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⁽¹⁾ Text with EEA relevance.

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⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2021/1253

of 21 April 2021

amending Delegated Regulation (EU) 2017/565 as regards the integration of sustainability factors, risks and preferences into certain organisational requirements and operating conditions for investment firms**(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to 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 ⁽¹⁾, and in particular Article 16(12), Article 24(13) and Article 25(8) thereof,

Whereas:

- (1) The transition to a low-carbon, more sustainable, resource-efficient and circular economy in line with the Sustainable Development Goals is key to ensuring the long-term competitiveness of the economy of the Union. In 2016, the Union concluded the Paris Agreement ⁽²⁾. Article 2(1), point (c), of the Paris Agreement sets out the objective of strengthening the response to climate change by, among others, making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.
- (2) Recognising that challenge, the Commission presented the European Green Deal ⁽³⁾ in December 2019. The Green Deal represents a new growth strategy that aims to transform the Union into a fair and prosperous society with a modern, resource-efficient and competitive economy where there are no net greenhouse gas emissions from 2050 onwards and where economic growth is decoupled from resource use. That objective requires that clear signals are given to investors with regard to their investments to avoid stranded assets and to raise sustainable finance.
- (3) In March 2018, the Commission published its Action Plan 'Financing Sustainable Growth' ⁽⁴⁾, setting up an ambitious and comprehensive strategy on sustainable finance. One of the objectives set out in the Action Plan is to reorient capital flows towards sustainable investments to achieve sustainable and inclusive growth. The impact assessment underpinning subsequent legislative initiatives published in May 2018 ⁽⁵⁾ demonstrated the need to clarify that sustainability factors should be taken into account by investment firms as part of their duties towards

⁽¹⁾ OJ L 173, 12.6.2014, p. 349.

⁽²⁾ Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

⁽³⁾ COM(2019) 640 final.

⁽⁴⁾ COM(2018) 97 final.

⁽⁵⁾ SWD(2018) 264 final.

clients and potential clients. Investment firms should therefore consider not only all relevant financial risks on an ongoing basis, but also all relevant sustainability risks as referred to in Regulation (EU) 2019/2088 of the European Parliament and of the Council ⁽⁶⁾ that, where they occur, could cause an actual or potential material negative impact on the value of an investment. Commission Delegated Regulation (EU) 2017/565 ⁽⁷⁾ does not explicitly refer to sustainability risks. For that reason and to ensure that internal procedures and organisational arrangements are properly implemented and adhered to, it is necessary to clarify that processes, systems and internal controls of investment firms should reflect sustainability risks, and that technical capacity and knowledge is necessary to analyse those risks.

- (4) To maintain a high standard of investor protection, investment firms should, when identifying the types of conflicts of interest the existence of which may damage the interests of a client or potential client, include those types of conflicts of interest that stem from the integration of the client's sustainability preferences. For existing clients, for whom a suitability assessment has already been undertaken, investment firms should have the possibility to identify the client's individual sustainability preferences at the next regular update of the existing suitability assessment.
- (5) Investment firms that provide investment advice and portfolio management should be able to recommend suitable financial instruments to their clients and potential clients and should therefore be able to ask questions to identify a client's individual sustainability preferences. In accordance with an investment firm's obligation to act in the best interest of its clients, recommendations to clients and potential clients should reflect both the financial objectives and any sustainability preferences expressed by those clients. It is therefore necessary to clarify that investment firms should have in place appropriate arrangements to ensure that the inclusion of sustainability factors in the advisory process and portfolio management does not lead to mis-selling practices or to the misrepresentation of financial instruments or strategies as fulfilling sustainability preferences where they do not. In order to avoid such practices or misrepresentations, investment firms providing investment advice should first assess a client's or potential client's other investment objectives, time horizon and individual circumstances, before asking for his or her potential sustainability preferences.
- (6) Financial instruments with various degrees of sustainability-related ambition have been developed so far. To enable clients or potential clients to understand those different degrees of sustainability and take informed investment decisions in terms of sustainability, investment firms that provide investment advice and portfolio management services should explain the distinction between, on the one hand, financial instruments that pursue, fully or in part, sustainable investments in economic activities that qualify as environmentally sustainable under Regulation (EU) 2020/852 of the European Parliament and of the Council ⁽⁸⁾, sustainable investments as defined in Article 2, point (17), of Regulation (EU) 2019/2088, and financial instruments that consider principal adverse impacts on sustainability factors that might be eligible for recommendation as meeting individual sustainability preferences of clients, and, on the other hand, other financial instruments without those specific features that should not be eligible for recommendation to the clients or potential clients that have individual sustainability preferences.
- (7) It is necessary to address concerns about 'greenwashing', that is, in particular, the practice of gaining an unfair competitive advantage by recommending a financial instrument as environmentally friendly or sustainable, when in fact that financial instrument does not meet basic environmental or other sustainability-related standards. In order to prevent mis-selling and greenwashing, investment firms should not recommend or decide to trade financial instruments as meeting individual sustainability preferences where those financial instruments do not meet those preferences. Investment firms should explain to their clients or potential clients the reasons for not doing so, and keep records of those reasons.

⁽⁶⁾ Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).

⁽⁷⁾ Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive (OJ L 87, 31.3.2017, p. 1).

⁽⁸⁾ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

- (8) It is necessary to clarify that financial instruments that are not eligible for individual sustainability preferences can still be recommended by investment firms, but not as meeting individual sustainability preferences. In order to allow for further recommendations to clients or potential clients, where financial instruments do not meet a client's sustainability preferences, the client should have the possibility to adapt information on his or her sustainability preferences. In order to prevent mis-selling and greenwashing, investment firms should keep records of the client's decision along with the client's explanation supporting the adaptation.
- (9) Delegated Regulation (EU) 2017/565 should therefore be amended accordingly.
- (10) Competent authorities and investment firms should be given sufficient time to adapt to the new requirements contained in this Regulation. Its application should therefore be deferred,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2017/565

Delegated Regulation (EU) 2017/565 is amended as follows:

- (1) in Article 2, the following points (7), (8) and (9) are added:

- '(7) "sustainability preferences" means a client's or potential client's choice as to whether and, if so, to what extent, one or more of the following financial instruments shall be integrated into his or her investment:
 - (a) a financial instrument for which the client or potential client determines that a minimum proportion shall be invested in environmentally sustainable investments as defined in Article 2, point (1), of Regulation (EU) 2020/852 of the European Parliament and of the Council (*);
 - (b) a financial instrument for which the client or potential client determines that a minimum proportion shall be invested in sustainable investments as defined in Article 2, point (17), of Regulation (EU) 2019/2088 of the European Parliament and of the Council (**);
 - (c) a financial instrument that considers principal adverse impacts on sustainability factors where qualitative or quantitative elements demonstrating that consideration are determined by the client or potential client;
- (8) "sustainability factors" means sustainability factors as defined in Article 2, point (24), of Regulation (EU) 2019/2088;
- (9) "sustainability risks" means sustainability risks as defined in Article 2, point (22), of Regulation (EU) 2019/2088.

(*) Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

(**) Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).;

- (2) in Article 21, paragraph 1 is amended as follows:

- (a) the second subparagraph is replaced by the following:

'Investment firms shall take into account sustainability risks when complying with the requirements set out in this paragraph.';

(b) the following subparagraph is added:

‘When complying with the requirements set out in this paragraph, investment firms shall take into account the nature, scale and complexity of the business of the firm, and the nature and range of investment services and activities undertaken in the course of that business.’;

(3) in Article 23(1), point (a) is replaced by the following:

‘(a) establish, implement and maintain adequate risk management policies and procedures which identify the risks relating to the firm’s activities, processes and systems, and, where appropriate, set the level of risk tolerated by the firm. In doing so, investment firms shall take into account sustainability risks.’;

(4) Article 33 is replaced by the following:

‘Article 33

Conflicts of interest potentially detrimental to a client

(Article 16(3) and Article 23 of Directive 2014/65/EU)

For the purposes of identifying the types of conflict of interest that arise in the course of providing investment and ancillary services or a combination thereof and whose existence may damage the interests of a client, including his or her sustainability preferences, investment firms shall take into account, by way of minimum criteria, whether the investment firm or a relevant person, or a person directly or indirectly linked by control to the firm, is in any of the following situations, whether as a result of providing investment or ancillary services or investment activities or otherwise:

- (a) the firm or that person is likely to make a financial gain, or avoid a financial loss, at the expense of the client;
- (b) the firm or that person has an interest in the outcome of a service provided to the client or of a transaction carried out on behalf of the client, which is distinct from the client’s interest in that outcome;
- (c) the firm or that person has a financial or other incentive to favour the interest of another client or group of clients over the interests of the client;
- (d) the firm or that person carries on the same business as the client;
- (e) the firm or that person receives or will receive from a person other than the client an inducement in relation to a service provided to the client, in the form of monetary or non-monetary benefits or services.’;

(5) in Article 52, paragraph 3 is replaced by the following:

‘3. Investment firms shall provide a description of:

- (a) the types of financial instruments considered;
- (b) the range of financial instruments and providers, analysed per each type of instrument according to the scope of the service;
- (c) where relevant, the sustainability factors taken into consideration in the selection process of financial instruments;
- (d) when providing independent advice, how the service provided satisfies the conditions for the provision of investment advice on an independent basis, and the factors taken into consideration in the selection process used by the investment firm to recommend financial instruments, including risks, costs and complexity of the financial instruments.’;

(6) Article 54 is amended as follows:

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

‘(a) it meets the investment objectives of the client in question, including the client’s risk tolerance and any sustainability preferences.’;

- (b) paragraph 5 is replaced by the following:

‘5. The information about the investment objectives of the client or potential client shall include, where relevant, information about the length of time for which the client wishes to hold the investment, his or her preferences regarding risk taking, his or her risk tolerance, the purpose of the investment and in addition his or her sustainability preferences.’;

- (c) paragraph 9 is replaced by the following:

‘9. Investment firms shall have in place, and be able to demonstrate that they have in place, adequate policies and procedures to ensure that they understand the nature features, including costs and risks of investment services and financial instruments selected for their clients, including any sustainability factors, and that they assess, while taking into account cost and complexity, whether equivalent investment services or financial instruments can meet their client’s profile.’;

- (d) paragraph 10 is replaced by the following:

‘10. When providing the investment service of investment advice or portfolio management, an investment firm shall not recommend or decide to trade where none of the services or instruments are suitable for the client.

An investment firm shall not recommend financial instruments or decide to trade such instruments as meeting a client’s or potential client’s sustainability preferences when those financial instruments do not do meet those preferences. The investment firm shall explain to the client or potential clients the reasons for not doing so and keep records of those reasons.

Where no financial instrument meets the sustainability preferences of the client or potential client, and the client decides to adapt his or her sustainability preferences, the investment firm shall keep records of the decision of the client, including the reasons for that decision.’;

- (e) in paragraph 12, the first subparagraph is replaced by the following:

‘12. When providing investment advice, investment firms shall provide a report to the retail client that includes an outline of the advice given and that explains how the recommendation provided is suitable for the retail client, including how the recommendation meets the client’s investment objectives, his or her personal circumstances with reference to the investment term required, the client’s knowledge and experience, the client’s attitude to risk his or her capacity to sustain losses and his or her sustainability preferences.’;

- (f) in paragraph 13 a new subparagraph is added:

‘The requirements to meet the sustainability preferences of clients or potential clients, where relevant, shall not alter the conditions laid down in the first subparagraph.’.

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 2 August 2022.

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

Done at Brussels, 21 April 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2021/1254**of 21 April 2021****correcting Delegated Regulation (EU) 2017/565 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to 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 ⁽¹⁾, and in particular Article 16(12) and Article 27(9) thereof,

Whereas:

- (1) Errors appeared in Article 1(1) of Commission Delegated Regulation (EU) 2017/565 ⁽²⁾ as it was requiring the application of Article 59(4), Article 60 and Chapter IV of that Regulation, instead of Article 64(4), Article 65 and Chapter VIII.
- (2) Errors appeared in several cross-references in Annex I to Delegated Regulation (EU) 2017/565, more precisely under 'Client assessment', 'Order handling', 'Client order and transactions', 'Reporting to clients', 'Communication with clients' and 'Organisational requirements'.
- (3) Delegated Regulation (EU) 2017/565 should therefore be corrected accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2017/565 is corrected as follows:

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

'1. Chapter II, and Sections 1 to 4, Article 64(4), Article 65 and Sections 6 to 8 of Chapter III and, to the extent they relate to those provisions, Chapter I and Chapter VIII of this Regulation shall apply to management companies when providing services in accordance with Article 6(4) of Directive 2009/65/EC and Article 6(6) of Directive 2011/61/EU of the European Parliament and of the Council ^(*).

^(*) Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).';

- (2) Annex I is replaced by the text in the Annex to this Regulation.

Article 2

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

⁽¹⁾ OJ L 173, 12.6.2014, p. 349.

⁽²⁾ Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive (OJ L 87, 31.3.2017, p. 1).

