negative trend during the period considered. In particular, indicators pertaining to the financial performance of Union producers were seriously affected. It is therefore important to restore prices to a non-dumped or at least a non-injurious level in order to allow all producers to operate on the Union market under fair trading conditions.

(183) It is therefore provisionally concluded that the imposition of anti-dumping duties would be in the interest of the Union industry as it would allow it to recover from the effects of injurious dumping found.

7.2. **Interest of unrelated importers and users**

(184) Three parties made themselves known as unrelated importers. However, only two of them replied to the relevant questionnaire and further cooperated in the procedure.

(185) Subsequently, the complainant claimed that one of the two parties mentioned above should not have been considered as unrelated importer as it works as an agent for some of the exporting producers of the product under investigation.

(186) In this regard, the Commission established that the company in question indeed worked partially in the capacity of an agent for the Jindal Group. However, it was also involved in regular import purchases of the product under investigation which it later re-sold to the customers in the Union. Therefore, Eurofer's claim was provisionally rejected.

(187) Both cooperating importers pointed out potential negative impacts of having anti-dumping measures in place, such as a lack of supply, worse service, increasing prices, and a worse quality of material which in their opinion would result from limited competition on the Union market.

(188) Additionally, one of the importers claimed that Jindal products have a superior quality which cannot be replaced or matched by Union producers.

(189) Notwithstanding potential anti-dumping measures the Commission provisionally concluded that there will remain a healthy level of competition in the Union given that there are 13 Union producers of the product under investigation, some of them not taking part in the complaint. Furthermore, imports from third countries still account for more than 20 % of the market. Therefore, the potential negative impacts indicated by the importers are not likely to occur.

(190) Anti-dumping measures are not aimed at closing the Union market for the countries concerned, but are aimed at raising the prices to a fair level. Therefore, it is expected that access to allegedly superior-quality products remains in place.

(191) Measures would also allow importers to pass-on prices to their customers and therefore the profitability of importers is not expected to be adversely affected. The product range and service quality is not expected to be reduced – to the contrary, protection against dumped imports allows the Union industry to have new investments and improve its quality.

(192) The importers also claimed that anti-dumping measures would overprotect Union producers as the product under investigation is already subject to safeguard measures.

(193) However, the safeguard measures on steel ([13]) are temporary and provide a different type of protection than anti-dumping measures, the latter being aimed at unfair pricing. The Commission's provisional findings confirmed that the main cause of injury to the Union industry is not a massive increase of imports volumes but their undercutting prices, resulting in price suppression on the Union market.

(194) The only user which came forward in the procedure did not comment on the Union interest. The company had only claims concerning the product scope of the measures as described in section 2 above.

(195) At the provisional stage, the Commission therefore concluded that the effects of a potential imposition of duties on importers and users do not outweigh the positive effects of measures on the Union industry.

7.3. **Conclusion on Union interest**

(196) On the basis of the above, the Commission provisionally concluded that there were no compelling reasons to conclude that it was not in the Union interest to impose measures on imports of the product under investigation originating in the countries concerned at this stage of the investigation.

8. **PROVISIONAL ANTI-DUMPING MEASURES**

(197) On the basis of the conclusions reached by the Commission on dumping, injury, causation and Union interest, provisional measures should be imposed on imports of flat-rolled products of stainless steel, not further worked than cold-rolled (cold- reduced) originating in India and Indonesia, to prevent further injury being caused to the Union industry by the dumped imports.

(198) Provisional anti-dumping measures should be imposed on imports of stainless steel cold-rolled flat products originating in India and Indonesia, in accordance with the lesser duty rule in Article 7(2) of the basic Regulation. The Commission compared the injury margins and the dumping margins (recital (173) above). The amount of the duties was set at the level of the lower of the dumping and the injury margins.

([13]) Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 imposing definitive safeguard measures against imports of certain steel products (OJ L 31, 1.2.2019, p. 27).

(199) On the basis of the above, the provisional anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Country	Company	Provisional anti-dumping duty
India	Jindal Stainless Limited and Jindal Stainless Hisar Limited	13,6 %
	Chromeni Steels Private Limited	34,6 %
	All other companies	34,6 %
Indonesia	IRNC	19,9 %
	Jindal Stainless Indonesia	20,2 %
	All other companies	20,2 %

(200) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the provisional findings of this investigation. Therefore, they reflected the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product concerned originating in the countries concerned and produced by the named legal entities. Imports of product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.

(201) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ([14]). The request must contain all the relevant information to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a regulation about the change of name will be published in the *Official Journal of the European Union*.

(202) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but to the producers which did not have exports to the Union during the investigation period.

(203) To minimise the risks of circumvention due to the high difference in duty rates, special measures are needed to ensure the proper application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.

(204) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(3) of this Regulation, the customs authorities of Member States should carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the rate of duty is justified, in compliance with customs law.

(205) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume, in particular after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances, an anti-circumvention investigation may be initiated, provided the conditions for so doing are met. This investigation may, inter alia, examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty.

([14]) European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, Belgium

9. REGISTRATION

(206) As mentioned in recital (3), the Commission made imports of stainless steel cold-rolled flat products originating in India and Indonesia subject to registration. Registration took place with a view to possibly collecting duties retroactively under Article 10(4) of the basic Regulation.

(207) In view of the findings at provisional stage, the registration of imports should be discontinued.

(208) No decision on a possible retroactive application of anti-dumping measures has been taken at this stage of the proceeding. Such a decision will be taken at definitive stage.

10. INFORMATION AT PROVISIONAL STAGE

(209) In accordance with Article 19a of the basic Regulation, the Commission informed interested parties about the planned imposition of provisional duties. This information was also made available to the general public via DG TRADE's website. Interested parties were given three working days to provide comments on the accuracy of the calculations specifically disclosed to them.

(210) The Government of India, one exporting producer in India and two exporting producers in Indonesia submitted comments. The Commission took into account comments that were considered of a clerical nature and, if necessary, corrected the margins accordingly.

11. FINAL PROVISIONS

(211) In the interests of sound administration, the Commission will invite the interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.

(212) The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is imposed on imports of flat-rolled products of stainless steel, not further worked than cold-rolled, currently falling under CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7219 90 20, 7219 90 80, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81, 7220 20 89, 7220 90 20 and 7220 90 80 and originating in India or Indonesia.

2. The rates of the provisional anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and produced by the companies listed below, shall be as follows:

Country	Company	Provisional anti-dumping duty	TARIC additional code
India	Jindal Stainless Limited	13,6 %	C654
	Jindal Stainless Hisar Limited	13,6 %	C655
	Chromeni Steels Private Limited	34,6 %	C656
	All other Indian companies	34,6 %	C999
Indonesia	IRNC	19,9 %	C657
	Jindal Stainless Indonesia	20,2 %	C658
	All other Indonesian companies	20,2 %	C999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: *'I, the undersigned, certify that the (volume) of (product concerned) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in (the country concerned). I declare that the information provided in this invoice is complete and correct.'* If no such invoice is presented, the duty applicable to all other companies shall apply.

4. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security deposit equivalent to the amount of the provisional duty.

5. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

1. Interested parties shall submit their written comments on this regulation to the Commission within 15 calendar days of the date of entry into force of this Regulation.

2. Interested parties wishing to request a hearing with the Commission shall do so within 5 calendar days of the date of entry into force of this Regulation.

3. Interested parties wishing to request a hearing with the Hearing Officer in trade proceedings are invited to do so within 5 calendar days of the date of entry into force of this Regulation. The Hearing Officer shall examine requests submitted outside this time limit and may decide whether to accept to such requests if appropriate.

Article 3

1. Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 1(1) of Commission Implementing Regulation (EU) 2021/370 of 1 March 2021.

2. Data collected regarding products which entered the EU for consumption not more than 90 days prior to the date of the entry into force of this regulation shall be kept until the entry into force of possible definitive measures, or the termination of this proceeding.

Article 4

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

Article 1 shall apply for a period of six months.

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

Done at Brussels, 27 May 2021.

For the Commission
The President
Ursula VON DER LEYEN

DECISIONS

COUNCIL DECISION (CFSP) 2021/855

of 27 May 2021

amending Decision 2013/255/CFSP concerning restrictive measures against Syria

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) On 31 May 2013 the Council adopted Decision 2013/255/CFSP ([1]).

(2) On 28 May 2020 the Council adopted Decision (CFSP) 2020/719 ([2]), extending the restrictive measures set out in Decision 2013/255/CFSP until 1 June 2021.

(3) On the basis of a review of Decision 2013/255/CFSP, the restrictive measures set out therein should be extended until 1 June 2022.