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

Done at Brussels, 21 April 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

‘ANNEX I

Record-keeping**Minimum list of records to be kept by investment firms depending upon the nature of their activities**

Nature of obligation	Type of record	Summary of content	Legislative reference
Client assessment			
	Information to clients	Content as provided for under Article 24(4) of Directive 2014/65/EU and Articles 44 to 51 of this Regulation	Article 24(4) of Directive 2014/65/EU Articles 44 to 51 of this Regulation
	Client agreements	Records as provided for under Article 25(5) of Directive 2014/65/EU	Article 25(5) Directive 2014/65/EU Article 58 of this Regulation
	Assessment of suitability and appropriateness	Content as provided for under paragraphs 2 and 3 of Article 25 of Directive 2014/65/EU and Articles 54, 55 and 60 of this Regulation	Article 25(2) and (3) of Directive 2014/65/EU Articles 54, 55 and 56 of this Regulation
Order handling			
	Client order-handling – Aggregated transactions	Records as provided for under Articles 67 to 70 of this Regulation	Articles 24(1) and 28(1) of Directive 2014/65/EU Articles 67 to 70 of this Regulation
	Aggregation and allocation of transactions for own account	Records as provided for under Article 69 of this Regulation	Articles 24(1) and 28(1) of Directive 2014/65/EU Article 69 of this Regulation
Client Orders and transactions			
	Record keeping of client orders or decision to deal	Records as provided for under Article 74 of this Regulation	Article 16(6) of Directive 2014/65/EU Article 74 of this Regulation
	Record keeping of transactions and order processing	Records as provided for under Article 75 of this Regulation	Article 16(6) of Directive 2014/65/EU Article 75 of this Regulation

Reporting to clients

	Obligation in respect of services provided to clients	Contents as provided for under Articles 59 to 63 of this Regulation	Paragraphs 1 and 6 of Article 24 and paragraphs 1 and 6 of Article 25 of Directive 2014/65/EU Articles 59 to 63 of this Regulation
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Safeguarding of client assets

	Client financial instruments held by an investment firm	Records as provided for under Article 16(8) of Directive 2014/65/EU and under Article 2 of Commission Delegated Directive (EU) 2017/593	Article 16(8) of Directive 2014/65/EU Article 2 of Delegated Directive (EU) 2017/593
	Client funds held by an investment firm	Records as provided for under Article 16(9) of Directive 2014/65/EU and under Article 2 of Delegated Directive (EU) 2017/593	Article 16(9) of Directive 2014/65/EU Article 2 of Delegated Directive (EU) 2017/593
	Use of client financial instruments	Records provided for under Article 5 of Delegated Directive (EU) 2017/593	Paragraphs 8, 9 and 10 of Article 16 of Directive 2014/65/EU Article 5 of Delegated Directive (EU) 2017/593

Communication with clients

	Information about Costs and associated charges	Contents as provided for under Article 50 of this Regulation	Article 24(4), point (c) of Directive 2014/65/EU Article 50 of this Regulation
	Information about the investment firm and its services, financial instruments and safeguarding of client assets	Content as provided for under Articles 47, 48 and 49 of this Regulation	Article 24(4) of Directive 2014/65/EU Articles 47, 48 and 49 of this Regulation
	Information to clients	Records of communication	Article 24(3) of Directive 2014/65/EU Article 46 of this Regulation
	Marketing communications (except in oral form)	Each marketing communication issued by the investment firm (except in oral form) as provided under Articles 44 and 46 of this Regulation	Article 24(3) of Directive 2014/65/EU Articles 44 and 46 of this Regulation

	Investment advice to retail clients	(i) The fact, time and date that investment advice was rendered and (ii) the financial instrument that was recommended (iii) the suitability report provided to the client	Article 25(6) of Directive 2014/65/EU Article 54 of this Regulation
	Investment research	Each item of investment research issued by the investment firm in a durable medium	Article 24(3) of Directive 2014/65/EU Articles 36 and 37 of this Regulation
Organisational requirements			
	The firm's business and internal organisation	Records as provided for under Article 21(1), point (f) of this Regulation	Paragraphs 2 to 10 of Article 16 of Directive 2014/65/EU Article 21(1), point (f) of this Regulation
	Compliance reports	Each compliance report to management body	Article 16(2) of Directive 2014/65/EU Article 22(2), point (c) and Article 25(2) of this Regulation
	Conflict of Interest record	Records as provided for under Article 35 of this Regulation	Article 16(3) of Directive 2014/65/EU Article 35 of this Regulation
	Inducements	The information disclosed to clients under Article 24(9) of Directive 2014/65/EU	Article 24(9) of Directive 2014/65/EU Article 11, 12 and 13 of Delegated Directive (EU) 2017/593
	Risk management reports	Each risk management report to senior management	Article 16(5) of Directive 2014/65/EU Article 23(1), point (b) and Article 25(2) of this Regulation
	Internal audit reports	Each internal audit report to senior management	Article 16(5) of Directive 2014/65/EU Article 24 and Article 25(2) of this Regulation
	Complaints-handling records	Each complaint and the complaint handling measures taken to address the complaint	Article 16(2) of Directive 2014/65/EU Article 26 of this Regulation
	Records of personal transactions	Records as provided for under Article 29(5), point (c) of this Regulation	Article 16(2) of Directive 2014/65/EU Article 29(5), point (c) of this Regulation'

COMMISSION DELEGATED REGULATION (EU) 2021/1255**of 21 April 2021****amending Delegated Regulation (EU) No 231/2013 as regards the sustainability risks and sustainability factors to be taken into account by Alternative Investment Fund Managers****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 ⁽¹⁾, and in particular Article 12(3), Article 14(4), Article 15(5) and Article 18(2) thereof,

Whereas:

- (1) The transition to a low-carbon, more sustainable, resource-efficient and circular economy in line with the Sustainable Development Goals is key to ensuring the long-term competitiveness of the economy of the Union. In 2016, the Union concluded the Paris Agreement ⁽²⁾. Article 2(1), point (c) of the Paris Agreement sets out the objective of strengthening the response to climate change by, among others means, making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.
- (2) Recognising that challenge, the Commission presented the European Green Deal ⁽³⁾ in December 2019. That Green Deal represents a new growth strategy that aims to transform the Union into a fair and prosperous society with a modern, resource-efficient and competitive economy where there are no net greenhouse gas emissions from 2050 onwards and where economic growth is decoupled from resource use. That objective requires that clear signals are given to investors with regard to their investments to avoid stranded assets and to raise sustainable finance.
- (3) In March 2018, the Commission published its Action Plan 'Financing Sustainable Growth' ⁽⁴⁾, setting up an ambitious and comprehensive strategy on sustainable finance. One of the objectives set out in the Action Plan is to reorient capital flows towards sustainable investments to achieve sustainable and inclusive growth. The impact assessment underpinning subsequent legislative initiatives published in May 2018 ⁽⁵⁾ demonstrated the need to clarify that sustainability factors should be taken into account by Alternative Investment Fund Managers ('AIFMs') as part of their duties towards investors. AIFMs should therefore assess not only all relevant financial risks on an ongoing basis, but also all relevant sustainability risks as referred to in Regulation (EU) 2019/2088 of the European Parliament and of the Council ⁽⁶⁾ that, where they occur, could cause an actual or potential material negative impact on the value of an investment. Commission Delegated Regulation (EU) No 231/2013 ⁽⁷⁾ does not explicitly refer to sustainability risks. For that reason and to ensure that internal procedures and organisational arrangements are properly implemented and adhered to, it is necessary to clarify that processes, systems and internal controls of AIFMs reflect sustainability risks, and that technical capacity and knowledge is necessary to analyse those risks.

⁽¹⁾ OJ L 174, 1.7.2011, p. 1.

⁽²⁾ Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 4).

⁽³⁾ COM(2019) 640 final.

⁽⁴⁾ COM(2018) 97 final.

⁽⁵⁾ SWD(2018) 264 final.

⁽⁶⁾ Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).

⁽⁷⁾ Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision (OJ L 83, 22.3.2013, p. 1).

- (4) Pursuant to Regulation (EU) 2019/2088 AIFMs that are obliged to consider principal adverse impacts of investment decisions on sustainability factors, or consider those principal adverse impacts voluntarily, are obliged to disclose how their due diligence policies take those principal adverse impacts into account. To ensure consistency between Regulation (EU) 2019/2088 and Delegated Regulation (EU) No 231/2013, that obligation should be reflected in Delegated Regulation (EU) No 231/2013.
- (5) To maintain a high standard of investor protection, AIFMs should, when identifying the types of conflicts of interest the existence of which may damage the interests of an AIF, include conflicts of interest that may arise as a result of the integration of sustainability risks in their processes, systems and internal controls. Those conflicts may include conflicts arising from remuneration or personal transactions of relevant staff, conflicts of interest that could give rise to greenwashing, mis-selling or misrepresentation of investment strategies and conflicts of interests between different AIFs managed by the same AIFM.
- (6) Delegated Regulation (EU) No 231/2013 should therefore be amended accordingly.
- (7) Competent authorities and AIFMs should be given sufficient time to adapt to the new requirements contained in this Regulation. Its application should therefore be deferred,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) No 231/2013 is amended as follows:

- (1) in Article 1, the following points (6) and (7) are added:

- ‘(6) “sustainability risk” means sustainability risk as defined in Article 2, point (22), of Regulation (EU) 2019/2088 of the European Parliament and of the Council (*);
- (7) “sustainability factors” means sustainability factors as defined in Article 2, point (24), of Regulation (EU) 2019/2088.

(*) Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).;

- (2) in Article 18, the following paragraphs 5 and 6 are added:

- ‘5. AIFMs shall take into account sustainability risks when complying with the requirements set out in paragraphs 1 to 3.
6. Where AIFMs consider principal adverse impacts of investment decisions on sustainability factors as described in Article 4(1), point (a) of Article 4 of Regulation (EU) 2019/2088, or as required by paragraphs 3 or 4 of Article 4 of that Regulation, those AIFMs shall take into account such principal adverse impacts when complying with the requirements set out in paragraphs 1 to 3 of this Article.’;

- (3) in Article 22, the following paragraph 3 is added:

- ‘3. For the purposes of paragraph 1, AIFMs shall retain the necessary resources and expertise for the effective integration of sustainability risks.’;

- (4) in Article 30, the following subparagraph is added:

‘AIFMs shall ensure that when identifying the types of conflicts of interest, the existence of which may damage the interests of an AIF, they shall include those types of conflicts of interest that may arise as a result of the integration of sustainability risks in their processes, systems and internal controls.’;

- (5) in Article 40, paragraph 2 is replaced by the following:

‘2. The risk management policy shall comprise such procedures as are necessary to enable the AIFM to assess for each AIF it manages the exposure of that AIF to market, liquidity, sustainability and counterparty risks, and the exposure of the AIF to all other relevant risks, including operational risks, which may be material for each AIF it manages.’;

(6) in Article 57(1), the following subparagraph is added:

‘AIFMs shall take into account sustainability risks when complying with the requirements laid down in the first subparagraph.’;

(7) in Article 60(2), the following point (i) is added:

‘(i) is responsible for the integration of sustainability risks in activities referred to in points (a) to (h).’.

Article 2

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 August 2022.

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

Done at Brussels, 21 April 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2021/1256**of 21 April 2021****amending Delegated Regulation (EU) 2015/35 as regards the integration of sustainability risks in the governance of insurance and reinsurance undertakings****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2009/138/EC of the European Parliament and the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ⁽¹⁾, and in particular Article 50(1) and Article 135(1), point (a), thereof,

Whereas:

- (1) The transition to a low-carbon, more sustainable, resource-efficient and circular economy in line with the Sustainable Development Goals is key to ensuring the long-term competitiveness of the economy of the Union. In 2016, the Union concluded the Paris Agreement ⁽²⁾. Article 2(1), point (c), of the Paris Agreement sets out the objective of strengthening the response to climate change by, among others, making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.
- (2) Recognising that challenge, the Commission presented the European Green Deal ⁽³⁾ in December 2019. That Green Deal represents a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net greenhouse gas emissions in 2050 and where economic growth is decoupled from resource use. This also requires offering clear, long-term signals to guide investors, to avoid stranded assets and to raise sustainable finance.
- (3) In March 2018, the Commission published its Action Plan 'Financing Sustainable Growth' ⁽⁴⁾, setting up an ambitious and comprehensive strategy on sustainable finance. One of the objectives set out in that Action Plan is to reorient capital flows towards sustainable investment to achieve sustainable and inclusive growth. The impact assessment underpinning subsequent legislative initiatives published in May 2018 ⁽⁵⁾ demonstrated the need to clarify that sustainability factors should be taken into account by insurance and reinsurance undertakings as part of their duties towards policyholders. Insurance and reinsurance undertakings should therefore assess not only all relevant financial risks on an ongoing basis, but also all relevant sustainability risks as referred to in Regulation (EU) 2019/2088 of the European Parliament and of the Council ⁽⁶⁾ that, where they occur, could cause an actual or potential material negative impact on the value of an investment or a liability. Commission Delegated Regulation (EU) 2015/35 ⁽⁷⁾ does not explicitly refer to sustainability risks. For that reason and to ensure that the system of governance is properly implemented and adhered to, it is necessary to clarify that the system of governance of insurance and reinsurance undertakings and the assessment of those undertakings' overall solvency needs should reflect sustainability risks.
- (4) Insurance undertakings that disclose principal adverse impacts on sustainability factors in accordance with Regulation (EU) 2019/2088 should also adapt their processes, systems and internal controls with respect to those disclosures.

⁽¹⁾ OJ L 335, 17.12.2009, p. 1.

⁽²⁾ Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

⁽³⁾ Communication from the Commission to the European Parliament, to the European Council, the Council, the European Economic and Social Committee, and the Committee of the Regions: the European Green Deal (COM(2019)640 final).

⁽⁴⁾ COM(2018) 97 final.

⁽⁵⁾ SWD(2018) 264 final.

⁽⁶⁾ Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).

⁽⁷⁾ Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 12, 17.1.2015, p. 1).

- (5) Given the ambitions of the Commission to ensure that climate and environmental risk are managed and integrated into the financial system and the importance of remuneration policies in ensuring that the staff of insurance and reinsurance undertakings effectively manage risks identified by the risk management system, the remuneration policies of insurance and reinsurance undertakings should contain information on how those policies take into account the integration of sustainability risks in the risk management system.
- (6) The prudent person principle laid down in Article 132 of Directive 2009/138/EC requires that insurance and reinsurance undertakings only invest in assets the risks of which they can identify, measure, monitor, manage, control and report properly. In order to ensure that climate and environmental risks are effectively managed by insurance and reinsurance undertakings, the implementation of the prudent person principle should take into account sustainability risks and insurance and reinsurance undertakings should reflect in their investment process the sustainability preferences of their customers as taken into account in the product approval process.
- (7) Delegated Regulation (EU) 2015/35 should therefore be amended accordingly.
- (8) Supervisory authorities and insurance and reinsurance undertakings should be given sufficient time to adapt to the new requirements contained in this Regulation. Its application should therefore be deferred,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2015/35

Delegated Regulation (EU) 2015/35 is amended as follows:

- (1) in Article 1, the following points 55c to 55e are inserted:

- ‘55c. “sustainability risk” means an environmental, social or governance event or condition that, if it occurs, could cause an actual or a potential negative impact on the value of the investment or on the value of the liability;
- 55d. “sustainability factors” means sustainability factors as defined in Article 2, point (24), of Regulation (EU) 2019/2088 of the European Parliament and of the Council (*);
- 55e. “sustainability preferences” means a customer’s or potential customer’s choice as to whether and, if so, to what extent, one or more of the following financial instruments should be integrated into his or her investment:
 - (a) a financial instrument for which the customer or potential customer determines that a minimum proportion shall be invested in environmentally sustainable investments as defined in Article 2, point (1), of Regulation (EU) 2020/852 of the European Parliament and of the Council (**);
 - (b) a financial instrument for which the customer or potential customer determines that a minimum proportion shall be invested in sustainable investments as defined in Article 2, point (17), of Regulation (EU) 2019/2088;
 - (c) a financial instrument that considers principal adverse impacts on sustainability factors where qualitative or quantitative elements demonstrating that consideration are determined by the customer or potential customer;

(*) Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).

(**) Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).;

(2) Article 260 is amended as follows:

(a) in paragraph 1, point (a), point (i) is replaced by the following:

‘(i) actions to be taken by the insurance or reinsurance undertaking to assess and manage the risk of loss or of adverse change in the values of insurance and reinsurance liabilities, resulting from inadequate pricing and provisioning assumptions due to internal or external factors, including sustainability risks;’;

(b) in paragraph 1, point (c), the following point (vi) is added:

‘(vi) actions to be taken by the insurance or reinsurance undertaking to ensure that sustainability risks relating to the investment portfolio are properly identified, assessed and managed.’;

(c) the following paragraph 1a is inserted:

‘1a. The insurance and reinsurance undertakings shall integrate in their policies referred to in points (a) and (c) of paragraph 1, and where relevant, policies on the other areas referred to in paragraph 1, sustainability risks.’;

(3) Article 269 is amended as follows:

(a) in paragraph 1, point (e) is replaced by the following:

‘(e) identifying and assessing emerging risks and sustainability risks.’;

(b) the following paragraph 1a is inserted:

‘1a. Emerging risks and sustainability risks as referred to in paragraph 1, point (e), and identified by the risk management function shall form part of the risks referred to in Article 262(1), point (a).’;

(4) in Article 272(6), point (b) is replaced by the following:

‘(b) the effect of inflation, legal risk, sustainability risks, change in the composition of the undertaking’s portfolio, and of systems which adjust the premiums policy-holders pay upwards or downwards depending on their claims history (bonus-malus systems) or similar systems, implemented in specific homogeneous risk groups;’;

(5) in Article 275, the following paragraph 4 is added:

‘4. The remuneration policy shall include information on how it takes into account the integration of sustainability risks in the risk management system.’;

(6) in Chapter IX of Title I, the following Section 6 is added:

‘SECTION 6

Investments

Article 275a

Integration of sustainability risks in the prudent person principle

1. When identifying, measuring, monitoring, managing, controlling, reporting and assessing risks arising from investments, as referred to in the first subparagraph of Article 132(2) of Directive 2009/138/EC, insurance and reinsurance undertakings shall take into account sustainability risks.

2. For the purpose of paragraph 1, insurance and reinsurance undertakings shall take into account the potential long-term impact of their investment strategy and decisions on sustainability factors and, where relevant, that strategy and those decisions of an insurance undertaking shall reflect the sustainability preferences of its customers taken into account in the product approval process referred to in Article 4 of Commission Delegated Regulation (EU) 2017/2358 (*).

(*) Commission Delegated Regulation (EU) 2017/2358 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors (OJ L 341, 20.12.2017, p. 1).’.

*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 2 August 2022.

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

Done at Brussels, 21 April 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2021/1257**of 21 April 2021****amending Delegated Regulations (EU) 2017/2358 and (EU) 2017/2359 as regards the integration of sustainability factors, risks and preferences into the product oversight and governance requirements for insurance undertakings and insurance distributors and into the rules on conduct of business and investment advice for insurance-based investment products****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution ⁽¹⁾, and in particular Article 25(2), Article 28(4) and Article 30(6) thereof,

Whereas

- (1) The transition to a low-carbon, more sustainable, resource-efficient and circular economy in line with the Sustainable Development Goals is key to ensuring the long-term competitiveness of the economy of the Union. In 2016, the Union concluded the Paris Agreement ⁽²⁾. Article 2(1), point (c), of the Paris Agreement sets out the objective of strengthening the response to climate change by, among others, making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.
- (2) Recognising that challenge, the Commission presented the European Green Deal ⁽³⁾ in December 2019. The Green Deal represents a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net greenhouse gas emissions from 2050 onwards and where economic growth is decoupled from resource use. That objective requires that clear signals are given to investors with regard to their investments to avoid stranded assets and to raise sustainable finance.
- (3) In March 2018, the Commission published its Action Plan 'Financing Sustainable Growth' ⁽⁴⁾, setting up an ambitious and comprehensive strategy on sustainable finance. One of the objectives set out in the Action Plan is to reorient capital flows towards sustainable investments to achieve sustainable and inclusive growth.
- (4) Proper implementation of the Action Plan encourages investors' demand for sustainable investments. It is therefore necessary to clarify that sustainability factors and sustainability-related objectives should be considered within the product governance requirements set out in Commission Delegated Regulation (EU) 2017/2358 ⁽⁵⁾.
- (5) Insurance undertakings and insurance intermediaries manufacturing insurance products should consider sustainability factors in the product approval process of each insurance product and in the other product governance and oversight arrangements for each insurance product that is intended to be distributed to customers seeking insurance products with a sustainability-related profile.

⁽¹⁾ OJ L 26, 2.2.2016, p. 19.

⁽²⁾ Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

⁽³⁾ COM(2019) 640 final.

⁽⁴⁾ COM(2018) 97 final.

⁽⁵⁾ Commission Delegated Regulation (EU) 2017/2358 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors (OJ L 341, 20.12.2017, p. 1).

- (6) Considering that the target market should be set at a sufficient granular level, a general statement that an insurance product has a sustainability-related profile should not be sufficient. It should rather be specified by the insurance undertaking or insurance intermediary manufacturing the insurance product to which group of customers with specific sustainability-related objectives the insurance product is supposed to be distributed.
- (7) To ensure that insurance products with sustainability factors remain easily available also for customers that do not have sustainability preferences, insurance undertakings and insurance intermediaries manufacturing insurance products should not be required to identify groups of customers with whose needs, characteristics and objectives an insurance product with sustainability factors is not compatible.
- (8) The sustainability factors of an insurance product should be presented in a transparent manner to enable insurance distributors to provide the relevant information to their customers or potential customers.
- (9) The impact assessment underpinning subsequent legislative initiatives published in May 2018 ⁽⁶⁾ demonstrated the need to clarify that sustainability factors should be taken into account by insurance intermediaries and insurance undertakings distributing insurance-based investment products as part of their duties toward their customers and potential customers.
- (10) To maintain a high standard of investor protection, insurance intermediaries and insurance undertakings distributing insurance-based investment products should, when identifying the types of conflicts of interest the existence of which may damage the interests of a customer or potential customer, include those types of conflicts of interest that stem from the integration of a customer's sustainability preferences. For existing customers, for whom a suitability assessment has already been undertaken, insurance intermediaries and insurance undertakings should have the possibility to identify the customer's individual sustainability preferences at the next regular update of the existing suitability assessment.
- (11) Insurance intermediaries and insurance undertakings that provide advice on insurance-based investment products should be able to recommend suitable insurance-based investment products to their customers or potential customers and should therefore be able to ask questions to identify a customer's individual sustainability preferences. In accordance with the obligation to carry out distribution activities in accordance with the best interest of customers, recommendations to customers or potential customers should reflect both the financial objectives and any sustainability preferences expressed by those customers. It is therefore necessary to clarify that the inclusion of sustainability factors in the advisory process must not lead to mis-selling practices or to the misrepresentation of insurance-based investment products as fulfilling sustainability preferences where they do not. In order to avoid such practices or misrepresentations, insurance intermediaries and insurance undertakings providing advice on insurance-based investment products should first assess a customer's or potential customer's other investment objectives and individual circumstances, before asking for his or her potential sustainability preferences.
- (12) Insurance-based investment products with various degrees of sustainability-related ambition have been developed so far. To enable customers or potential customers to understand the different degrees of sustainability and take informed investment decisions in terms of sustainability, insurance intermediaries and insurance undertakings distributing insurance-based investment products should explain the distinction between, on the one hand, insurance-based investment products that pursue, fully or in part, sustainable investments in economic activities that qualify as environmentally sustainable under Regulation (EU) 2020/852 of the European Parliament and of the Council ⁽⁷⁾, sustainable investments as defined in Article 2, point (17), of Regulation (EU) 2019/2088 of the European Parliament and of the Council ⁽⁸⁾ and insurance-based investment products that consider principal adverse impacts on sustainability factors that might be eligible for recommendation as meeting individual sustainability preferences of customers, and, on the other hand, other insurance-based investment products without those specific features that should not be eligible for recommendation to customers or potential customers that have individual sustainability preferences.

⁽⁶⁾ SWD(2018) 264 final.

⁽⁷⁾ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

⁽⁸⁾ Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).

- (13) It is necessary to address concerns about ‘greenwashing’, that is, in particular, the practice of gaining an unfair competitive advantage by recommending an insurance-based investment product as environmentally friendly or sustainable, when in fact that insurance-based investment product does not meet basic environmental or other sustainability-related standards. In order to prevent mis-selling and greenwashing, insurance intermediaries and insurance undertakings distributing insurance-based investment products should not recommend insurance-based investment products as meeting individual sustainability preferences where those products do not meet those preferences. Insurance intermediaries and insurance undertakings distributing insurance-based investment products should explain to their customers or potential customers the reasons for not doing so and keep records of those reasons.
- (14) It is necessary to clarify that insurance-based investment products that are not eligible for individual sustainability preferences can still be recommended by insurance intermediaries and insurance undertakings distributing insurance-based investment products, but not as meeting individual sustainability preferences. In order to allow for further recommendations to customers or potential customers, where insurance-based investment products do not meet a customer’s sustainability preferences, the customer should have the possibility to adapt information on his or her sustainability preferences. In order to prevent mis-selling and greenwashing, insurance intermediaries and insurance undertakings distributing insurance-based investment products should keep records of the customer’s decision along with the customer’s explanation supporting the adaptation.
- (15) The provisions of this Regulation are closely linked with each other and with the provisions of Regulation (EU) 2019/2088 since they establish a comprehensive system of disclosure of sustainability aspects. To allow for a coherent interpretation and application of these provisions and to make sure that market participants and competent authorities as well as investors are provided with a comprehensive understanding and easy access to them, it is desirable to include them in a single legal act.
- (16) Commission Delegated Regulations (EU) 2017/2358 and (EU) 2017/2359 ⁽⁹⁾ should therefore be amended accordingly.
- (17) Competent authorities, insurance intermediaries and insurance undertakings should be given sufficient time to adapt to the new requirements contained in this Regulation. Its application should therefore be deferred,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2017/2358

Delegated Regulation (EU) 2017/2358 is amended as follows:

- (1) in Article 4(3), point (a), point (i) is replaced by the following:

‘(i) it takes into account the objectives, interests and characteristics of customers, including any sustainability-related objectives;’

- (2) Articles 5 and 6 are replaced by the following:

‘Article 5

Target market

1. The product approval process shall for each insurance product identify the target market and the group of compatible customers. The target market shall be identified at a sufficiently granular level, taking into account the characteristics, risk profile, complexity and nature of the insurance product, as well as its sustainability factors as defined in Article 2, point (24), of Regulation (EU) 2019/2088 of the European Parliament and of the Council (*).

⁽⁹⁾ Commission Delegated Regulation (EU) 2017/2359 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to information requirements and conduct of business rules applicable to the distribution of insurance-based investment products (OJ L 341, 20.12.2017, p. 8).

2. Manufacturers may, in particular with regard to insurance-based investment products, identify groups of customers for whose needs, characteristics and objectives the insurance product is generally not compatible, except where insurance products consider sustainability factors as referred to in paragraph 1.

3. Manufacturers shall only design and market insurance products that are compatible with the needs, characteristics and objectives, including any sustainability-related objectives, of the customers belonging to the target market. When assessing whether an insurance product is compatible with a target market, manufacturers shall take into account the level of information available to the customers belonging to that target market and their financial literacy.

4. Manufacturers shall ensure that staff involved in designing and manufacturing insurance products has the necessary skills, knowledge and expertise to properly understand the insurance products sold and the interests, objectives, including any sustainability-related objectives, and characteristics of the customers belonging to the target market.

Article 6

Product testing

1. Manufacturers shall test their insurance products appropriately, including scenario analyses where relevant, before bringing that product to the market or significantly adapting it, or in case the target market has significantly changed. That product testing shall assess whether the insurance product over its lifetime meets the identified needs, objectives, including any sustainability-related objectives, and characteristics of the customers belonging to the target market. Manufacturers shall test their insurance products in a qualitative manner and, depending on the type and nature of the insurance product and the related risk of detriment to customers, quantitative manner.

2. Manufacturers shall not bring insurance products to the market if the results of the product testing show that the products do not meet the identified needs, objectives, including any sustainability-related objectives, and characteristics of the target market.

(*) Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).;

(3) in Article 7, paragraph 1 is replaced by the following:

‘1. Manufacturers shall continuously monitor and regularly review insurance products they have brought to the market, to identify events that could materially affect the main features, the risk coverage or the guarantees of those products. They shall assess whether the insurance products remain consistent with the needs, characteristics and objectives, including any sustainability-related objectives, of the identified target market and whether those products are distributed to the target market or are reaching customers outside the target market.’;

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

‘3. The information referred to in paragraph 2 shall enable the insurance distributors to:

- (a) understand the insurance products;
- (b) comprehend the identified target market for the insurance products;
- (c) identify any customers for whom the insurance product is not compatible with their needs, characteristics and objectives, including any sustainability-related objectives;
- (d) carry out distribution activities for the relevant insurance products in accordance with the best interests of their customers as prescribed in Article 17(1) of Directive (EU) 2016/97.’;

(5) in Article 10, paragraph 2 is replaced by the following:

‘2. The product distribution arrangements shall:

- (a) aim to prevent and mitigate customer detriment;

- (b) support a proper management of conflicts of interest;
- (c) ensure that the objectives, interests and characteristics of customers, including any sustainability-related objectives, are duly taken into account.;

(6) Article 11 is replaced by the following:

Article 11

Informing the manufacturer

Insurance distributors becoming aware that an insurance product is not in line with the interests, objectives and characteristics of the customers belonging to its identified target market, including any sustainability-related objectives, or becoming aware of other product-related circumstances that may adversely affect the customer, shall promptly inform the manufacturer and, where appropriate, amend their distribution strategy for that insurance product.¹.