(4) The entries for 25 natural persons and three entities in the list of natural and legal persons, entities or bodies set out in Annex I to Decision 2013/255/CFSP should be updated.

(5) The entries for five deceased individuals should be deleted from the list of natural and legal persons, entities or bodies set out in Annex I to Decision 2013/255/CFSP.

(6) Decision 2013/255/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2013/255/CFSP is amended as follows:

(1) Article 34 is replaced by the following:

'*Article 34*

This Decision shall apply until 1 June 2022. It shall be kept under constant review. It may be renewed, or amended as appropriate, if the Council deems that its objectives have not been met.';

(2) Annex I is amended as set out in the Annex to this Decision.

Article 2

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

([1]) Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria (OJ L 147, 1.6.2013, p. 14).
([2]) Council Decision (CFSP) 2020/719 of 28 May 2020 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ L 168, 29.5.2020, p. 66).

Done at Brussels, 27 May 2021.

For the Council
The President
P. SIZA VIEIRA

ANNEX

Annex I to Decision 2013/255/CFSP is amended as follows:

(1) in Section A (Persons), the following entries are deleted:

115. General Ali Habib MAHMOUD;

153. Waleed AL MO'ALLEM;

180. Ahmad AL-QADRI;

274. Nader QALEI;

281. Mohammad Maen Zein Jazba AL-ABIDIN;

(2) in Section A (Persons), the following entries replace the corresponding entries in the list:

	Name	Identifying information	Reasons	Date of listing
‘14.	Brigadier General Mohammed BILAL (a.k.a. Lieutenant Colonel Muhammad Bilal)	Gender: male	As a senior officer in the Syrian Air Force Intelligence Service, he supports the Syrian regime and is responsible for the violent repression of the civilian population. He is also associated with the listed Scientific Studies Research Centre (SSRC).	21.10.2014
22.	Ihab MAKHLOUF (a.k.a. Ehab, Iehab) (ايهاب مخلوف)	Date of birth: 21.1.1973; Place of birth: Damascus, Syria; Passport no: N002848852; Gender: male	Leading businessman operating in Syria. He has business interests in several Syrian companies and entities, including Ramak Construction Co and Syrian International Private University for Science and Technology (SIUST). He is an influential member of the Makhlouf family and closely connected to the Assad family; cousin of President Bashar al-Assad. In 2020, Ehab Makhlouf took over Rami Makhlouf’s business activities and the Syrian government granted him the contracts to operate and manage the duty-free markets across the country.	23.5.2011
48.	Samir HASSAN (سمير حسن)	Gender: male	Leading businessperson operating in Syria, with interests and/or activities in multiple sectors of Syria’s economy. He holds interests in and/or has significant influence in the Amir Group and Cham Holding, two conglomerates with interests in the real estate, tourism, transport and finance sectors. President of the Syrian-Russian business council. Samir Hassan supports the Syrian regime’s war effort with cash donations. Samir Hassan is associated with persons benefitting from or supporting the regime. In particular, he is associated with Rami Makhlouf and Issam Anbouba, who have been designated by the Council and benefit from the Syrian regime.	27.9.2014
61.	George CHAOUI (جورج شاوي)	Gender: male	Member of the Syrian electronic army (territorial army intelligence service). Involved in the violent crackdown and call for violence against the civilian population across Syria.	14.11.2011
78.	Ali BARAKAT (a.k.a. Barakat Ali Barakat) (علي بركات; بركات علي بركات)	Gender: male	Military official involved in the violence in Homs. Currently serves in the 30th Mobile Infantry Division of the Republican Guard.	1.12.2011

96.	Brigadier General Jamal YUNES (a.k.a. Younes) (جمال يونس)	Position: Commander of the 555th Regiment; Gender: male	Gave orders to troops to shoot at protestors in Mo'adamiyeh. Head of the Military Security Committee in Hama in 2018.	23.1.2012
114.	Emad Abdul-Ghani SABOUNI (a.k.a. Imad Abdul Ghani Al Sabuni) (عماد عبدالغني صابوني)	Date of birth: 1964; Place of birth: Damascus, Syria; Gender: male	Former Minister of Telecommunications and Technology, in office until at least April 2014. As a former Government Minister, shares responsibility for the Syrian regime's violent repression of the civilian population. Appointed in July 2016 as the Head of Planning and International Cooperation Agency (PICC). The PICC is a government agency, affiliated to the Prime Ministry and produces, in particular, the five-year plans that provide the broad guidelines for the Government's economic and development policies.	27.2.2012
117.	Adnan Hassan MAHMOUD (عدنان حسن محمود)	Date of birth: 1966; Place of birth: Tartous, Syria; Gender: male	Former Syrian Ambassador to Iran until 2020. Former Minister of Information in power after May 2011. As a former Government Minister, shares responsibility for the Syrian regime's violent repression of the civilian population.	23.9.2011
132.	Brigadier General Abdul-Salam Fajr MAHMOUD (عبدالسلام فجر محمود)	Date of birth: 1959 Gender: male	Head of the Security Committee of the Southern Region since December 2020. Former Head of the Bab Tuma (Damascus) Branch of the Syrian Air Force Intelligence Service. Former Head of the Mezze Airport Air Force intelligence investigation branch. Responsible for the torture of opponents in custody. Under international arrest warrant for "complicity in acts of torture", "complicity in crimes against humanity" and "complicity in war crimes".	24.7.2012
134.	Colonel Qusay Ibrahim MIHOUB (قصي إبراهيم ميهوب)	Date of birth: 1961; Place of birth: Derghamo, Jableh, Lattakia, Syria; Gender: male	High-ranking officer at the Syrian Air Force Intelligence Service. Former Head of the Deraa branch of the air force's intelligence service (sent from Damascus to Deraa at the start of demonstrations there). Responsible for the torture of opponents in custody as well as the violent repression of peaceful protests in the southern region.	24.7.2012
137.	Brigadier General Ibrahim MA'ALA (a.k.a. Maala, Maale, Ma'la) معلى;معلا (ابراهيم)	Gender: male	Head of Branch 285 (Damascus) of the General Intelligence Directorate (replaced Brigadier General Hussam Fendi at the end of 2011). Responsible for the torture of opponents in custody.	24.7.2012

139.	Major General Hussam LUQA (a.k.a. Husam, Housam, Houssam; Louqa, Louca, Louka, Luka) (حسام لوقا)	Date of birth: 1964; Place of birth: Damascus, Syria; Gender: male	Former Head of the Security Committee of the Southern Region from 2018 to 2020. Former Head of the General Security Directorate. Major General. From April 2012 to 2.12.2018, was head of the Homs branch of the Political Security Directorate (succeeded Brigadier General Nasr al-Ali). Since 3.12.2018, head of the Political Security Directorate. Responsible for the torture of opponents in custody.	24.7.2012
140.	Brigadier General Taha TAHA (طه طه)	Gender: male	Deputy assistant to the Head of the Political Security Division. Former site manager of the Latakia branch of the Political Security Directorate. Responsible for the torture of opponents in custody.	24.7.2012
144.	Major General Ahmed AL-JARROUCHEH (a.k.a. Ahmad; al-Jarousha, al-Jarousheh, al-Jaroucha, al-Jarouchah, al-Jaroucheh) (احمد الجروشة)	Date of birth: 1957; Gender: male	Former head of the foreign branch of General Intelligence (Branch 279). As such, responsible for General Intelligence arrangements in Syrian embassies.	24.7.2012
146.	General Ghassan Jaoudat ISMAIL (a.k.a. Ismael) (غسان جودت اسماعيل)	Date of birth: 1960; Place of birth: Junaynat Ruslan – Darkoush, Tartous region, Syria; Gender: male	Head of the Syrian Air Force Intelligence Service since 2019. Former deputy director of the Air Force Intelligence Service and previously in charge of the missions branch of the Air Force Intelligence Service which, in cooperation with the special operations branch, manages the elite troops of the Air Force Intelligence Service, who play an important role in the repression conducted by the Syrian regime. As such, Ghassan Jaoudat Ismail is one of the top military leaders directly implementing the violent repression of opponents conducted by the Syrian regime as well as practices of disappearance of civilians.	24.7.2012
147.	Major General Amer AL-ACHI (a.k.a. Amer Ibrahim al-Achi; Amis al Ashi; Ammar Aachi; Amer Ashi) (عامر ابراهيم العشي)	Gender: male	Former Governor of the Sweida Governorate, appointed by President Bashar al-Assad in July 2016. Former Head of the intelligence branch of the Syrian Air Force Intelligence Service (2012-2016). Through his role in the Air Force Intelligence Service, Amer al-Achi is implicated in the repression of the Syrian opposition.	24.7.2012
156.	Hala Mohammad (a.k.a. Mohamed, Muhammad, Mohammed) AL NASSER (هاله محمد الناصر)	Date of birth: 1964; Place of birth: Raqqa, Syria; Gender: female	Former Minister of Tourism. As a former Government Minister, shares responsibility for the Syrian regime's violent repression of the civilian population.	16.10.2012