Article 2

Amendments to Delegated Regulation (EU) 2017/2359

Delegated Regulation (EU) 2017/2359 is amended as follows:

(1) in Article 2, the following points (4) and (5) are added:

- ‘(4) “sustainability preferences” means a customer’s or potential customer’s choice as to whether and, if so, to what extent, one or more of the following financial products should be integrated into his or her investment:
 - (a) an insurance-based investment product for which the customer or potential customer determines that a minimum proportion shall be invested in environmentally sustainable investments as defined in Article 2, point (1), of Regulation (EU) 2020/852 of the European Parliament and of the Council (*);
 - (b) an insurance-based investment product for which the customer or potential customer determines that a minimum proportion shall be invested in sustainable investments as defined in Article 2, point (17), of Regulation (EU) 2019/2088 of the European Parliament and of the Council (**);
 - (c) an insurance-based investment product that considers principal adverse impacts on sustainability factors where qualitative or quantitative elements demonstrating that consideration are determined by the customer or potential customer;
- (5) “sustainability factors” means sustainability factors as defined in Article 2, point (24), of Regulation (EU) 2019/2088.

(*) Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

(**) Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).;

(2) in Article 3, paragraph 1 is replaced by the following:

‘1. For the purposes of identifying, in accordance with Article 28 of Directive (EU) 2016/97, the types of conflicts of interest that arise in the course of carrying out any insurance distribution activities related to insurance-based investment products and which entail a risk of damage to the interests of a customer, including his or her sustainability preferences, insurance intermediaries and insurance undertakings shall assess whether they, a relevant person or any person directly or indirectly linked to them by control, have an interest in the outcome of the insurance distribution activities, which meets the following criteria:

- (a) it is distinct from the customer’s or potential customer’s interest in the outcome of the insurance distribution activities;

- (b) it has the potential to influence the outcome of the distribution activities to the detriment of the customer.

Insurance intermediaries and insurance undertakings shall proceed in the same way for the purposes of identifying conflicts of interest between one customer and another.;

- (3) Article 9 is amended as follows:

- (a) in paragraph 2, point (a) is replaced by the following:

‘(a) it meets the investment objectives of the customer or potential customer in question, including that person’s risk tolerance and any sustainability preferences;’;

- (b) paragraph 4 is replaced by the following:

‘4. The information regarding the investment objectives of the customer or potential customer shall include, where relevant, information on the length of time for which the customer or potential customer wishes to hold the investment, his or her preferences regarding risk taking, the risk profile, the purposes of the investment and, in addition, his or her sustainability preferences. The level of information gathered shall be appropriate to the specific type of product or service being considered.’;

- (c) paragraph 6 is replaced by the following:

‘6. When providing advice on an insurance-based investment product in accordance with Article 30(1) of Directive (EU) 2016/97, an insurance intermediary or insurance undertaking shall not make a recommendation where none of the products are suitable for the customer or potential customer.

An insurance intermediary or insurance undertaking shall not recommend insurance-based investment products as meeting a customer’s or potential customer’s sustainability preferences where those insurance-based investment products do not meet those preferences. The insurance intermediary or insurance undertaking shall explain to the customers or potential customers the reasons for not doing so and keep records of those reasons.

Where no insurance-based investment product meets the sustainability preferences of the customer or potential customer, and the customer decides to adapt his or her sustainability preferences, the insurance intermediary or insurance undertaking shall keep records of the decision of the customer, including the reasons for that decision’;

- (4) Article 14 is amended as follows:

- (a) in paragraph 1, point (b), point (i) is replaced by the following:

‘(i) the customer’s investment objectives, including that person’s risk tolerance, and whether the customer’s investment objectives are achieved by taking into account his or her sustainability preferences;’;

- (b) in paragraph 4, the following subparagraph is added:

‘The requirements to meet the sustainability preferences of customers or potential customers, where relevant, shall not alter the conditions laid down in the first subparagraph.’.

Article 3

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 2 August 2022.

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

Done at Brussels, 21 April 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1258**of 26 July 2021****entering a name in the register of protected designations of origin and protected geographical indications ('Őrségi tökmagolaj' (PGI))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Hungary's application to register the name 'Őrségi tökmagolaj' was published in the *Official Journal of the European Union* ⁽²⁾.
- (2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Őrségi tökmagolaj' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name 'Őrségi tökmagolaj' (PGI) is hereby entered in the register.

The name specified in the first paragraph denotes a product in Class 1.5. – Oils and fats (butter, margarine, oil, etc.), as listed in Annex XI to Commission Implementing Regulation (EU) No 668/2014 ⁽³⁾.*Article 2*This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 26 July 2021.

For the Commission,
On behalf of the President,
Janusz WOJCIECHOWSKI
Member of the Commission

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ OJ C 103, 25.3.2021, p. 18.

⁽³⁾ Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1259**of 26 July 2021****entering a name in the register of protected designations of origin and protected geographical indications ('Tuzséri alma' (PDO))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Hungary's application to register the name 'Tuzséri alma' was published in the *Official Journal of the European Union* ⁽²⁾.
- (2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Tuzséri alma' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name 'Tuzséri alma' (PDO) is hereby entered in the register.

The name specified in the first paragraph denotes a product in Class 1.6. – Fruit, vegetables and cereals, fresh or processed, as listed in Annex XI to Commission Implementing Regulation (EU) No 668/2014 ⁽³⁾.*Article 2*This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 26 July 2021.

For the Commission
on behalf of the President
Janusz WOJCIECHOWSKI
Member of the Commission

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ OJ C 102, 24.3.2021, p. 21.

⁽³⁾ Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1260**of 26 July 2021****approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications ('Pera Mantovana' (PGI))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to the first subparagraph of Article 53(1) of Regulation (EU) No 1151/2012, the Commission has examined Italy's application for the approval of amendments to the specification for the protected geographical indication 'Pera Mantovana', registered under Commission Regulation (EC) No 134/98 ⁽²⁾.
- (2) Since the amendments in question are not minor within the meaning of Article 53(2) of Regulation (EU) No 1151/2012, the Commission published the amendment application in the *Official Journal of the European Union* ⁽³⁾ as required by Article 50(2)(a) of that Regulation.
- (3) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the amendments to the specification should be approved,

HAS ADOPTED THIS REGULATION:

*Article 1*The amendments to the specification published in the *Official Journal of the European Union* regarding the name 'Pera Mantovana' (PGI) are hereby approved.*Article 2*This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 26 July 2021.

For the Commission,
On behalf of the President,
Janusz WOJCIECHOWSKI
Member of the Commission

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ Commission Regulation (EC) No 134/98 of 20 January 1998 supplementing the Annex to Regulation (EC) No 1107/96 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92 (OJ L 15, 21.1.1998, p. 6).

⁽³⁾ OJ C 93, 19.3.2021, p. 39.

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1261**of 26 July 2021****entering a name in the register of protected designations of origin and protected geographical indications ('Olio di Roma' (PGI))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Italy's application to register the name 'Olio di Roma' was published in the *Official Journal of the European Union* ⁽²⁾.
- (2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Olio di Roma' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name 'Olio di Roma' (PGI) is hereby entered in the register.

The name specified in the first paragraph denotes a product in Class 1.5. – Oils and fats (butter, margarine, oil, etc.), as listed in Annex XI to Commission Implementing Regulation (EU) No 668/2014 ⁽³⁾.

Article 2

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

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

Done at Brussels, 26 July 2021.

*For the Commission,
On behalf of the President,
Janusz WOJCIECHOWSKI
Member of the Commission*

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ OJ C 112, 30.3.2021, p. 12.

⁽³⁾ Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1262**of 26 July 2021****approving amendments to the specification for a Protected Designation of Origin or a Protected Geographical Indication ('Iași' (PDO))**

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 99 thereof,

Whereas:

- (1) The Commission has examined the application for the approval of amendments to the specification for the Protected Designation of Origin 'Iași', forwarded by Romania in accordance with Article 105 of Regulation (EU) No 1308/2013.
- (2) The Commission has published the application for the approval of the amendments to the specification in the *Official Journal of the European Union*, as required by Article 97(3) of Regulation (EU) No 1308/2013 ⁽²⁾.
- (3) No statement of objection has been received by the Commission under Article 98 of Regulation (EU) No 1308/2013.
- (4) The amendments to the specification should therefore be approved in accordance with Article 99 of Regulation (EU) No 1308/2013.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

The amendments to the specification published in the *Official Journal of the European Union* regarding the name 'Iași' (PDO) are hereby approved.

Article 2

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

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

Done at Brussels, 26 July 2021.

*For the Commission,
On behalf of the President,
Janusz WOJCIECHOWSKI
Member of the Commission*

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ C 93, 19.3.2021, p. 68.

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1263**of 26 July 2021****conferring protection under Article 99 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council on the name 'Muškat momjanski/Moscato di Momiano' (PDO))**

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 99 thereof,

Whereas:

- (1) In accordance with Article 97(2) and (3) of Regulation (EU) No 1308/2013, the Commission has examined the application to register the name 'Muškat momjanski/Moscato di Momiano' forwarded by Croatia and has published it in the *Official Journal of the European Union* ⁽²⁾.
- (2) No statement of objection has been received by the Commission under Article 98 of Regulation (EU) No 1308/2013.
- (3) In accordance with Article 99 of Regulation (EU) No 1308/2013, the name 'Muškat momjanski/Moscato di Momiano' should be protected and entered in the register referred to in Article 104 of that Regulation.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

The name 'Muškat momjanski/Moscato di Momiano' (PDO) is hereby protected.

Article 2

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

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

Done at Brussels, 26 July 2021.

For the Commission
On behalf of the President
Janusz WOJCIECHOWSKI
Member of the Commission

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ C 36, 2.2.2021, p. 22.

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1264**of 26 July 2021****approving amendments to the specification for a Protected Designation of Origin or a Protected Geographical Indication ('Coteaux du Libron' (PGI))**

THE EUROPEAN COMMISSION,

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

Having regard to Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation ⁽¹⁾, and in particular Article 15(2) thereof,

Whereas:

- (1) The Commission examined France's application for the approval of amendments to the specification for the Protected Geographical Indication 'Coteaux du Libron', submitted pursuant to Article 105 of Regulation (EU) No 1308/2013. These amendments include changing the name 'Coteaux du Libron' to 'Coteaux de Béziers'.
- (2) The Commission published the application for the approval of amendments to the specification in the *Official Journal of the European Union* ⁽²⁾, as required by Article 97(3) of Regulation (EU) No 1308/2013.
- (3) No statement of objection has been received by the Commission under Article 98 of Regulation (EU) No 1308/2013.
- (4) The amendments to the specification should therefore be approved in accordance with Article 99 of Regulation (EU) No 1308/2013 in conjunction with Article 15(2) of Delegated Regulation (EU) 2019/33.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

The amendments to the specification published in the *Official Journal of the European Union* regarding the name 'Coteaux du Libron' (PGI) are hereby approved.

Article 2

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

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

Done at Brussels, 26 July 2021.

For the Commission
On behalf of the President
Janusz WOJCIECHOWSKI
Member of the Commission

⁽¹⁾ OJ L 9, 11.1.2019, p. 2.

⁽²⁾ OJ C 412, 30.11.2020, p. 18.

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1265**of 26 July 2021****registering a geographical indication of a spirit drink under Article 30(2) of Regulation (EU) 2019/787 of the European Parliament and of the Council ('Bayerischer Bärwurz')**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008 ⁽¹⁾, and in particular Article 30(2) thereof,

Whereas:

- (1) In accordance with Article 17(5) of Regulation (EC) No 110/2008 of the European Parliament and of the Council ⁽²⁾, the Commission has examined Germany's application of 7 June 2019 for the registration of the geographical indication 'Bayerischer Bärwurz'.
- (2) Regulation (EU) 2019/787, which replaces Regulation (EC) No 110/2008, entered into force on 25 May 2019. Under Article 49(1) thereof, Chapter III of Regulation (EC) No 110/2008 on geographical indications is repealed with effect from 8 June 2019.
- (3) After concluding that the application complied with Regulation (EC) No 110/2008, the Commission published the main specifications of the technical file in the *Official Journal of the European Union* ⁽³⁾ as required by Article 17(6) of that Regulation, in accordance with the first subparagraph of Article 50(4) of Regulation (EU) 2019/787.
- (4) No notice of opposition has been received by the Commission under Article 27(1) of Regulation (EU) 2019/787.
- (5) The name 'Bayerischer Bärwurz' should therefore be registered as a geographical indication,

HAS ADOPTED THIS REGULATION:

Article 1

The geographical indication 'Bayerischer Bärwurz' is hereby registered. This Regulation grants the name 'Bayerischer Bärwurz' the protection referred to in Article 21 of Regulation (EU) 2019/787 in accordance with Article 30(4) of that Regulation.

Article 2

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

⁽¹⁾ OJ L 130, 17.5.2019, p. 1.

⁽²⁾ Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16).

⁽³⁾ OJ C 129, 13.4.2021, p. 26.

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

Done at Brussels, 26 July 2021.

*For the Commission,
On behalf of the President,
Janusz WOJCIECHOWSKI
Member of the Commission*

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1266**of 29 July 2021****imposing a definitive anti-dumping duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation'), and in particular Article 11(2) thereof,

Whereas:

1. PROCEDURE**1.1. Previous investigations and measures in force**

- (1) By Regulation (EC) No 599/2009 ⁽²⁾, the Council imposed a definitive anti-dumping duty ranging from EUR 0 to EUR 198 per tonne on imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, at that time falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 20), ex 1518 00 91 (TARIC code 1518 00 91 20), ex 1518 00 99 (TARIC code 1518 00 99 20), ex 2710 19 41 (TARIC code 2710 19 41 20), 3824 90 91, ex 3824 90 97 (TARIC code 3824 90 97 87), and originating in the United States of America ('USA' or 'the country concerned'). The anti-dumping duty imposed by that regulation is hereafter referred to as the 'original measures'. The investigation that led to the imposition of the original measures will hereinafter be referred to as 'the original investigation'.
- (2) By Council Implementing Regulation (EU) No 444/2011 ⁽³⁾, following an anti-circumvention investigation, the Council extended the definitive anti-dumping duty imposed by Regulation (EC) No 599/2009 to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, with the exception of those produced by the companies BIOX Corporation, Oakville and Rothsay Biodiesel, Guelph, both located in Ontario, Canada. By the same Regulation the Council also extended the definitive anti-dumping duty imposed by Council Regulation (EC) No 599/2009 to imports of biodiesel in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA.
- (3) By Implementing Regulation (EU) 2015/1518 ⁽⁴⁾, the European Commission re-imposed the definitive anti-dumping measures on imports of biodiesel originating in the USA following an expiry review (the 'previous expiry review').