172.	Ali HADAR (a.k.a. HAIDAR)	Date of birth: 1962; Gender: male	Head of the National Reconciliation Agency and former State Minister for National Reconciliation Affairs. Chair of the Intifada wing of the Syrian Social Nationalist Party. As a former Government Minister, shares responsibility for the Syrian regime's violent repression of the civilian population.	16.10.2012
204.	Emad HAMSHO (a.k.a. Imad Hmisho; Hamchu; Hamcho; Hamisho; Hmeisho; Hemasho, حميشو) (حمشو عماد)	Address: Hamsho Building 31 Baghdad Street, Damascus, Syria; Gender: male	Occupies a senior management position in Hamsho Trading. As a result of his senior position in Hamsho Trading, a subsidiary of Hamsho International, which has been designated by the Council, he provides support to the Syrian regime. He is also associated with a designated entity, Hamsho International. He is also vice-president of the Syrian Council of Iron and Steel alongside designated regime businessmen such as Ayman Jaber. He is also an associate of President Bashar al-Assad.	7.3.2015
241.	Salam Mohammad AL-SAFFAF	Date of birth: 1979; Gender: female	Administrative Development Minister. Appointed in March 2017.	30.5.2017
265.	Mohamad Amer MARDINI (a.k.a. Mohammad Amer Mardini, Mohamed Amer MARDINI, Mohamad Amer AL-MARDINI, Mohamed Amer AL-MARDINI, Mohammad Amer AL-MARDINI)	Date of birth: 1959; Place of birth: Damascus, Syria; Gender: male	Former Minister of Higher Education in power after May 2011 (appointed 27.8.2014). As a former Government Minister, shares responsibility for the Syrian regime's violent repression of the civilian population.	21.10.2014
268.	Ghassan Ahmed GHANNAM (a.k.a. Major General Ghassan Ghannan, Brigadier General Ghassan Ahmad Ghanem)	Rank: Major General; Position: Commander of the 155th Missile Brigade; Gender: male	Member of the Syrian Armed Forces of the rank of Colonel and the equivalent or higher in post after May 2011. Major General and Commander of the 155th Missile Brigade. Associated with Maher al-Assad through his role in the 155th Missile Brigade. As Commander of the 155th Missile Brigade, he is supporting the Syrian regime and he is responsible for the violent repression of the civilian population. Responsible for firing scud missiles at various civilian sites between January and March 2013.	21.10.2014
285.	Samer FOZ (a.k.a. Samir Foz/Fawz; Samer Zuhair Foz; Samer Foz bin Zuhair) (سامر فوز)	Date of birth: 20 May 1973; Place of birth: Homs, Syria / Latakia, Syria; Nationalities: Syrian, Turkish;	Leading businessperson operating in Syria, with interests and activities in multiple sectors of Syria's economy, including a regime-backed joint venture involved in the development of Marota City, a luxury residential and commercial development. Samer Foz provides financial and other support to the Syrian regime, including funding the Military Security Shield Forces in Syria and	21.1.2019

		Turkish passport number: U 09471711 (place of issue: Turkey; expiry date: 21.7.2024); Syrian national number: 06010274705 Address: Platinum Tower, office No 2405, Jumeirah Lake Towers, Dubai, UAE Position: CEO of Aman Group; Gender: male	brokering grain deals. He also benefits financially from access to commercial opportunities through the wheat trade and reconstruction projects as a result of his links to the regime.	
		Other information: Executive President of Aman Group. Subsidiaries: Foz for Trading, Al-Mohaimen for Transportation & Contracting. Aman Group is the private sector partner in joint venture Aman Damascus JSC with Damascus Cham Holding, in which Foz is an individual shareholder. Emmar Industries is a joint venture between Aman Group and the Hamisho Group, in which Foz has the majority stake and is the Chairman.		
291.	Amer FOZ (a.k.a. Amer Zuhair Fawz) (عامر فوز)	Date of birth: 11.3.1976; Nationality: Syrian; Saint Kitts and Nevis; National no: 06010274747; Passport no: 002-14-L169340 UAE resident card: 784-1976-7135283-5	Leading businessperson with personal and family business interests and activities in multiple sectors of the Syrian economy. He benefits financially from access to commercial opportunities and supports the Syrian regime. Between 2012 and 2019, he was General Manager of ASM International Trading LLC. He is also associated with his brother Samer Foz, who has been designated by the Council since January 2019 as a leading businessperson operating in Syria and for supporting or benefiting from the regime. Together with his brother, he implements a number of commercial projects, notably in the Adra al-Ummaliyya area (Damascus suburbs). These projects include a factory that manufactures cables and cable accessories as well as a project to produce electricity using solar power. They also engaged in various activities with ISIL (Da'esh) on behalf of the Assad regime, including the provision of weapons and ammunitions in exchange for wheat and oil.	17.2.2020

		Position: Founder of District 6 Company; Founding partner of Easy life Company; Relatives/business associates/entities or partners/links: Samer Foz; Vice Chairman of Asas Steel Company; Aman Holding; Gender: male		
295.	Adel Anwar AL-OLABI (a.k.a. Adel Anouar el-Oulabi, Adil Anwar al-Olabi) (عادل أنور العلبي)	Date of birth: 1976; Nationality: Syrian; Position: Chairman of Damascus Cham Holding Company (DCHC); Governor of Damascus; Gender: male	Leading businessperson benefiting from and supporting the Syrian regime. Chairman of Damascus Cham Holding Company (DCHC), the investment arm of the Governorate of Damascus managing the properties of the Governorate of Damascus and implementing the Marota City project. Adel Anwar al-Olabi is also the Governor of Damascus, appointed by President Bashar al-Assad in November 2018. As Governor of Damascus and Chair of DCHC, he is responsible for efforts to implement regime policies of developing expropriated land in Damascus (including Decree No 66 and Law No 10), most notably through the Marota City project.	17.2.2020’;

(3) in Section B (Entities), the following entries replace the corresponding entries in the list:

	Name	Identifying information	Reasons	Date of listing
‘1.	Bena Properties	Cham Holding Building, Daraa Highway, Ashrafiyat Sahnaya Rif Dimashq, Syria, P.O.Box 9525	Controlled by Rami Makhlouf. Syria’s largest real estate company and the real estate and investment arm of Cham Holding; provides funding to the Syrian regime.	23.6.2011
77.	Al Qatarji Company (a.k.a. Qatarji International Group; Al-Sham and Al-Darwish Company; Qatirji/Khatirji/Katarji/Katerji Group) (مجموعة/شركة قاطرجي)	Type of entity: private company; Business sector: import/export; trucking; supply of oil and commodities; Name of Director/Management: Hussam al-Qatirji, CEO (designated by the Council);	Prominent company operating across multiple sectors of the Syrian economy. By facilitating fuel, arms and ammunition trade between the regime and various actors including ISIL (Da’esh) under the pretext of importing and exporting food items, supporting militias fighting alongside the regime and taking advantage of its ties with the regime to expand its commercial activity, Al Qatarji Company – whose board is headed by designated person Hussam al-Qatirji, a member of the Syrian People’s Assembly – supports and benefits from the Syrian regime.	17.2.2020

		Ultimate beneficial owner: Hussam al-Qatirji (designated by the Council); Registered address: Mazzah, Damascus, Syria; Relatives/business associates/entities or partners/links: Arvada/Arfada Petroleum Company JSC		
78.	Damascus Cham Holding Company (a.k.a. Damascus Cham Private Joint Stock Company) (القابضة الشام دمشق)	Type of entity: public-owned company under private law; Business sector: real estate development; Name of Director/Management: Adel Anwar al-Olabi, Chairman of the Board of Directors and Governor of Damascus (designated by the Council); Ultimate beneficial owner: Governorate of Damascus;	Damascus Cham Holding Company was established by the regime as the investment arm of the Governorate of Damascus in order to manage the properties of the Governorate of Damascus and implement the Marota City project, a luxurious real estate project based on expropriated land under Decree No 66 and Law No 10 in particular. By managing the implementation of Marota City, Damascus Cham Holding (whose Chairman is the Governor of Damascus) supports and benefits from the Syrian regime and provides benefits to businesspeople with close ties to the regime who have struck lucrative deals with this entity through public-private partnerships.	17.2.2020’.
		Relatives/business associates/entities or partners/links: Rami Makhlouf (designated by the Council); Samer Foz (designated by the Council); Mazen Tarazi (designated by the Council); Talas Group, owned by businessman Anas Talas (designated by the Council);Khaled al-Zubaidi (designated by the Council); Nader Qalei (designated by the Council)		

COMMISSION IMPLEMENTING DECISION (EU) 2021/856

of 25 May 2021

determining the date on which the European Public Prosecutor's Office assumes its investigative and prosecutorial tasks

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') ([1]), and in particular Article 120(2), second subparagraph thereof,

Whereas:

(1) In accordance with Article 120(2), second subparagraph, of Regulation (EU) 2017/1939, the EPPO is to assume the investigative and prosecutorial tasks conferred on it by that Regulation on a date set by a decision of the Commission on a proposal of the European Chief Prosecutor once the EPPO is set up.

(2) On 7 April 2021, the European Chief Prosecutor proposed to the Commission that the EPPO should assume its investigative and prosecutorial tasks on 1 June 2021.

(3) The EPPO is an indivisible Union body operating as one single Office with a decentralised structure. Its central level consists of the College, the Permanent Chambers, the European Chief Prosecutor, the Deputy European Chief Prosecutors, the European Prosecutors and the Administrative Director. The European Chief Prosecutor, the European Prosecutors, the Deputy European Chief Prosecutors, and the Administrative Director of the EPPO were appointed with decisions adopted, respectively, on 23 October 2019 ([2]), 27 July 2020 ([3]), 11 November 2020 ([4]), and 20 January 2021 ([5]). The College was constituted on 28 September 2020. In accordance with Article 21(2) of Regulation (EU) 2017/1939, the College adopted the internal rules of procedure of the EPPO on 12 October 2020. The College adopted, pursuant to Article 10(1), first subparagraph, of Regulation (EU) 2017/1939, the rules on the Permanent Chambers on 25 November 2020. The staff of the EPPO as defined in Article 2(4) of Regulation (EU) 2017/1939 is in place.

(4) The decentralised level of the EPPO consists of the European Delegated Prosecutors located in the Member States that participate in the enhanced cooperation on the establishment of the EPPO ('Member States'). The College adopted, pursuant to Article 114(c) of Regulation (EU) 2017/1939, the rules on conditions of employment of the European Delegated Prosecutors on 29 September 2020. At least two European Delegated Prosecutors should be appointed for each Member State before 1 June 2021. On the date of adoption of this Decision, the EPPO had already

([1]) OJ L 283, 31.10.2017, p. 1.
([2]) OJ L 274 28.10.2019, p. 1.
([3]) OJ L 244, 29.7.2020, p. 18.
([4]) Decisions 010/2020 and 011/2020 of the College of the European Public Prosecutor's Office of 11 November 2020.
([5]) Decision 003/2021 of the College of the European Public Prosecutor's Office of 20 January 2021.

appointed at least two European Delegated Prosecutors per Member State, with the exception of Finland and Slovenia ([6]). The reasonable period for the Member States to nominate their candidates for the post of European Delegated Prosecutor has already expired. This situation should not prevent the effective start of operations of the EPPO, taking into account the possibility for the European Prosecutor of the Member States concerned to conduct the investigation personally in those Member States, with all the powers, responsibilities and obligations of a European Delegated Prosecutor, in accordance with Article 28(4) of Regulation (EU) 2017/1939.

(5) The EPPO has been granted an autonomous budget in accordance with the Multiannual Financial Framework for the years 2021 to 2027 ([7]) guaranteeing its full autonomy and independence.

(6) In accordance with Article 44(1) of Regulation (EU) 2017/1939, the EPPO's Case Management System is established and functions at central and decentralised levels. The Annex to that Regulation, introduced by Commission Delegated Regulation (EU) 2020/2153 ([8]), lists the categories of operational personal data and the categories of data subjects whose operational personal data may be processed in the index of case files by the EPPO.

(7) In accordance with Article 78(5) of Regulation (EU) 2017/1939, the College adopted the rules concerning the Data Protection Officer of the EPPO on 21 October 2020. The College adopted the rules concerning the processing of personal data by the EPPO on 28 October 2020. In accordance with Article 25 of Regulation (EU) 2018/1725 of the European Parliament and of the Council ([9]), the College adopted the internal rules concerning restrictions of certain data-subject rights in relation to the processing of administrative personal data in the framework of activities carried out by the EPPO on 21 October 2020.

(8) In accordance with Article 95 of Regulation (EU) 2017/1939, the College adopted the financial rules applicable to the EPPO on 13 January 2021.

([6]) Decisions of the College of the European Public Prosecutor's Office: 19/2020 of 25 November 2020 (appointment of ten European Delegated Prosecutors in the Federal Republic of Germany); 020/2020 of 25 November 2020 (appointment of four European Delegated Prosecutors in the Slovak Republic); 021/2020 of 2 December 2020 (appointment of two European Delegated Prosecutors in the Republic of Estonia); 22/2020 of 2 December 2020 (appointment of one European Delegated Prosecutor in the Federal Republic of Germany); 024/2020 of 9 December 2020 (appointment of a European Delegated Prosecutor in the Slovak Republic); 007/2021 of 3 February 2021 (appointment of three European Delegated Prosecutors in the Republic of Lithuania); 008/2021 of 5 February 2021 (appointment of three European Delegated Prosecutors in the Czech Republic); 009/2021 of 10 February 2021 (appointment of six European Delegated Prosecutors in Romania); 010/2021 of 10 February 2021 (appointment of two European Delegated Prosecutors in the Kingdom of the Netherlands); 016/2021 of 17 March 2021 (appointment of one European Delegated Prosecutor in the Kingdom of Belgium); 022/2021 of 7 April 2021 (appointment of three European Delegated Prosecutors in the Republic of Bulgaria); 024/2021 of 7 April 2021 (appointment of two European Delegated Prosecutors in the Republic of Croatia); 025/2021 of 7 April 2021 (appointment of two European Delegated Prosecutors in the Czech Republic); 026/2021 of 21 April 2021 (appointment of four European Delegated Prosecutors in the French Republic); 027/2021 of 21 April 2021 (appointment of four European Delegated Prosecutors in the Republic of Latvia); 031/2021 of 28 April 2021 (appointment of seven European Delegated Prosecutors in the Kingdom of Spain); 032/2021 of 28 April 2021 (appointment of one European Delegated Prosecutor in the Republic of Malta); 034/2021 of 3 May 2021 (appointment of fifteen European Delegated Prosecutors in the Italian Republic); 035/2021 of 3 May 2021 (appointment of four European Delegated Prosecutors in the Portuguese Republic); 037/2021 of 6 May 2021 (appointment of one European Delegated Prosecutor in the Republic of Bulgaria); 041/2021 of 12 May 2021 (appointment of one European Delegated Prosecutor in the Republic of Malta); 045/2021 of 17 May 2021 (appointment of one European Delegated Prosecutor in the Kingdom of Belgium); 046/2021 of 17 May 2021 (appointment of two European Delegated Prosecutors in the Republic of Austria); 047/2021 of 17 May 2021 (appointment of five European Delegated Prosecutors in the Hellenic Republic); 048/2021 of 19 May 2021 (appointment of two European Delegated Prosecutors in the Republic of Cyprus); 059/2021 of 19 May 2021 (appointment of two European Delegated Prosecutors in the Grand Duchy of Luxembourg).

([7]) OJ L 433 I, 22.12.2020, p. 11.

([8]) Commission Delegated Regulation (EU) 2020/2153 of 14 October 2020 amending Council Regulation (EU) 2017/1939 as regards the categories of operational personal data and the categories of data subjects whose operational personal data may be processed in the index of case files by the European Public Prosecutor's Office (OJ L 431, 21.12.2020, p. 1).

([9]) 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).

(9) In accordance with Article 106(2) of Regulation (EU) 2017/1939, the EPPO and the Grand Duchy of Luxembourg concluded a Headquarters Agreement on 27 November 2020. The premises of the Central Office in Luxembourg have been made available to the EPPO.

(10) In accordance with Article 107(2) of Regulation (EU) 2017/1939, the College adopted the internal language arrangements of the EPPO on 30 September 2020.

(11) In accordance with Article 109(2) of Regulation (EU) 2017/1939, the College adopted the rules on public access to documents of the EPPO on 21 October 2020.

(12) All Member States notified the Commission of the adoption of the measures for the transposition into national law of Directive (EU) 2017/1371 of the European Parliament and the Council ([10]) and have generally put in place other appropriate measures to ensure that the EPPO can start its operational work.

(13) The conditions laid down in Article 120(2), second subparagraph, of Regulation (EU) 2017/1939 thus being fulfilled, the EPPO is set up and ready to assume its investigative and prosecutorial tasks. It is therefore necessary to determine the date on which the EPPO is to assume those tasks.