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Regulation (EC) No 599/2009 of 7 July 2009 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in the United States of America (OJ L 179, 10.7.2009, p. 26).

⁽³⁾ Council Implementing Regulation (EU) No 444/2011 of 5 May 2011 extending the definitive anti-dumping duty imposed by Regulation (EC) No 599/2009 on imports of biodiesel originating in the United States of America to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, and extending the definitive anti-dumping duty imposed by Regulation (EC) No 599/2009 to imports of biodiesel in a blend containing by weight 20 % or less of biodiesel originating in the United States of America, and terminating the investigation in respect of imports consigned from Singapore (OJ L 122, 11.5.2011, p. 12).

⁽⁴⁾ Commission Implementing Regulation (EU) 2015/1518 of 14 September 2015 imposing a definitive anti-dumping duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 239, 15.9.2015, p. 69).

- (4) Moreover, Regulation (EU) 2015/1518 as amended by Regulation (EU) 2016/676 ⁽⁵⁾, also extended the definitive anti-dumping duty to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, with the exception of those produced by the companies BIOX Corporation, Oakville and Rothsay Biodiesel, Guelph, both located in Ontario, Canada as well as DSM Nutritional Products Canada Inc., Dartmouth, Nova Scotia, Canada. By the same Regulation, the European Commission also extended the definitive anti-dumping duty to imports of biodiesel in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA.
- (5) The anti-dumping duties currently in force are fixed amounts ranging between EUR 0 per tonne and EUR 198 per tonne on imports from the sampled exporting producers, EUR 115,6 per tonne on imports from the non-sampled cooperating companies and a fixed amount of EUR 172,2 per tonne on imports from all other companies.
- (6) In addition, by Commission Implementing Regulation (EU) 2017/1598 ⁽⁶⁾, Regulation (EU) 2015/1518 was amended by allowing companies that did not export biodiesel during the original investigation period to request a review whether they can be made subject to the duty rate imposed on the cooperating companies not in the sample.
- (7) By Commission Implementing Regulation (EU) 2018/1121 ⁽⁷⁾, following a request for new exporting producer treatment, Regulation (EU) 2015/1518 was amended by adding the US company Organic Technologies, Coshocton (Ohio) to Annex I and thus subject to the weighted average duty of EUR 115,6 per tonne applicable to cooperating companies not included in the sample.

1.2. Request for an expiry review

- (8) Following the publication of a notice of impending expiry ⁽⁸⁾ the European Commission ('the Commission') received a request for a review pursuant to Article 11(2) of the basic Regulation.
- (9) The request for review was lodged on 11 June 2020 by the European Biodiesel Board ('EBB' or 'the applicant'), on behalf of Union producers representing more than 25 % of the total Union production of biodiesel. The request for review was based on the grounds that the expiry of the measures would likely result in recurrence of dumping and recurrence of injury to the Union industry.

1.3. Initiation of an expiry review

- (10) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review the Commission initiated, on 14 September 2020, an expiry review with regard to imports of biodiesel originating in the USA, on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽⁹⁾ ('the Notice of Initiation').
- (11) On the same date, the Commission initiated a separate expiry review of the anti-subsidy measures in force concerning imports of biodiesel originating in the USA ⁽¹⁰⁾.

⁽⁵⁾ Commission Implementing Regulation (EU) 2016/676 of 29 April 2016 amending Implementing Regulation (EU) 2015/1518 imposing a definitive anti-dumping duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 116, 30.4.2016, p. 31).

⁽⁶⁾ Commission Implementing Regulation (EU) 2017/1598 of 22 September 2017 amending Commission Implementing Regulation (EU) 2015/1518 imposing a definitive anti-dumping duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 245, 23.9.2017, p. 1).

⁽⁷⁾ Commission Implementing Regulation (EU) 2018/1121 of 10 August 2018 amending Commission Implementing Regulation (EU) 2015/1518 imposing a definitive anti-dumping duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 204, 13.8.2018, p. 33).

⁽⁸⁾ Notice of the impending expiry of certain anti-dumping measures (OJ C 18, 20.1.2020, p. 20).

⁽⁹⁾ Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of biodiesel originating in the United States of America (OJ C 303, 14.9.2020, p. 18).

⁽¹⁰⁾ Notice of initiation of an expiry review of the anti-subsidy measures applicable to imports of biodiesel originating in the United States of America (OJ C 303, 14.9.2020, p. 7).

- (12) The Government of Canada commented on this initiation, noting that, if the measures were to be maintained, the exemption granted to three Canadian producers of biodiesel should be retained. The exemption was maintained in Article 2 of the present Regulation.

1.4. Review investigation period and period considered

- (13) The investigation of a continuation or recurrence of dumping covers the period from 1 July 2019 to 30 June 2020 ('the review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covers the period from 1 January 2017 to the end of the review investigation period ('the period considered').

1.5. Withdrawal of the United Kingdom from the EU

- (14) This case was initiated on 14 September 2020, that is during the transition period agreed between the United Kingdom ('UK') and the EU in which the UK remained subject to the Union law. This period ended on 31 December 2020. Consequently, as of 1 January 2021, companies and associations from the UK no longer qualified as interested parties in this proceeding.
- (15) By a note to the case file ⁽¹¹⁾ on 15 January 2021, the Commission invited UK operators that considered that they nevertheless would still qualify as interested parties to contact it. BP OIL International Limited and Argent Energy requested to continue to be considered as interested parties and were granted this right based on the evidence submitted. In particular, both companies provided proof of the existence of related entities within the respective group active on the Union market. On the other hand, the UK parent company Valero Energy Limited was replaced by its Irish subsidiary Valero Energy Limited Ireland since the latter one is active on the Union market.

1.6. Interested parties

- (16) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicant, other known Union producers, the known producers in the USA and the US authorities, known importers, users, traders, as well as associations known to be concerned about the initiation of the expiry review and invited them to participate.
- (17) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. No requests for a hearing were received.

1.7. Sampling

- (18) In the Notice of Initiation, the Commission stated that it might use sampling in accordance with Article 17 of the basic Regulation.

1.7.1. Sampling of Union producers

- (19) On 14 September 2020, the Commission notified to interested parties the provisional sample of Union producers pursuant to Section 5.4 of the Notice of Initiation. It selected the sample on the basis of the size of the production and sales volume of the like product in 2019 as well as the geographic location of the producers of the like product. This sample consisted of three Union producers. The sampled Union producers accounted for 17,5 % of the estimated total production volumes of the like product in the Union and it also ensured a good geographical spread. The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline of 7 days of the notification of the provisional sample of Union producers.

1.7.2. Sampling of importers

- (20) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.

⁽¹¹⁾ Tron document: t21.000417.

- (21) Only one unrelated importer, Shell Trading Rotterdam BV, provided the requested information and, consequently, the Commission decided that sampling was not necessary.

1.7.3. *Sampling of exporting producers*

- (22) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in the USA to provide the information specified in the Notice of Initiation. In addition, the Commission asked the authorities of the country concerned to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (23) At the initiation a copy of questionnaires was made available in the file for inspection by interested parties and on DG Trade's website.
- (24) Three exporting producers in the USA came forward and expressed their willingness to cooperate with the Commission in the investigation. In view of the low number, the Commission decided that sampling was not necessary. Accordingly, all three companies that came forward were requested to complete a questionnaire and submit it to the Commission within the given deadline.

1.8. **Absence of cooperation from the country concerned**

- (25) On 15 October 2020, one of these three companies informed the Commission by an email that it would not cooperate further. Moreover, neither of the two other companies provided the requested information within the required deadline by completing and returning the questionnaire replies.
- (26) On 10 November 2020 the Commission sent a letter informing all three companies about the intention to apply Article 18 of the basic Regulation and base the findings of the investigation on facts available. The US authorities were also informed about this intention. The deadline for providing comments to the letter was 17 November 2020. No comments were received.
- (27) Since none of the three exporting producers in the USA cooperated in the expiry review investigation it was decided to apply the provisions of Article 18 of the basic Regulation and to base findings on the facts available.

1.9. **Questionnaires**

- (28) At initiation, a copy of the questionnaires was made available in the file for inspection by interested parties and on DG Trade's website.
- (29) Questionnaire replies were received from the three sampled Union producers as well as from an unrelated Union importer.

1.10. **Verification**

- (30) Due to 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. The Commission instead cross-checked remotely all the information deemed necessary for its determination in line with its Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations ⁽¹³⁾. The Commission carried out remote crosschecks ('RCC') of the following companies/parties:

Union producers

- SAIPOL Bu Diester, France
- CAMPA Iberia S.A.U., Spain
- VERBIO Vereinigte BioEnergie AG, Germany

⁽¹³⁾ Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations OJ C 86/6, 16.3.2020.

Importers

— Shell Trading Rotterdam BV, The Netherlands

1.11. Disclosure

- (31) On 21 May 2021, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force. All parties were granted a period within which they could make comments on the disclosure.
- (32) The comments made by interested parties were considered by the Commission and taken into account, where appropriate. The parties who so requested were granted a hearing.

2. PRODUCT CONCERNED AND LIKE PRODUCT**2.1. Product concerned**

- (33) The product concerned is the same as in the original investigation and the previous expiry review, namely fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA, currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 29), ex 1518 00 91 (TARIC code 1518 00 91 29), ex 1518 00 99 (TARIC code 1518 00 99 29), ex 2710 19 43 (TARIC code 2710 19 43 29), ex 2710 19 46 (TARIC code 2710 19 46 29), ex 2710 19 47 (TARIC code 2710 19 47 29), ex 2710 20 11 (TARIC code 2710 20 11 29), ex 2710 20 16 (TARIC code 2710 20 16 29), ex 3824 99 92 (TARIC code 3824 99 92 12), ex 3826 00 10 (TARIC codes 3826 00 10 29, 3826 00 10 59, 3826 00 10 99), ex 3826 00 90 (TARIC code 3826 00 90 19) ('the product concerned').
- (34) Biodiesel is a renewable fuel produced from a wide range of raw materials, i.e. vegetable oils such as rapeseed oil, soybean oil, palm oil, used frying oils (UFO), animal fats or biomass.
- (35) Biodiesel is used in the transport sector, mainly blended with mineral diesel (i.e. petroleum/conventional diesel) and very marginally in its pure form (B100).

2.2. Like product

- (36) As established in the original investigation as well as in the previous expiry review, this expiry review investigation confirmed 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 market of the USA; and
 - the product produced and sold in the Union by the Union industry.
- (37) These products are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding product scope

- (38) The Swedish company Preem AB and Valero Energy Ltd Ireland, fuel producers and suppliers and as such users of the product concerned, argued that Fatty Acid Methyl Ester (FAME) biodiesel and Hydrotreated Vegetable Oil (HVO) biodiesel are two different types of biodiesel, and that HVO should be excluded from the current product scope. In the 2009 Regulation imposing provisional measures ⁽¹³⁾, all types of biodiesel and biodiesel blends were considered to be biodiesel fuels. FAME and HVO can both be blended with diesel and despite some differences in physical characteristics, the product end-use is the same and both products are produced by the Union industry. In addition, the complaint in the original investigation explicitly defined diesel fuel produced from HVOs as part of the product concerned and no party challenged this statement at that time. Therefore, the claim was rejected.

⁽¹³⁾ Commission Regulation (EC) No 193/2009 of 11 March 2009 imposing a provisional anti-dumping duty on imports of biodiesel originating in the United States of America (OJ L 67, 12.3.2009, p. 22).

3. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

- (39) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping.

3.1. Preliminary remarks

- (40) Due to the lack of cooperation as explained in recitals 25 to 27 above, it was not possible to carry out an analysis based on verified data supplied by US producers.
- (41) Consequently, in accordance with Article 18 of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping were based on facts available. The Commission therefore made use of the following sources of information: the request for an expiry review and subsequent submissions from the applicant, Eurostat, the Global Trade Atlas ('GTA') and the websites of the US Energy Information Administration ('EIA') and the US Department of Agriculture ('USDA').

3.2. Continuation of dumping

- (42) Following the imposition of measures in 2009, imports of biodiesel from the USA to the Union dropped to almost zero from the year 2013 onwards. For instance, about 156 tonnes were imported from the USA during the RIP (from 1 July 2019 to 30 June 2020). These volumes only represent 0,04 % of total US exports and even less of the Union consumption. Accordingly, the Commission concluded that these low volumes do not provide a sufficient basis for a continuation of a dumping analysis. The Commission therefore focused its investigation on the likelihood of recurrence of dumping should the measures be allowed to lapse.

3.3. Recurrence of dumping

- (43) The Commission analysed whether it was likely that dumping would recur should the measure lapse. In particular, the following elements were analysed; the relationship between prices of the product produced and sold in the Union and in the USA, the relationship between export prices to third countries and prices in the USA, the relationship between export prices to third countries and the price level in the Union, the unused capacities in the USA and circumvention and absorption practices.

3.3.1. *Comparison between prices of the product produced and sold in the Union and in the USA*

- (44) The Commission services made use of two sources of information for establishing the domestic sales price of biodiesel in the US during the RIP: (i) information provided by the US Department of Agriculture (USDA), and (ii) information in the request for the expiry review.
- (45) For the RIP, the information provided by the USDA showed a domestic sales price ex-works of USD 909,05 per tonne. At the euro/dollar average exchange rate during the RIP (1 EUR = 1,105 USD), this amount corresponds to a US domestic sales price of EUR 822,31 per tonne. This is close to the information provided in the request for the expiry review, which mentioned a domestic sales price of USD 918,06 (EUR 820) per tonne. The Commission considered it appropriate to consider the US domestic price as established (EUR 822,31) for its recurrence analysis.
- (46) The average ex-works price of biodiesel sold in the Union by Union producers during the RIP, as shown in table 1 below, was EUR 771 per tonne.
- (47) In order to re-enter the Union market, the US producers would need to sell at a price close to or lower than EUR 771 per tonne. Their final price should also cover the ocean freight and insurance costs and the existing customs duty (6,5 %) applicable to biodiesel. According to data obtained during the investigation, this would amount to approximately EUR 92 per tonne. The Commission based this amount on the amount of (a) transport and freight, as calculated by the applicant and (b) customs duties (6,5 %) applicable to import price of biodiesel from USA as calculated by the Commission after consulting publicly available information such as Global Trade Atlas ('GTA'), and rounded it up to EUR 106 to cover also some additional post-importation expenses.

- (48) As a consequence, should the US producers resume exports to the Union at competitive prices, they would most likely need to do so at an ex-works price less than EUR 665 per tonne which would be lower than their domestic sales price in the US and thus at dumped price levels.

3.3.2. Comparison between export prices to third countries and prices in the USA

- (49) The Commission further analysed the price pattern of US biodiesel exports to third countries during the RIP.
- (50) It consulted publicly available information such as the Global Trade Atlas ('GTA') and extracted the quantities and values of the export of biodiesel under the HS code 3826 00 for the RIP. The export quantities (in tonnes) to all countries (EU included) amount to 389 075 tonnes, of which 14 tonnes were exported to the Union.
- (51) The table below compares the average sales price in US dollars per tonne duly adjusted to ex-works (by deducting 82,52 USD per tonne for the inland freight as indicated in the request for the expiry review) with the average domestic price in the USA for the six countries (outside the EU) to which the USA exported more than 0,1 % of their total exports during the RIP.

Table 1

US export volumes and prices during the RIP

Countries of destination	Export quantities (in tonnes)	Percentage of exports to all countries	Average ex-works price (USD) per tonne	Average ex-works price (EUR) per tonne	Average ex- works US domestic price (EUR) per tonne (see recital 45)
Canada	354 442	91,1	805,33	728,48	822,31
China	12 363	3,2	316,49	286,29	822,31
Norway	3 500	0,9	862,48	780,18	822,31
Peru	2 144	0,6	591,72	535,26	822,31
Mexico	1 204	0,3	661,23	598,13	822,31
South-Korea	475	0,1	363,15	328,49	822,31

Source: GTA

- (52) The table shows that for all six exporting countries the US producers are selling at prices below their domestic sale prices in the range from 5 % to 65 %. Moreover, there is a lot of variation in the export prices among the various countries to which the USA exported the most during the RIP.
- (53) Finally, the table shows that the highest average export prices are those to countries such as Canada and Norway to which the US is selling 92 % of their total exports. The request provides in this respect that the more expensive '*... biodiesel exported to Canada shall be made from specific types of raw materials that have a better resistance to cold temperatures, such as canola, or can also be HVO which has excellent cold properties...*'. As a result, this more expensive average export prices to these two countries is explained by the higher cost price of the feedstock (such as for canola).

3.3.3. Comparison between export prices to third countries and the price level of the Union industry

- (54) The EU market is an attractive market of US exports of biodiesel. Based on the database of the GTA referred to in recital 49 above, a simple average export price to all destinations during the RIP was subsequently calculated (see recital 55 below), taking into consideration the following elements:
- Due to the large variation of US export prices (as also shown in the table in recital 51), the Commission excluded from this calculation all countries which represent for the USA a share below 0,1 % of their total sales volume they exported during the RIP. There were in total six countries (apart from the EU) whose share was above 0,1 % of the total export volumes of the USA as laid down in the table of recital 51.

- As also demonstrated in the same table, the highest average export prices are those to countries such as Canada and Norway to which the US is selling 92 % of their total exports. As explained in recital 53, these higher export prices are due to the higher cost price of the feedstock (such as canola).
- Biodiesel exports to the EU will be mainly a mix of different biodiesel types due to the various climates in the EU. The biodiesel to be used in Northern Europe will mainly be those that have a better resistance to cold temperatures.
- As a consequence, the calculation of a simple average export price for the purposes of the current assessment gives a fair representation of the average price that would be observed on the Union market and avoids giving disproportionate weight to the exports to Canada and Norway, given the mix of biodiesel types that would likely be exported to the Union where climate conditions vary greatly among Member States.

- (55) Taking into account all the above elements, the Commission calculated an average export price amounting to USD 682 per tonne (EUR 617). This average export price of EUR 617 is a FOB price to which the ocean freight and insurance costs need to be added to come to a CIF price. These costs were estimated at about USD 52 per tonne (EUR 47) in the request for an expiry review.
- (56) The Commission considers that the EUR 47 per tonne is a reasonable indication for the additional ocean freight and insurance costs to other destinations. The average US export price to third countries was thus established at EUR 617 (FOB), which is, even if ocean freight were to be added, insurance costs, the existing customs duty (6,5 %) (in total rounded up to 104 euros per tonne to cover also some additional post-importation expenses) from US to the EU (in total around EUR 721) would be far below the Union industry ex-works price of EUR 771 per tonne.
- (57) As a result, this shows that the exporting producers from the USA would be able to sell at a price below EUR 771 per tonne to penetrate the Union market, and that this would be for them an incentive to redirect some of the current exports to third countries towards the Union market, as it is more attractively priced than some other third countries' markets.

3.3.4. *Spare capacities*

- (58) Due to the lack of US producers' cooperation, the Commission established the US production capacity on the basis of the available information on the website of the US Energy Information Administration (EIA).
- (59) US biodiesel producers must report to this authority (respectively on a yearly and a monthly basis) their existing and planned production capacity, as well as their production, input, stocks and sales of biodiesel.

On the basis of data collected from the EIA, the US biodiesel producers' capacity during the RIP was 8 412 000 tonnes.

- (60) The US actual production of biodiesel during the RIP was 5 718 000 tonnes (EIA's data), which corresponds to a capacity utilisation of 68 % and a spare capacity of 32 %, or around 2 694 000 tonnes. This significant spare capacity of the US producers presents an incentive to increase production and sell biodiesel at dumped prices to the Union market, and is therefore likely to be used to supply the Union market should measures be allowed to lapse. Indeed, the US producers can easily increase their production and export it to the EU with the economic benefit of the increase in capacity utilisation ratio and reduction of unit cost of production. The release in the Union market of the US spare capacity would have a significant impact as it amounts to nearly 18 % of the Union consumption during the RIP.
- (61) Moreover, during the RIP, the US production of biodiesel (5 718 000 tonnes) was lower than the consumption (5 934 000 tonnes). Consequently, the USA was importing more biodiesel than it was exporting. During the RIP the total imports amounted to 629 000 tonnes, and the total exports to 428 000 tonnes. However, if the available production capacity was not used to satisfy the domestic demand during the period considered it is unlikely that such available production capacity would be used in the future for the same purpose. The US production capacity reported in the RIP (8 412 000 tonnes, see previous recital) was significantly higher than the domestic consumption. This means that if export market opportunities open up, the US producers are likely to use their spare capacity for export sales rather than for domestic consumption.

- (62) It is unlikely that the spare capacity would be used to increase exports to third countries other than the EU. The large third country markets (Brazil, Indonesia, Argentina, China, Thailand) are self-sufficient in terms of domestic biodiesel production and the US has thus far not exported much to those countries in spite of its spare capacity. There is no reason to believe that this will change in the future.
- (63) It is therefore likely that US producers would use a substantial part of the spare capacity for additional sales to the EU, which is a very attractive market as it is the biggest in the world with numerous incentives for biodiesel consumption.

3.3.5. Circumvention and absorption practices

- (64) As mentioned in recital 1, the anti-dumping measures imposed in 2009 were found to be circumvented by means of transshipments via Canada and by a change in the composition of the blend. The existence of such practices shows the interest of some US producers to enter the Union market, even after the imposition of measures, and is therefore considered as an indication of the attractiveness of the Union market for US biodiesel producers

3.3.6. Conclusion on the likelihood of a recurrence of dumping

- (65) The Union market is very attractive as it is the biggest in the world and there are significant Union and national incentives for biodiesel consumption. Thus, it would be convenient for US producers to utilise their spare capacity to the full extent and also to divert some of their export sales from other less profitable third countries into the Union market.
- (66) On the basis of the table in recital 51, the Commission concluded that US producers are overall selling to third countries at prices below their domestic prices.
- (67) In this respect, in light of the significant spare capacity of the US industry, combined with the attractiveness of the Union market in terms of size and sales price, in particular with regard to the price level of US exports to third countries, and the records of past circumvention practices, the Commission concluded that dumped imports from the USA are likely to recur if the measures in force were allowed to lapse.

4. INJURY

4.1. Definition of the Union industry and Union production

- (68) According to the data provided by the applicant, the like product was manufactured by 49 producers in the Union during the period considered. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (69) The total Union production during the review investigation period was established at around 14 millions tonnes. The Commission established the figure on the basis of information provided by the Union industry. As indicated in recital 19, three Union producers were selected in the sample representing 17,5 % of the total Union production of the like product.

4.2. Union consumption

- (70) The Commission established the Union consumption on the basis of industry information and Comext for import data.
- (71) Union consumption developed as follows:

Table 2

Union consumption (tonnes) ⁽¹⁴⁾

	2017	2018	2019	Review Investigation period
Total Union consumption (tonnes)	13 843 702	15 444 700	15 762 282	16 955 685
<i>Index</i>	100	112	114	122

Source: Union industry data, Comext

- (72) During the review investigation period, consumption of biodiesel in the Union, calculated as the sum of imports of biodiesel and the total sales of the Union industry on the EU market, increased by 22 %, that is from 13,8 million tonnes in 2017 to 16,9 million tonnes.

4.3. Imports from the country concerned**4.3.1. Volume and market share of the imports from the country concerned**

- (73) The Commission established the volume of imports on the basis of the information provided by Eurostat (Comext database). The market share of the imports was established on the basis of data provided by the applicant for the Union industry domestic sales and Comext for trade data.
- (74) Imports from the country concerned developed as follows:

Table 3

Import volume (tonnes), market share and prices ⁽¹⁵⁾

	2017	2018	2019	Review Investigation period
Volume of imports from the country concerned (tonnes)	176	2 339	139	156
<i>Index</i>	100	1 329	79	89
Market share (%)	0	0	0	0
Average price EUR/tonne	1 243	972	1 269	1 812
<i>Index</i>	100	78	102	146

Source: Comext, EU industry sales data for the calculation of the market share

- (75) Since the imposition of measures in 2009, imports from the US have virtually ceased and amounted to only 156 tonnes during the RIP (as compared to more than 1 137 000 tonnes during the original investigation period).

⁽¹⁴⁾ Consumption is based on EU-27 data, excluding data related to the United Kingdom.

⁽¹⁵⁾ The import volume is based on EU-27 data, excluding data related to the United Kingdom.

4.3.2. Prices of the imports from the country concerned and price undercutting

- (76) There were virtually no imports of biodiesel from the US to the Union during the review investigation period that could be used as a reliable basis for calculating undercutting.
- (77) As an alternative, the Commission determined the price undercutting during the review investigation period by comparing:
- (1) the weighted average sales prices of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level (771 EUR/tonne); and
 - (2) the average export price of US producers to third countries, duly adjusted for transport cost to the Union and EU customs duty (721 EUR/tonne – see recital 56).
- (78) The result of the comparison was a price undercutting of 6,4 %.

4.4. Imports from third countries other than the US

- (79) During the RIP, imports from third countries amounted to 3 750 000 tonnes or approximately 22 % of the overall Union consumption. The main sources of imports of biodiesel other than the US were Argentina (24 % of EU imports), Malaysia (18 %), Singapore (13 %) and Indonesia (5 %).
- (80) The (aggregated) volume of imports as well as the market share and price trends for imports of biodiesel from other third countries developed as follows:

Table 4

Imports from third countries ⁽¹⁶⁾

Country		2017	2018	2019	Review Investigation period
Argentina	Volume (tonnes)	355 782	1 467 325	873 325	905 781
	Index	100	412	245	255
	Market share (%)	3	10	6	5
	Average price EUR/tonne	635	620	707	728
	Index	100	98	111	115
Malaysia	Volume (tonnes)	335 769	388 615	731 679	679 860
	Index	100	116	218	202
	Market share (%)	2	3	5	4
	Average price EUR/tonne	952	813	669	730
	Index	100	85	70	77

⁽¹⁶⁾ Imports from third countries are based on EU-27 data, excluding data related to the United Kingdom as a Member State but including data related to the United Kingdom as a third country.

Indonesia	Volume (tonnes)	24 984	777 992	743 456	195 858
	<i>Index</i>	100	3 114	2 976	784
	Market share (%)	0	5	5	1
	Average price EUR/tonne	803	671	636	665
	<i>Index</i>	100	84	79	83
Other third countries	Volume (tonnes)	822 027	820 093	1 450 938	1 983 471
	<i>Index</i>	100	100	177	241
	Market share (%)	6	5	9	12
	Average price EUR/tonne	662	723	829	874
	<i>Index</i>	100	109	125	132
Total of all third countries except the US	Volume (tonnes)	1 538 562	3 454 050	3 799 448	3 765 041
	<i>Index</i>	100	224	247	245
	Market share (%)	11	22	24	22
	Average price EUR/tonne	721	678	732	802
	<i>Index</i>	100	94	102	111

Source: Comext, EU industry sales data for the calculation of the market share

- (81) Anti-dumping duties on imports from Argentina and Indonesia – two major biodiesel exporting countries – were removed in 2018. Consequently, imports from third countries increased in 2018 and stayed at a level of around 3,8 million tonnes in 2019 and during the RIP. Overall, imports from third countries except the US increased by 145 % during the period considered. In addition, their market share increased from 11 % to 22 % during the period considered.
- (82) As far as prices are concerned, the situation is different from one country to another.
- (83) Regarding Argentina, the main source of imports, in February 2019, the Commission imposed definitive anti-subsidy measures on imports of biodiesel from this country, and, in parallel, adopted a decision accepting minimum price undertakings from eight Argentine producers and the Argentinian Chamber of Biofuels (CARBIO). This led to a significant increase in prices for year 2019 (by 14 % in comparison with 2018) and the RIP (by 17 % in comparison with 2018).
- (84) Regarding Indonesia, the European Commission imposed in 2019 countervailing duties on imports of subsidised biodiesel from Indonesia. This led to a significant decrease in imports originating from Indonesia for the year 2020.