(14) In accordance with Article 120(2), third subparagraph, of Regulation (EU) 2017/1939 that date should not be earlier than three years after the date of entry into force of that Regulation. As Regulation (EU) 2017/1939 entered into force on 20 November 2017, that date should not be before 20 November 2020.

(15) In accordance with Article 120(2), first and fourth subparagraphs, of Regulation (EU) 2017/1939, the EPPO is to exercise its competence with regard to any offence within its competence committed after 20 November 2017 or, for the Member States that joined the enhanced cooperation by virtue of a decision adopted in accordance with Article 331(1) TFEU, the date indicated in the decision concerned,

HAS ADOPTED THIS DECISION:

Article 1

The European Public Prosecutor's Office shall assume the investigative and prosecutorial tasks conferred on it by Regulation (EU) 2017/1939 on 1 June 2021.

Article 2

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

Done at Brussels, 25 May 2021.

For the Commission
The President
Ursula VON DER LEYEN

([10]) Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

COMMISSION DECISION (EU) 2021/857

of 27 May 2021

amending Decision (EU, Euratom) 2021/625 as regards the inclusion of certain investment firms in the eligibility criteria for membership of the Union primary dealer network

THE EUROPEAN COMMISSION,

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

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to 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 ([1]),

Whereas:

(1) Membership of European sovereign and supranational primary dealer networks is typically opened to credit institutions authorised under Directive 2013/36/EU of the European Parliament and of the Council ([2]) and to investment firms authorised under Directive 2014/65/EU of the European Parliament and of the Council ([3]).

(2) Article 4, point (c), of Commission Decision (EU, Euratom) 2021/625 ([4]) lays down as one of the eligibility criteria for membership of the Union primary dealer network the membership of credit institutions of a European sovereign or supranational primary dealer network. Given their experience gained through the membership of European sovereign or supranational primary dealer networks, investment firms authorised to carry out the activities of underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis under Directive 2014/65/EU should also be eligible for membership of the Union primary dealer network. Those activities are relevant for the tasks of the members of the Union primary dealer network, which may participate in auctions on a firm commitment basis and may act as lead managers for syndicated transactions committing to underwrite debt securities.

(3) In addition, in accordance with the new regulatory framework applicable to investment firms, in particular Regulation (EU) 2019/2033 of the European Parliament and of the Council ([5]), certain investment firms carrying out the activities of underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis under Directive 2014/65/EU should qualify as credit institutions from 26 June 2021. Nevertheless, until that date and as long as authorisation as credit institution under the new regulatory framework is granted, those entities would still transitorily qualify as investment firms.

(4) Decision (EU, Euratom) 2021/625 should therefore be amended accordingly.

(5) Taking into account the need to set up the first list of the Union primary dealer network, for which a call for application has already been launched and selection is ongoing, as well as the transitory period under the new regulatory framework and in the interest of legal certainty of the interested applicants for membership in the Union primary dealer network, this Decision should enter into force as a matter of urgency and should apply retroactively as from the date of entry into force of Decision (EU, Euratom) 2021/625,

([1]) OJ L 193, 30.7.2018, p. 1.

([2]) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

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

([4]) Commission Decision (EU, Euratom) 2021/625 of 14 April 2021 on the establishment of the primary dealer network and the definition of eligibility criteria for lead and co-lead mandates for syndicated transactions for the purposes of the borrowing activities by the Commission on behalf of the Union and of the European Atomic Energy Community (OJ L 131, 16.4.2021, p. 170).

([5]) Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (OJ L 314, 5.12.2019, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

Decision (EU, Euratom) 2021/625 is amended as follows:

(1) Article 2 is amended as follows:

(a) the following point (3a) is inserted:

'"Investment firms" means investment firms as defined in Article 4(1), point 1 of Directive 2014/65/EU of the European Parliament and of the Council (*);

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

(b) point (5) is replaced by the following:

'"members of the primary dealer network" means any credit institutions or investment firms fulfilling the eligibility criteria set out in Article 4 and included in the list referred to in Article 11';

(2) in Article 3, the introductory part is replaced by the following:

'The Union primary dealer network ("primary dealer network") shall be a group of credit institutions and investment firms referred to in Article 4, point (b)(ii), eligible to participate in the following borrowing and debt management activities of the Commission:';

(3) Article 4 is amended as follows:

(a) the introductory part is replaced by the following:

'Credit institutions and investment firms fulfilling the following criteria shall be eligible for membership of the primary dealer network:';

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

'(b) being supervised by a Union competent authority and being authorised to carry out the business of either of the following:

(i) credit institution in accordance with Directive 2013/36/EU of the European Parliament and of the Council (*); or

(ii) investment firm authorised to carry out the activity of underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis in accordance with Directive 2014/65/EU; and

(*) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).';

(4) in Article 5, point (e)(iii) is replaced by the following:

'(iii) Each primary dealer shall notify the Commission immediately of any proceedings initiated against it by a competent authority of a Member State concerning the activity carried out by the primary dealer as credit institution or investment firm referred to in Article 4, point (b)(ii). Each primary dealer shall notify the Commission of any measure or decision taken as a result of these proceedings';

(5) in Article 12, paragraph 1 is replaced by the following:

'1. Interested credit institutions and investment firms referred to in Article 4, point (b)(ii), shall submit to the Commission an application for membership to the primary dealer network by filling in and submitting the application form and the annexed checklist in respect of admission criteria available on Commission website.'

Article 2

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

It shall apply from 17 April 2021.

Done at Brussels, 27 May 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING DECISION (EU) 2021/858

of 27 May 2021

amending Implementing Decision (EU) 2017/253 as regards alerts triggered by serious cross-border threats to health and for the contact tracing of passengers identified through Passenger Locator Forms

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC ([1]), and in particular Article 8(2) thereof,

Whereas:

(1) The identification of a positive case of COVID-19 following a given cross-border journey fulfils the criteria set out in Article 9(1) of Decision 1082/2013/EU, as it may still cause significant mortality in humans, as it may grow rapidly in scale, as it affects more than one Member State, and as it may require a coordinated response at Union level. In accordance with point 23 of Recommendation (EU) 2020/1475 of 13 October 2020 on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic ([2]), information on COVID-19 cases detected on the arrival of a person on the territory of a Member State should be immediately shared with the public health authorities of the countries the person concerned has stayed in during the previous 14 days for contact tracing purposes, using the Early Warning and Response System ('EWRS') established by Article 8 of Decision 1082/2013/EU and operated by the European Centre for Disease Prevention and Control ('ECDC').

(2) Pursuant to Recommendation (EU) 2020/1475, Member States could require persons entering their territory to submit passenger locator forms ('PLFs') in accordance with data protection requirements.

(3) By imposing the completion of national PLFs of various formats, Member States collect PLF data from cross-border passengers entering their territory. One use of this data is that if a person who has completed a PLF is identified as a COVID-19 case, the data collected by the PLF are used to establish the journey of that person and transmit relevant information to the Member States that need to perform contact tracing procedures in relation to persons that might have been exposed to the infected passenger.

(4) Public health authorities of some Member States have already been exchanging personal data collected through national PLFs between themselves for purposes of contact tracing in the context of the COVID-19 pandemic. This exchange has been done in particular through the current technical infrastructure provided under the EWRS.

(5) The technical infrastructure currently provided under the EWRS is not yet designed to handle the volume of PLF data generated by the systematic and large-scale use of PLFs. For example, it does not translate between different national formats and requires manual entry, thus adversely affecting the timeliness and effectiveness of contact tracing. This is in particular the case when contact tracing needs to be performed in relation to cross-border passengers that have travelled by collective transport means with pre-assigned seats, such as aircraft, certain trains, ferries and cruises, where the number of exposed passengers and the duration of exposure to an infected passenger could be significant.

(6) A technical infrastructure – called the 'PLF exchange platform' – should therefore be set up to enable the secure, timely and effective exchange of data between the EWRS competent authorities of the Member States, by allowing to transmit information from their existing national digital PLF systems to other EWRS competent authorities in an interoperable and automatic manner. It should build on the exchange platform already developed by the European Union Aviation Safety Agency ('EASA'), with EASA not playing any role in the context of the processing of personal data through the PLF exchange platform as laid down in this Implementing Decision. The PLF exchange platform

([1]) OJ L 293, 5.11.2013, p. 1.
([2]) OJ L 337, 14.10.2020, p. 3.

should also enable the exchange of limited epidemiological data, necessary for the contact tracing, in accordance with Article 9(3) of Decision 1082/2013/EU. In order to avoid an overlap of activities or conflicting actions with existing structures and mechanisms for monitoring, early warning and combating serious cross-border threats to health, the PLF exchange platform should be developed under the EWRS as a complement of the selective messaging functionality existing within that system.