- (85) For Indonesia and Malaysia, prices were decreasing. At the same time, for the other third countries, they were significantly increasing. Overall, the average sales prices of imports from third countries other than the USA increased during the period considered by 11 % during the period considered. This trend is consistent with the trend observed for imports from the countries concerned in Table 3 above. However, the price trend is different in comparison with the sales prices of the Union industry on the Union market in Table 8 below. The prices of the sampled Union producers were decreasing, in line with the decrease in production costs. The consequence is that the price gap between third countries exporters and the sampled Union producers reduced, increasing the competitiveness of the Union industry.

4.5. Economic situation of the Union industry

4.5.1. General remarks

- (86) The assessment of the economic situation of the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (87) As mentioned in recitals 18 and 19, sampling was used for the assessment of the economic situation of the Union industry.
- (88) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. It evaluated the macroeconomic indicators on the basis of data provided by the EU industry and other sector-specific macroeconomic data such as the FAO-OECD. It evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.
- (89) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.
- (90) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.5.2. Macroeconomic indicators ⁽¹⁷⁾

4.5.2.1. Production, production capacity and capacity utilisation

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

Table 5

Production, production capacity and capacity utilisation

	2017	2018	2019	Review Investigation period
Production volume (tonnes)	12 639 715	13 166 083	13 931 438	13 984 220
<i>Index</i>	100	104	110	111
Production capacity (tonnes)	16 047 231	16 707 893	16 862 595	17 529 047
<i>Index</i>	100	104	105	109
Capacity utilisation (%)	79	79	83	80
<i>Index</i>	100	100	105	101

Source: Information provided by the applicant and the sampled Union producers

⁽¹⁷⁾ The macroeconomic data was based on EU-27 excluding data from the UK.

- (92) Union production increased from 12,6 million tonnes in 2017 to 14,0 million tonnes during the RIP, that is an increase by 11 % during the period considered. In a situation of consumption increase by 22 % over the period considered, the Union industry responded positively by increasing its production.
- (93) At the same time the production capacity increased by 9 % during the period considered and reached 17,5 million tonnes during the RIP. The Union industry is developing its capacity to respond to an increasing demand. According to a report ⁽¹⁸⁾, this capacity expansion concerns mainly Hydrotreated Vegetable Oil (HVO) production.
- (94) As a result of the simultaneous increase of the production and the production capacity, the capacity utilisation was stable during the period considered, at around 80 %.

4.5.2.2. Sales volume and market share

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

Table 6

Sales volume and market share

	2017	2018	2019	Review Investigation period
Sales volume on the Union market (tonnes)	12 305 049	11 988 560	11 962 754	13 190 560
<i>Index</i>	100	97	97	107
Market share (%)	89	78	76	78
<i>Index</i>	100	87	85	88

Source: Information provided by the applicant and the sampled Union producers

- (96) The Union industry increased their sales on the Union market from 12,3 million tonnes in 2017 to 13,2 million tonnes during the RIP (+ 7 %).
- (97) Since the consumption in the Union increased by 22 %, because of the lower increase in the actual sales volume, the market share of the Union industry decreased, from around 89 % in 2017 to 78 % during the RIP. This decrease of market share is linked to the increase of imports from third countries especially from 2018 onwards (recital 80).

4.5.2.3. Growth

- (98) A number of indicators (production, production capacity, sales, employment) demonstrate a positive growth of the Union industry during the period. Yet, this growth is moderate as compared to the development of the consumption of biodiesel during the same period. In fact, the market share of the Union industry actually decreased during the reference period.

⁽¹⁸⁾ USDA, Biofuels Annual report (GAIN report), 29 June 2020.

4.5.2.4. Employment and productivity

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

Table 7

Employment and productivity

	2017	2018	2019	Review Investigation period
Number of employees	2 643	3 126	3 527	3 909
Index	100	118	133	148
Productivity (tonne/employee)	4 782	4 211	3 950	3 577
Index	100	88	83	75

Source: Information provided by the applicant and the sampled Union producers

(100) During the period considered, employment grew from 2 643 to 3 909, an increase of 48 %.

(101) As production grew to a lesser extent (+ 11 %), this materialised in a decrease in productivity (-25 %).

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

(102) As explained in recital 42, it was not possible to make a determination of dumping during the review investigation period. The investigation therefore focused on the likelihood of a recurrence of dumping should the anti-dumping measures be repealed.

(103) In the previous expiry review the Union industry showed signs of recovery from the effects of past dumping. During the period considered of the current expiry review investigation, the recovery process continued as demonstrated by a favourable trend for the Union industry of the main injury indicators.

4.5.3. Microeconomic indicators ⁽¹⁹⁾

4.5.3.1. Prices and factors affecting prices

(104) 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 8

Sales prices in the Union

	2017	2018	2019	Review Investigation period
Average unit sales price in the Union on the total market (EUR/tonne)	834	801	771	771
Index	100	96	92	92

⁽¹⁹⁾ Microeconomic indicators are based on EU-28 data, including the United Kingdom. Based on the low volume of sales of the sampled Union producers to the United Kingdom (approx. 1,1 % of the average EU sales of those producers in the RIP), the impact of transactions concerning the United Kingdom would appear to be minimal on the injury findings, and the conclusions on material injury would therefore not have been altered when using EU-27 data.

Average price of vegetable oils (<i>Index</i>)	100	86	81	86
Unit cost of production (EUR/tonne)	828	778	760	755
<i>Index</i>	100	94	92	91

Source: Sampled companies, FAO for the vegetable oil price index

- (105) During the period considered the cost of production decreased by 9 % (from 828 EUR/tonne to 755 EUR/tonne). This is partly due to the decrease in the price of vegetable oils which was on the decrease over the period. While not all biofuel is made of vegetable oils, the price of vegetable oils is a good proxy for the price of the main input for the production of biodiesel.
- (106) The average sales price decreased by 8 %, from 834 EUR/tonne in 2017 to 771 EUR/tonne during the RIP. This can be linked to the decrease observed in the price of production.

4.5.3.2. Labour costs

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

Table 9

Average labour costs per employee

	2017	2018	2019	Review Investigation period
Average labour costs per employee (EUR)	63 785	70 533	72 306	72 533
<i>Index</i>	100	111	113	114

Source: Sampled companies

- (108) The average labour cost in the sampled companies increased by 14 % over the RIP. The impact of this variation is rather small given that labour cost represent only about 3 % of the total cost of manufacturing.

4.5.3.3. Inventories

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

Table 10

Inventories

	2017	2018	2019	Review Investigation period
Closing stocks (tonnes)	99 868	126 345	124 567	114 216
<i>Index</i>	100	127	125	114
Closing stocks as a percentage of production	0,8	1,0	0,9	0,8
<i>Index</i>	100	121	113	103

Source: Sampled companies

- (110) The level of inventory was stable at around 1 % of the production. This is a very low ratio indicating that the industry is able to work on demand and limit the inventory. This is also necessary to avoid biodiesel degradation.

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

- (111) Profitability, cash flow, investments and return on investments of the sampled Union producers developed over the period considered as follows:

Table 11

Profitability, cash flow, investments and return on investments

	2017	2018	2019	Review Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	0,96	2,13	1,78	2,84
<i>Index</i>	100	223	186	297
Cash flow (EUR)	45 139 254	10 723 312	54 431 877	58 021 678
<i>Index</i>	100	24	121	129
Investments (EUR)	40 430 425	20 634 073	34 169 705	17 028 015
<i>Index</i>	100	51	85	42
Return on investments (%)	22	29	25	44
<i>Index</i>	100	128	112	198

Source: Sampled companies

- (112) 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. The profitability remained at a low level. Yet it shows a slightly positive trend over the period considered increasing from 1 % to 3 %. This was linked to the decreasing cost of production for the sampled companies (- 9 %). Behind this average, there is however a great disparity among the sampled Union producers with some companies not making any profit at all.
- (113) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow developed positively toward the end of the period considered (in 2019 and first half of 2020), but the year 2018 saw a sharp drop in cashflow. The drop in 2018 is impacted mainly by the specific situation of one of the sampled companies, which has a special business model. For the other two sampled companies the trend was relatively stable.
- (114) Investments in the sampled companies does not present a clear trend over the period considered. Investment from one or the other sampled company or the absence thereof can bring the level of investments up and down from one year to the other. Investments represented about 1-2 % of turnover during the period considered, which is limited.
- (115) The return on investments (ROI) is the profit in percentage of the net book value of investments. It developed positively over the period considered and remained high in the RIP. This high ROI is however mainly linked to low net book value of investments, rather than high profit.

4.6. Conclusion on injury

- (116) During the period considered, in the context of almost non-existent imports from the USA, the volumes of imports from third countries increased significantly (by 145 %), but their price level increased as well (by 11 %). At the same time the prices of the Union industry decreased (by 8 %), in line with a decrease in the production costs (by 9 %). Consequently, the price gap between third countries exporters and the sampled Union producers narrowed, thereby increasing the competitiveness of the Union industry.
- (117) Overall, the injury indicators depict a positive trend during the period considered, in particular with regard to production (+ 11 %), production capacity (+ 9 %) and sales (+ 7 %) and show that the Union biodiesel industry is slowly recovering from past injury. The analysis of the injury indicators demonstrates that the Union industry is currently not suffering from material injury. However, some indicators, in particular a low profitability ($\leq 3\%$) indicate that it is nevertheless still in a fragile economic situation.
- (118) On the basis of the above, the Commission concluded that the Union industry did not suffer material injury within the meaning of Article 3(5) of the basic Regulation during the review investigation period.

5. LIKELIHOOD OF RECURRENCE OF INJURY

- (119) The Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury to be caused by the dumped imports from the US if the measures were allowed to lapse.
- (120) In this regard, the Commission examined the production capacity and spare capacity in the US, the likely price levels of imports from the US in the absence of anti-dumping measures, and their impact on the Union industry including undercutting without anti-dumping measures

5.1. Production capacity and spare capacity in the US

- (121) As described in section 3.3.4 above, the quantities that could be exported by US biodiesel producers are significant compared to the size of the Union market. Indeed, the spare capacities represent 18 % of the Union consumption during the RIP. Consequently, the Commission concluded that the spare capacities available are significant.

5.2. The likely price levels of imports from the US in the absence of anti-dumping measures

- (122) As described in section 3.3.2 above, based on the current pricing behaviour on third countries export markets, the US producers exported to their main third markets at prices lower than the domestic prices in the US. In addition, as indicated in recitals 77-78 above, those prices are also on average undercutting the Union industry prices on the Union market by 6,4 %. Therefore, taking into account the price level of exports from the USA to other third markets, exporting to the Union is potentially much more attractive for US exporters. In addition, as indicated in section 3.3.6 above the Union market is very attractive as it is the biggest in the world and there are significant Union and national incentives for biodiesel consumption.

5.3. Likely impact on the Union industry

- (123) Therefore, if measures were allowed to lapse, significant volumes of dumped biodiesel from the USA would exert a very strong downward pressure on Union prices and have a significant impact on the Union industry's economic situation. As a result, it is likely that Union industry production and sales volumes would decrease and the small profits currently achieved by the industry would turn into losses.
- (124) The Commission further assessed the possible impact of the imports by modelling two possible scenarios should the measures be allowed to lapse, namely (1) a surge of imports from the US and (2) a drop of prices in the EU due to increased competition, all other things being equal.

- (125) In the first scenario, the Commission modelled two possible levels of US imports. The first option entailed that imports from the US would come at their historical volumes (during the initial IP ⁽²⁰⁾), that is 1,1 million tonnes. As a result of the increase in imports from the US and the consequent decrease in sales of the EU industry, the profitability of the EU industry would fall by 0,14 % point, that is from + 2,84 % to + 2,70 %. The second option took into account the very significant increase in the size of the EU market from 6,6 million tonnes during the initial IP to 17 millions tonnes during the RIP (+ 158 %). In that context, the Commission modelled a surge of imports corresponding to the same market share for the US of 17,2 % as during the initial investigation period. The result was that the profitability of the Union industry would fall by 0,41 % point from + 2,84 % to 2,43 %. In both cases, the impact of a surge of US imports, at constant prices, can be described as rather moderate. This is linked to the high share of the variable costs in the biodiesel industry.
- (126) In the second scenario, the effect of a price decrease was found to be potentially highly damaging. In case of a decrease of Union prices to the level of US exports prices to third countries (721 EUR/tonne), the profit would drop from + 2,84 % to -3,88 %. In case of a decrease of Union prices by 10 %, that is from 771 EUR/tonne to 694 EUR/tonne, the profit would be reduced from + 2,84 % to - 7,94 %. In any case, any price decrease higher than -2,9 % would zero the Union industry profit.
- (127) In reality, if measures were allowed to lapse, it is very likely that a combination of the two scenarios above would occur on the market. In particular, significant volumes of biodiesel originating in the USA could be expected to enter the Union market and at lower prices than the Union industry. As a result, the market share of the Union industry would shrink as well as their prices. This would result in significant losses to the Union industry.

5.4. Conclusion on likelihood of recurrence of injury

- (128) On this basis, and noting the current fragile situation of the Union industry, the Commission concluded that the absence of measures would in all likelihood result in a significant increase of dumped imports from the USA at injurious prices and material injury would be likely to recur.

6. UNION INTEREST

- (129) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing anti-dumping measures would be against the interest of the Union as whole. 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. In line with Article 21(1) third sentence of the basic Regulation special consideration was given to the need to protect the industry from the negative effects of injurious dumping.

6.1. Interest of the Union industry

- (130) If existing measures were allowed to lapse, the Union industry will most certainly be faced with increased unfair competition from the US biodiesel producers most likely putting an abrupt halt to the on-going recovery of the Union industry.
- (131) The Commission concluded that the continuation of the measures would be in the interest of the Union industry.

6.2. Interest of unrelated importers

- (132) No importer opposed the prolongation of the measures.
- (133) Shell Trading Rotterdam argued that the measures, by limiting the supply of the Union market, will lead to increased prices. It also noted the availability of the biodiesel from other markets.

⁽²⁰⁾ 1 April 2007 to 31 March 2008.

- (134) The measures do not seem to affect significantly the importers as alternative sources of supplies are available. This is evidenced by the significant market share of imports from third countries.
- (135) The Commission therefore concluded that the continuation of the measures would not pose a significant detriment to the interest of the importers.