(7) The PLF exchange platform should be operated by the ECDC in line with Article 8 of Regulation (EC) No 851/2004 of the European Parliament and of the Council ([3]).

(8) The PLF exchange platform should not store the PLF data and the epidemiological data to be exchanged.

(9) If a Member State does not have a nationally developed digital PLF system, it could use the common European Union digital Passenger Locator Form System ('EUdPLF') which the EU Healthy Gateways Joint Action was tasked by the Commission to develop (grant No 801493) ([4]). The purpose of the EUdPLF is to create a single entry point and database for the collection of PLFs. In the future, the EUdPLF should be connected with the PLF exchange platform for the sole purpose of allowing the exchange of data between Member States with their own national digital PLF systems on the one hand and Member States making use of the EUdPLF on the other hand. This Decision does not cover the establishment of the EUdPLF nor does it regulate the processing of personal data in relation to it.

(10) This Decision does not regulate the establishment of national PLFs, which is a matter for the Member States to decide upon. Member States are free to choose whether they collect PLFs from all passengers arriving at their territory, or only from passengers having that Member State as their final destination. Effective cross border contact tracing based on PLF data requires that Member States collect a common minimum set of PLF data through their national PLFs. Those minimum PLF data should therefore be laid down. Moreover, for reasons of cost efficiency, sustainability and increased security of the solution, Member States should consider adopting a common approach when it comes to requiring PLFs from all passengers, including transit passengers, or only from those passengers that have the Member state concerned as their final destination.

(11) The use of the PLF exchange platform should be voluntary and Member States should be free to notify alerts under the currently existing technical infrastructure of the EWRS, on a temporary basis and provided they do not compromise the purpose of contact tracing.

(12) EWRS competent authorities should only exchange well-defined sets of data collected through their PLFs and other limited epidemiological data necessary for the contact tracing, in line with the minimisation principle of personal data processing. Where the Member State notifying the alert about an infected passenger can identify all the Member States concerned, based on the PLF data at its disposal, it should transmit data only to the EWRS competent authorities of those Member States. This is the case, for example, where the Member State identifying the infected passenger collects PLFs for all passengers, including transit passengers, arriving in its territory with a direct connection from the initial place of departure.

(13) Where a passenger is detected as being infected with SARS-CoV-2 in a Member State, the EWRS competent authorities of that Member State should be able to share with the EWRS competent authorities of the Member State of departure a limited set of data extracted from the PLFs, which should be strictly defined as to what is necessary to perform contact tracing of exposed persons in the Member State of departure and residence, where different from the Member State of departure – namely the identity and contact information of the infected passenger.

([3]) Regulation (EC) No 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European Centre for disease prevention and control (OJ L 142, 30.4.2004, p. 1).

([4]) The Joint Action Preparedness and action at points of entry (ports, airports, and ground crossings) HEALTHY GATEWAYS brings together 28 European countries, funded by the Third Health Programme (2014-2020).

(14) In addition, where a passenger is detected as being infected with SARS-CoV-2 in a Member State, the EWRS competent authorities of that Member State should also be able to share a limited set of data with the EWRS competent authorities of all the Member States or of the concerned Member States, if those authorities have the information enabling them to identify such Member States. The data should be limited to the place of departure, the place of arrival, the date of departure, the type of transport used (e.g. plane, train, coach, ferry, ship), identification number of the transport service – that is to say flight number, train number, coach's number plate, ferry or ship's name – the seat or cabin number of the infected passenger, and the time of departure in case the above data are not sufficient to identify the transport. This should allow the receiving EWRS competent authorities to establish whether exposed passengers arrived in their territory and, if so, to perform their contact tracing.

(15) When sharing data with other EWRS competent authorities through the PLF exchange platform, the relevant EWRS competent authority should be able to add epidemiological information, limited to what is necessary to perform the contact tracing, i.e. the type of COVID-19 test performed, the variant of the SARS-CoV-2 virus, the date of sampling and the date of symptom onset.

(16) Processing of personal data of infected passengers, exchanged through the PLF exchange platform, is to be carried out by the EWRS competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council ([5]). Processing of personal data under the responsibility of the ECDC as operator of the PLF exchange platform for purposes of contact tracing and of the Commission as its sub-processor has to comply with Regulation (EU) 2018/1725 of the European Parliament and of the Council ([6]).

(17) The legal ground for the exchange of infected passengers' personal data, including on health, between the EWRS competent authorities for the purpose of contact tracing is laid down in Article 9(1) and 9(3)(i) of Decision 1082/2013/EU, in line with Article 6(1)(c) and Article 9(2)(i) of Regulation (EU) 2016/679. This Decision should lay down suitable and specific measures to safeguard the rights and freedoms for the data subject. These should include measures relating to the definition of the necessary data sets to be exchanged, the EWRS competent authorities with which the data should be exchanged in the various cases, the appropriate security measures, including encryption, and the modalities for the processing of data between the national competent authorities through the PLF exchange platform within the European Union.

(18) The EWRS competent authorities participating in the PLF exchange platform determine together the purpose and means of processing of personal data in the PLF exchange platform, and are therefore joint controllers. Article 26 of Regulation (EU) 2016/679 places an obligation on joint controllers to determine, in a transparent manner, their respective responsibilities for compliance with the obligations under that Regulation. It also provides for the possibility to have those responsibilities determined by Union or Member State law to which the controllers are subject. This Decision should therefore determine the respective roles and responsibilities of the joint controllers.

(19) The ECDC, as a provider of technical and organisational solutions for the PLF exchange platform, processes PLF and epidemiological data on behalf of the Member States participating in the PLF exchange platform as joint controllers, and is therefore a processor within the meaning of Article 3(12) of Regulation (EU) 2018/1725. Pursuant to Article 28 of Regulation (EU) 2016/679 and Article 29 of Regulation (EU) 2018/1725, the processing by a processor is to be governed by a contract or a legal act under Union or Member State law which is binding on the processor with regard to the controller and which specifies the processing. It is therefore necessary to set out rules on processing by the ECDC as a processor.

(20) Article 3(3) of Regulation (EC) No 851/2004 provides that the ECDC, the Commission and the Member States shall cooperate to promote effective coherence between their respective activities. Accordingly, service level agreements should be concluded between the Commission and the ECDC to cooperate during the technical development and operation of the PLF exchange platform. They have to specify the division of responsibilities (organisational, financial and technological) between the parties to facilitate the implementation of the PLF exchange platform and the technical measures relating to its operation, maintenance and further development.

(21) Implementing Decision (EU) 2017/253 should therefore be amended accordingly.

([5]) 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 (OJ L 119, 4.5.2016, p. 1).

([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).

(22) The PLF exchange platform is to be financed in the year 2021 by the Emergency Support Instrument, that has been put in place to help Member States respond to the coronavirus pandemic by addressing needs in a strategic and coordinated manner at European level, and by the 'Support activities to the European transport policy, transport security and passenger rights including communication activities'. It is to be financed in the year 2022 by the Digital Europe Programme.

(23) Considering the envisaged date of operation of the PLF exchange platform, this Decision should apply from 1 June 2021. The exchange of data should cease after 12 months or once the Director-General of the World Health Organization has declared, in accordance with the International Health Regulations that the public health emergency of international concern caused by SARS-CoV-2 has ended, if that declaration is made earlier.

(24) The operation of the PLF exchange platform should be limited to the control of the COVID-19 pandemic. However, it could be in the future extended through an amending implementing decision to such epidemics that may require Member States to exchange PLF data for contact tracing purposes, in line with the criteria set out in Article 9(1) and the conditions set out in Article 9(3) of Decision 1082/2013/EU.

(25) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on 6 May 2021.

(26) The measures provided for in this Decision are in accordance with the opinion of the Committee on serious cross-border threats to health established by Article 18 of Decision No 1082/2013/EU,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2017/253 is amended as follows:

(1) The following Article 1a is inserted:

'Article 1a

Definitions

For the purposes of this Decision, the following definitions apply:

(a) 'passenger locator form' ('PLF') means a form completed on the request of public health authorities that collects at least the passengers' data specified in Annex I and that assists those authorities in managing a public health event by enabling them to trace passengers crossing borders who may have been exposed to a SARS-CoV-2 infected person;

(b) 'passenger locator form data' ('PLF data') means personal data collected through a PLF;

(c) 'digital entry point' means a single digital location to which EWRS competent authorities can securely connect their national digital PLF systems to the PLF exchange platform;

(d) 'journey' means the cross-border travel by a person, by means of collective transport with pre-assigned seats, having regard to the place of that person's initial departure and final destination, with one or more legs.

(e) 'leg' means a cross-border single travel of a passenger with no connections or changes of flight, train, vessel or vehicle;

(f) 'infected passenger' means a passenger who fulfils the laboratory criterion for SARS-CoV-2 infection;

(g) 'exposed person' means a passenger or another person who has been in close contact to an infected passenger;

(h) 'alert' means a notification using the Early Warning and Response System (EWRS), following Article 9 of Decision 1082/2013/EC. '

(2) The following Articles 2a, 2b and 2c are inserted:

'Article 2a

Platform for the exchange of PLF data

1. A platform for the secure exchange of PLF data of infected passengers for the sole purpose of SARS-CoV-2 contact tracing of exposed persons by the EWRS competent authorities ('PLF exchange platform') is established under the EWRS as a complement of the selective messaging functionality existing within that system.

The PLF exchange platform shall provide a digital entry point for EWRS competent authorities to securely connect their national digital PLF systems or connect through the common European Union digital Passenger Locator Form System ('EUdPLF'), in order to enable the exchange of data collected through PLFs.

The EWRS competent authorities shall be able to use the PLF exchange platform for the exchange of additional data, that is to say epidemiological data for the sole purpose of SARS-CoV-2 contact tracing of exposed persons, in accordance with Article 2b(5).

2. The PLF exchange platform shall be operated by the ECDC.

3. In order to fulfil their obligations under Article 2 to notify serious cross-border threats to health that are identified in the context of the collection of PLF data, the EWRS competent authorities of the Member States requiring the completion of PLF shall exchange a set of PLF data, as detailed in Article 2b, through the PLF exchange platform.

4. The EWRS competent authorities may continue to fulfil their obligations under Article 9(1) and 9(3) of Decision 1082/2013/EU to notify serious cross-border threats to health that are identified in the context of the collection of PLF data through the other existing communication channels referred to in Article 1(2) of this Decision, on a temporary basis and provided that that choice does not compromise the purpose of contact tracing.

5. The PLF exchange platform shall not store the PLF and the additional epidemiological data. It shall only allow EWRS competent authorities to receive data that were sent to them by other EWRS competent authorities for the sole purpose of SARS-CoV-2 contact tracing. The ECDC shall only access the data for ensuring the good functioning of the PLF exchange platform.

6. The EWRS competent authorities shall not retain the PLF and epidemiological data received through the PLF exchange platform for longer than the retention period applicable in the context of their national SARS-CoV-2 contact tracing activities.

7. The Commission shall cooperate with the ECDC in the fulfilment of the tasks entrusted to it under this Decision, in particular as regards technical and organisational measures relating to the deployment, implementation, operation, maintenance and further development of the PLF exchange platform.

8. Processing of personal data in the PLF exchange platform for the sole purpose of SARS-CoV-2 contact tracing shall be performed until 31 May 2022 or until the Director-General of the World Health Organization has declared, in accordance with the International Health Regulations, that the public health emergency of international concern caused by SARS-CoV-2 has ended, whichever is the earliest.

Article 2b

Data to be exchanged

1. When notifying an alert in the PLF exchange platform, the EWRS competent authorities of the Member State where the infected passenger is identified shall transmit the following PLF data to the EWRS competent authorities of the Member State of the infected passenger's initial departure or residence, where the place of residence is different from the place of initial departure:

(a) first name;

(b) last name;

(c) date of birth;

(d) phone number (landline and/or mobile);

(e) e-mail address;

(f) address of residence.

2. The EWRS competent authorities of the Member State of the infected passenger's initial departure may transmit the PLF data received to a Member State of departure other than the one declared in the PLF as Member State of initial departure, where they have the additional information pointing to the Member State that should perform the contact tracing.

3. When notifying an alert in the PLF exchange platform, the EWRS competent authorities of the Member State where the infected passenger is identified shall transmit the following PLF data, in relation to each leg of that passenger's journey, to the EWRS competent authorities of all Member States:

(a) place of departure of each concerned transport;

(b) place of arrival of each concerned transport;

(c) date of departure of each concerned transport;

(d) type of each concerned transport (e.g. plane, train, coach, ferry, ship);

(e) identification number of each concerned transport (e.g. flight number, train number, coach's number plate, ferry or ship name);

(f) seat/cabin number in each concerned transport;

(g) where necessary, the time of departure of each concerned transport.

4. Where the EWRS competent authorities of the Member State notifying the alert can identify the Member States concerned based on information at their disposal, they shall transmit the data listed in paragraph 3 only to the EWRS competent authorities of those Member States.

5. The EWRS competent authorities shall be able to provide the following epidemiological data, where this is necessary in order to perform effective contact tracing:

(a) type of test performed;

(b) variant of SARS-CoV-2 virus;

(c) date of sampling;

(d) date of symptom onset.

Article 2c

Responsibilities of the EWRS competent authorities and of ECDC in the processing of PLF data

1. The EWRS competent authorities exchanging PLF data and the data in Article 2b(5) shall be joint controllers for the entry and transmission, until receipt, of those data through the PLF exchange platform. The respective responsibilities of the joint controllers shall be allocated in accordance with Annex II. Each Member State wishing to participate in the cross-border exchange of PLF data through the PLF exchange platform shall notify the ECDC, prior to joining, of its intention, and of its EWRS competent authority that has been designated as the responsible controller.

2. The ECDC shall be the processor of data exchanged through the PLF exchange platform. It shall provide the PLF exchange platform and ensure the security of processing, including of the transmission, of data exchanged through the PLF exchange platform, and shall comply with the obligations of a processor laid down in Annex III.

3. The effectiveness of the technical and organisational measures for ensuring the security of processing of PLF data exchanged through the PLF exchange platform shall be regularly tested, assessed and evaluated by the ECDC and by the EWRS competent authorities authorised to access the PLF exchange platform.

4. The ECDC shall engage the Commission as a sub-processor and shall ensure that the same data protection obligations set out in this Decision apply to the Commission. '

(3) In Article 3(3), the words 'the Annex' are replaced by 'Annex IV';

(4) In the Annex, the title 'ANNEX' is replaced by 'ANNEX IV';

(5) Annexes I, II and III, as set out in the Annex to this Decision, are inserted

Article 2

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

It shall apply from 1 June 2021.

Done at Brussels, 27 May 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

'ANNEX I

MINIMUM SET OF PLF DATA TO BE COLLECTED THROUGH THE NATIONAL PLF

The PLF shall contain at least the following PLF data:

(1) first name;

(2) last name;

(3) date of birth;

(4) phone number (landline and/or mobile);

(5) E-mail address;

(6) address of residence;

(7) final or last destination in the EU of the entire journey;

(8) the following information for each leg of the journey until the Member State requiring the PLF:

  (a) place of departure;

  (b) place of arrival;

  (c) date of departure;

  (d) type of transport (e.g. plane, train, coach, ferry, ship);

  (e) time of departure;

  (f) identification number of the transport (e.g. flight number, train number, coach's number plate, ferry or ship name);

  (g) seat/cabin number.

ANNEX II

RESPONSIBILITIES OF THE PARTICIPATING MEMBER STATES AS JOINT CONTROLLERS FOR THE PLF EXCHANGE PLATFORM

SECTION 1

Division of responsibilities

(1) Each EWRS competent authorities shall ensure that the processing of PLF data and of the additional epidemiological data exchanged through the PLF exchange platform is carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council *. In particular, it shall ensure that the data it enters and transmits through the PLF exchange platform are accurate and limited to the data laid down in Article 2b of this Decision.

(2) Each EWRS competent authority remains the sole controller for the collection, use, disclosure and any other processing of PLF data and additional epidemiological data, carried out outside the PLF exchange platform. Each EWRS competent authority shall ensure that the transmission of the data is carried out in accordance with the technical specifications stipulated for the PLF exchange platform.

(3) Instructions to the processor shall be sent by any of the joint controllers' contact point, in agreement with the other joint controllers.

(4) Only persons authorised by the EWRS competent authorities may access PLF data and additional epidemiological data exchanged through the PLF exchange platform.

(5) Each EWRS competent authority shall set up a contact point with a functional mailbox that will serve for communication between the joint controllers and between the joint controllers and the processor. The decisions making process of the Joint Controllers is governed by the EWRS Health Security Committee Working Group.

(6) Each EWRS competent authority shall cease to be joint controller from the date of withdrawal of its participation in the PLF exchange platform. It shall however remain responsible for the collection and transmission of PLF data and additional epidemiological data through the PLF exchange platform that occurred prior to its withdrawal.

(7) Each EWRS competent authority shall maintain a record of the processing activities under its responsibility. The joint controllership may be indicated in the record.

SECTION 2

Responsibilities and roles for handling requests of and informing data subjects

(1) Each EWRS competent authority requiring a PLF shall provide the cross-border passengers ("the data subjects") with information about the circumstances of the exchange of their PLF and epidemiological data through the PLF exchange platform for the purpose of contact tracing, in accordance with Articles 13 and 14 of Regulation (EU) 2016/679.

(2) Each EWRS competent authority shall act as the contact point for the data subjects and shall handle the requests relating to the exercise of their rights in accordance with Regulation (EU) 2016/679, submitted by them or by their representatives. Each EWRS competent authority shall designate a specific contact point dedicated to requests received from data subjects. If a EWRS competent authority receives a request from a data subject, which does not fall under its responsibility, it shall promptly forward it to the responsible EWRS competent authority and inform the ECDC. If requested, the EWRS competent authorities shall assist each other in handling data subjects' requests relating to the joint controllership and shall reply to each other without undue delay and at the latest within 15 days from receiving a request for assistance.

(3) Each EWRS competent authority shall make available to the data subjects the content of this Annex including the arrangements laid down in points 1 and 2.

SECTION 3

Management of security incidents, including personal data breaches

(1) The EWRS competent authorities as joint controllers shall assist each other in the identification and handling of any security incidents, including personal data breaches, linked to the processing of PLF and epidemiological data exchanged through the PLF exchange platform.

(2) In particular, they shall notify each other and the ECDC of the following:

(a) any potential or actual risks to the availability, confidentiality and/or integrity of the PLF and epidemiological data undergoing processing in the PLF exchange platform;

(b) any personal data breach, the likely consequences of the data breach and the assessment of the risk to the rights and freedoms of natural persons, and any measures taken to address the personal data breach and mitigate the risk to the rights and freedoms of natural persons;

(c) any breach of the technical and/or organisational safeguards of the processing operation in the PLF exchange platform.

(3) The EWRS competent authorities shall communicate any data breaches with regard to the processing operation in the PLF exchange platform to the ECDC, to the competent supervisory authorities and, where required, to the data subjects, in accordance with Articles 33 and 34 of Regulation (EU) 2016/679 or following notification by the ECDC.

(4) Each EWRS competent authority shall implement appropriate technical and organisational measures, designed to:

(a) ensure and protect the security, integrity and confidentiality of the personal data jointly processed;

(b) protect against any unauthorised or unlawful processing, loss, use, disclosure or acquisition of or access to any personal data in its possession;

(c) ensure that access to the personal data is not disclosed or allowed to anyone other than the recipients or processors.

SECTION 4

Data Protection Impact Assessment

If a controller, in order to comply with its obligations specified in Articles 35 and 36 of Regulation (EU) 2016/679, needs information from another controller, it shall send a specific request to the functional mailbox referred to in Subsection 1(5) of Section 1. The latter shall use its best efforts to provide such information.

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* 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 (OJ L 119, 4.5.2016, p. 1).

ANNEX III

RESPONSIBILITIES OF THE ECDC AS DATA PROCESSOR FOR THE PLF EXCHANGE PLATFORM

(1) The ECDC shall set up and ensure a secure and reliable communication infrastructure that interconnects EWRS competent authorities of the Member States participating in the PLF exchange platform.

The processing by the ECDC of the PLF exchange platform entails the following:

(a) define the minimum set of technical requirements to allow a smooth and secure on-boarding and off-boarding of national PLF databases;

(b) ensure interoperability of national PLF databases in a secure and automated fashion.

(2) To fulfil its obligations as data processor of the PLF exchange platform, the ECDC shall engage the Commission as a sub-processor and shall ensure that the same data protection obligations, as set out in this Decision, apply to the Commission.

The ECDC may authorise the Commission to engage third parties as further sub-processors.

If the Commission engages sub-processors, the ECDC shall:

(a) ensure that the same data protection obligations, as set out in this Decision, apply to these sub-processors;

(b) inform the controllers of any intended changes concerning the addition or replacement of other sub-processors, thereby giving the controllers the opportunity to object by simple majority to such changes.

(3) The ECDC shall:

(a) set up and ensure a secure and reliable communication infrastructure that interconnects EWRS competent authorities of the Member States participating in the PLF exchange platform;

(b) process the PLF and additional epidemiological data, only based on documented instructions from the controllers, unless required to do so by Union law; in such a case, the ECDC shall inform the controllers of that legal requirement before processing, unless that law prohibits submitting such information on important grounds of public interest.

(c) put in place a security plan, a business continuity and a disaster recovery plan.

(d) take the necessary measures to preserve the integrity of the PLF and additional epidemiological data processed;

(e) take all state of the art organisational, physical and electronic security measures to maintain the PLF exchange platform; to this end, the ECDC shall:

(i) designate a responsible entity for security management at the level of the PLF exchange platform, communicate its contact information to the controllers and ensure its availability to react to security threats;

(ii) assume the responsibility for the security of the PLF exchange platform;

(iii) ensure that all individuals that are granted access to the PLF exchange platform are subject to contractual, professional or statutory obligation of confidentiality;

(f) take all necessary security measures to avoid compromising the smooth operational functioning of the PLF exchange platform; to this end, the ECDC shall put in place specific procedures related to the functioning of the PLF exchange platform and the connection from the backend servers to the PLF exchange platform; this includes:

(i) a risk assessment procedure, to identify and estimate potential threats to the system;

(ii) an audit and review procedure to:

1) check the correspondence between the implemented security measures and the applicable security policy;

2) control on a regular basis the integrity of system files, security parameters and granted authorisations;

3) detect and monitor security breaches and intrusions;

4) implement changes to mitigate existing security weaknesses;

5) allow for, including at the request of controllers, and contribute to, the performance of independent audits, including inspections, and reviews on security measures, subject to conditions that respect Protocol (No 7) to the TFEU on the Privileges and Immunities of the European Union (2);

(iii) changing the control procedure to document and measure the impact of a change before its implementation and keep the controllers informed of any changes that can affect the communication with and/or the security of their infrastructures;

(iv) laying down a maintenance and repair procedure to specify the rules and conditions to be respected when maintenance and/or repair of equipment should be performed;

(v) laying down a security incident procedure to define the reporting and escalation scheme, inform without delay the controllers for them to notify the national data protection supervisory authorities of any personal data breach, and define a disciplinary process to deal with security breaches;

(g) take state of the art physical and/or electronic security measures for the facilities hosting the PLF exchange platform equipment and for the controls of data and security access; to this end, ECDC shall:

(i) enforce physical security to establish distinct security perimeters and allow detection of breaches;

(ii) control access to the facilities and maintain a visitor register for tracing purposes;

(iii) ensure that external people granted access to the premises are escorted by duly authorised staff;

(iv) ensure that equipment cannot be added, replaced or removed without prior authorisation of the designated responsible bodies;

(v) control access from and to the national PLF systems to the PLF exchange platform;

(vi) ensure that individuals who access the PLF exchange platform are identified and authenticated;

(vii) review the authorisation rights related to the access to the PLF exchange platform in case of a security breach affecting this infrastructure;

(viii) implement technical and organisational security measures to prevent unauthorised access to PLF and epidemiological data;

(ix) implement, whenever necessary, measures to block unauthorised access to the PLF exchange platform from the domain of the national authorities (i.e.: block a location/IP address);

(h) take steps to protect its domain, including the severing of connections, in the event of substantial deviation from the principles and concepts for quality or security;

(i) maintain a risk management plan related to its area of responsibility;

(j) monitor – in real time – the performance of all the service components of the PLF exchange platform, produce regular statistics and keep records;

(k) make sure that the service is available 24/7, with the acceptable downtime for maintenance purposes;

(l) provide support for all PLF exchange platform services in English, via phone, mail or Web Portal and accept calls from authorised callers: the PLF exchange platform's coordinators and their respective helpdesks, Project Officers and designated persons from ECDC;

(m) assist the controllers by appropriate technical and organisational measures, insofar as it is possible, for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of Regulation (EU) 2016/679;

(n) support the controllers by providing information concerning the PLF exchange platform, in order to implement the obligations pursuant to Articles 32, 35 and 36 of Regulation (EU) 2016/679;

(o) ensure that PLF and epidemiological data transmitted through the PLF exchange platform is unintelligible to any person who is not authorised to access it, in particular by applying strong encryption;

(p) take all relevant measures to prevent that the PLF exchange platform's operators have unauthorised access to transmitted PLF and epidemiological data;

(q) take measures in order to facilitate the interoperability and the communication between the PLF exchange platform's designated controllers;

(r) maintain a record of processing activities carried out on behalf of the controllers in accordance with Article 31(2) of Regulation (EU) 2018/1725 of the European Parliament and of the Council.'

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