6.3. Interest of users

- (136) The participation of users in the investigation was limited.
- (137) Two users, Preem, the largest fuel company in Sweden, and Valero Energy Ltd Ireland claimed that the prolongation of the measures will be a direct hindrance for the green development of the transport sector in Europe. Preem and Valero Energy Ltd Ireland requested specifically that HVO should be excluded from the current product scope as they expect a shortage of HVO in the coming years. Valero Energy Ltd Ireland specifically referred to the EU renewable energy targets for transport for 2030, claiming that those targets would not be met given current EU production.
- (138) The Commission observed that Union producers have enough capacity to satisfy the current demand and even spare capacity to satisfy future increase and exports if need be. Furthermore, it was too early to assess with confidence whether shortages are likely to materialise in 2030, given, in particular, recent expansions in EU capacity. This said, the Commission may be in a better position to assess the situation in case it is asked to conduct an expiry review in five years' time. Consequently, this claim was dismissed.
- (139) There are no indications that the existing measures in force have affected negatively the Union users of biodiesel, and notably there is no evidence that existing measures had an adverse impact on their profitability.
- (140) The Commission therefore concluded that the continuation of the measures would not be detrimental to the interest of the users.

6.4. Conclusion on Union interest

- (141) On the basis of the above, the Commission concluded that there were no compelling reasons of the Union interest against the maintenance of the existing measures on imports of biodiesel originating in the USA.

7. ANTI-DUMPING MEASURES

- (142) On the basis of the conclusions reached by the Commission with regard to the likelihood of continuation or recurrence of dumping and injury, it follows that, in accordance with Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of biodiesel originating in the USA, imposed by Commission Implementing Regulation (EU) 2015/1518, as amended by Regulation (EU) 2016/676, should be maintained.
- (143) As outlined in recital (1) above, the anti-dumping duties in force on imports of biodiesel from the USA were extended to cover also imports of the same product consigned from Canada, whether declared as originating in Canada or not, and to imports of biodiesel in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA.
- (144) The anti-dumping duties to be maintained shall continue to be extended to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not as well as to biodiesel in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA.
- (145) The exporting producers from Canada that were exempted from the measures, as extended by Implementing Regulation (EU) 2015/1518, shall also be exempted from the measures imposed by this Regulation.

- (146) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation.
- (147) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽²¹⁾, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the United States of America currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 29), ex 1518 00 91 (TARIC code 1518 00 91 29), ex 1518 00 99 (TARIC code 1518 00 99 29), ex 2710 19 43 (TARIC code 2710 19 43 29), ex 2710 19 46 (TARIC code 2710 19 46 29), ex 2710 19 47 (TARIC code 2710 19 47 29), ex 2710 20 11 (TARIC code 2710 20 11 29), ex 2710 20 16 (TARIC code 2710 20 16 29), ex 3824 99 92 (TARIC code 3824 99 92 12), ex 3826 00 10 (TARIC codes 3826 00 10 29, 3826 00 10 59, 3826 00 10 99) and ex 3826 00 90 (TARIC code 3826 00 90 19).

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

Company	AD duty rate EUR per tonne net	TARIC additional code
Archer Daniels Midland Company, Decatur	68,6	A933
Cargill Inc., Wayzata	0	A934
Green Earth Fuels of Houston LLC, Houston	70,6	A935
Imperium Renewables Inc., Seattle	76,5	A936
Peter Cremer North America LP, Cincinnati	198,0	A937
World Energy Alternatives LLC, Boston	82,7	A939
Companies listed in Annex I	115,6	See Annex I
All other companies	172,2	A999

The anti-dumping duty on blends shall be applicable in proportion in the blend, by weight, of the total content of fatty-acid mono-alkyl esters and of paraffinic gasoils obtained from synthesis and/or hydro-treatment, of non-fossil origin (biodiesel content).

3. The application of the individual duty rate specified for the companies referred to in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex II. If no such invoice is presented, the duty rate applicable to 'all other companies' shall apply.

⁽²¹⁾ 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).

4. Where any party from the United States of America provides sufficient evidence to the Commission that:
- it did not export the goods described in Article 1(1) originating in the United States of America during the period of investigation (1 April 2007-31 March 2008);
 - it is not related to an exporter or producer subject to the measures imposed by this Regulation; and
 - it has either actually exported the goods concerned or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the period of investigation;

the Commission may amend Annex I in order to attribute to that party the duty applicable to cooperating producers not included in the sample, i.e. EUR 115,6 per tonne.

Article 2

1. The definitive anti-dumping duty applicable to 'all other companies' as set out in Article 1, paragraph 2, is extended to imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, consigned from Canada, whether declared as originating in Canada or not, currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 21), ex 1518 00 91 (TARIC code 1518 00 91 21), ex 1518 00 99 (TARIC code 1518 00 99 21), ex 2710 19 43 (TARIC code 2710 19 43 21), ex 2710 19 46 (TARIC code 2710 19 46 21), ex 2710 19 47 (TARIC code 2710 19 47 21), ex 2710 20 11 (TARIC code 2710 20 11 21), ex 2710 20 16 (TARIC code 2710 20 16 21), ex 3824 99 92 (TARIC code 3824 99 92 10), ex 3826 00 10 (TARIC codes 3826 00 10 20, 3826 00 10 50, 3826 00 10 89) and ex 3826 00 90 (TARIC code 3826 00 90 11), with the exception of those produced by the companies listed below:

Country	Company	TARIC additional code
Canada	BIOX Corporation, Oakville, Ontario, Canada	B107
Canada	DSM Nutritional Products Canada Inc., Dartmouth, Nova Scotia, Canada	C114
Canada	Rothsay Biodiesel, Guelph, Ontario, Canada	B108

The duty to be extended shall be the one established for 'all other companies' in Article 1(2), which is a definitive anti-dumping duty of EUR 172,2 per tonne net.

The anti-dumping duty on blends shall be applicable in proportion in the blend, by weight, of the total content of fatty-acid mono-alkyl esters and of paraffinic gasoils obtained from synthesis and/or hydro-treatment, of non-fossil origin (biodiesel content).

2. The application of the exemptions granted to companies referred to in paragraph 1 or authorised by the Commission in accordance with Article 4(2) shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex II. If no such invoice is presented, the duty rate as imposed by paragraph 1 shall apply.

Article 3

1. The definitive anti-dumping duty as set out in Article 1, paragraph 2, is hereby extended to imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the United States of America, and currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 30), ex 1518 00 91 (TARIC code 1518 00 91 30), ex 1518 00 99 (TARIC code 1518 00 99 30), ex 2710 19 43 (TARIC code 2710 19 43 30), ex 2710 19 46 (TARIC code 2710 19 46 30), ex 2710 19 47 (TARIC code 2710 19 47 30), ex 2710 20 11 (TARIC code 2710 20 11 30), ex 2710 20 16 (TARIC code 2710 20 16 30), ex 3824 99 92 (TARIC code 3824 99 92 20) and ex 3826 00 90 (TARIC code 3826 00 90 30).

The anti-dumping duty on blends shall be applicable in proportion in the blend, by weight, of the total content of fatty-acid mono-alkyl esters and of paraffinic gasoils obtained from synthesis and/or hydro-treatment, of non-fossil origin (biodiesel content).

2. The application of the individual duty rate specified for the companies referred to in Article 1, paragraph 2, shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex III. If no such invoice is presented, the duty rate applicable under Article 1(2) to 'all other companies' shall apply.

Article 4

1. Requests for exemption from the duty extended by Article 2(1) and Article 3(1) shall be made in writing in one of the official languages of the European Union and must be signed by a person authorised to represent the entity requesting the exemption. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate G
Rue de la Loi 170, CHAR 04/034
1049 Brussels
BELGIUM

Email: TRADE-TDI-INFORMATION@ec.europa.eu

2. In accordance with Article 13(4) of Regulation (EU) 2016/1036, the Commission, after consulting the Advisory Committee, may authorise, by decision, the exemption of imports from companies which do not circumvent the anti-dumping measures imposed by Article 1, from the duty extended by Article 2(1) and Article 3(1).

Article 5

In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 131(2) of Commission Implementing Regulation (EU) 2015/2447 ⁽²²⁾, the amount of anti-dumping duty laid down in Articles 1, 2 and 3 shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

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

Article 6

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, 29 July 2021.

For the Commission
The President
Ursula VON DER LEYEN

⁽²²⁾ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

ANNEX I

Company Name	City	TARIC additional code
AG Processing Inc.	Omaha	A942
Alabama Clean Fuels Coalition Inc.	Birmingham	A940
American Made Fuels, Inc.	Canton	A940
Arkansas SoyEnergy Group	DeWitt	A940
Arlington Energy, LLC	Mansfield	A940
Athens Biodiesel, LLC	Athens	A940
Beacon Energy	Cleburne	A940
Biodiesel of Texas, Inc.	Denton	A940
BioDiesel One Ltd	Southington	A940
Buffalo Biodiesel, Inc	Tonawanda	A940
BullDog BioDiesel	Ellenwood	A940
Carbon Neutral Solutions, LLC	Mauldin	A940
Central Iowa Energy LLC	Newton	A940
Chesapeake Custom Chemical Corp.	Ridgeway	A940
Community Fuels	Stockton	A940
Delta BioFuels Inc.	Natchez	A940
Diamond Biofuels	Mazon	A940
Direct Fuels	Euless	A940
Eagle Creek Fuel Services, LLC	Baltimore	A940
Earl Fisher Bio Fuels	Chester	A940
East Fork Biodiesel LLC	Algona	A940
ECO Solutions, LLC	Chatsworth	A940
Ecogy Biofuels LLC	Tulsa	A940
ED&F Man Biofuels Inc.	New Orleans	A940
Freedom Biofuels Inc.	Madison	A940
Fuel & Lube, LLC	Richmond	A940
Fuel Bio	Elizabeth	A940
FUMPA Bio Fuels	Redwood Falls	A940
Galveston Bay Biodiesel LP (BioSelect Fuels)	Houston	A940
Geo Green Fuels LLC	Houston	A940
Georgia Biofuels Corp.	Loganville	A940
Green River Biodiesel, Inc.	Moundville	A940
Griffin Industries Inc.	Cold Spring	A940

Company Name	City	TARIC additional code
High Plains Bioenergy	Guymon	A940
Huish Detergents Inc.	Salt Lake City	A940
Incobrasa Industries Ltd.	Gilman	A940
Independence Renewable Energy Corp.	Perdue Hill	A940
Indiana Flex Fuels	LaPorte	A940
Innovation Fuels Inc.	Newark	A940
Iowa Renewable Energy LLC	Washington	A940
Johann Haltermann Ltd.	Houston	A940
Lake Erie Biofuels LLC	Erie	A940
Leland Organic Corporation	Leland	A940
Louis Dreyfus Agricultural Industries LLC	Claypool	A940
Louis Dreyfus Claypool Holdings LLC	Claypool	A940
Memphis Biofuels, LLC	Memphis	A942
Middle Georgia Biofuels	East Dublin	A940
Middletown Biofuels LLC	Blairsville	A940
Musket Corporation	Oklahoma City	A940
New Fuel Company	Dallas	A940
North Mississippi Biodiesel	New Albany	A940
Northern Biodiesel, Inc.	Ontario	A940
Northwest Missouri Biofuels, LLC	St. Joseph	A940
Nova Biofuels Clinton County LLC	Clinton	A940
Nova Biosource	Senaca	A940
Organic Fuels Ltd.	Houston	A940
Organic Technologies	Coshocton	C482
Owensboro Grain Company LLC	Owensboro	A940
Paseo Cargill Energy, LLC	Kansas City	A940
Peach State Labs Inc.	Rome	A940
Perihelion Global, Inc.	Opp	A940
Philadelphia Fry-O-Diesel Inc.	Philadelphia	A940
Pinnacle Biofuels, Inc.	Crossett	A940
PK Biodiesel	Woodstock	A940
Pleasant Valley Biofuels, LLC	American Falls	A940
RBF Port Neches LLC	Houston	A940
Red Birch Energy, Inc.	Bassett	A940

Company Name	City	TARIC additional code
Red River Biodiesel Ltd.	New Boston	A940
REG Ralston LLC	Ralston	A940
Renewable Energy Products, LLC	Santa Fe Springs	A940
Riksch BioFuels LLC	Crawfordsville	A940
Safe Renewable Corp.	Conroe	A940
Sanimax Energy Inc.	DeForest	A940
Scott Petroleum	Itta Bena	A942
Seminole Biodiesel	Bainbridge	A940
Soy Solutions	Milford	A940
SoyMor Biodiesel LLC	Albert Lea	A940
Sunshine BioFuels, LLC	Camilla	A940
TPA Inc.	Warren	A940
Trafigura AG	Stamford	A940
U.S. Biofuels Inc.	Rome	A940
United Oil Company	Pittsburgh	A940
Valco Bioenergy	Harlingen	A940
Vanguard Synfuels, LLC	Pollock	A940
Vinmar Overseas, Ltd	Houston	A938
Vitol Inc.	Houston	A940
Walsh Bio Diesel, LLC	Mauston	A940
Western Dubque Biodiesel LLC	Farley	A940
Western Iowa Energy LLC	Wall Lake	A940
Western Petroleum Company	Eden Prairie	A940

ANNEX II

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3) and Article 2(2):

- the name and function of the official of the entity issuing the commercial invoice,
- the following declaration:

'I, the undersigned, certify that the (volume) of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as "biodiesel", in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin sold for export to the European Union covered by this invoice was manufactured by [company name and address] [TARIC additional code] in [countr[y]ies concerned]. I declare that the information provided in this invoice is complete and correct.'

ANNEX III

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 3(2):

- the name and function of the official of the entity issuing the commercial invoice,
- the following declaration:

'I, the undersigned, certify that the (volume) of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as "biodiesel", in pure form or in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin sold for export to the European Union covered by this invoice was manufactured by [company name and address] [TARIC additional code] in the United States of America. I declare that the information provided in this invoice is complete and correct.'

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1267**of 29 July 2021****imposing definitive countervailing duties on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 18 of Regulation (EU) 2016/1037 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ⁽¹⁾ and in particular Article 18(1) thereof,

Whereas:

1. PROCEDURE**1.1. Previous investigations and measures in force**

- (1) By Regulation (EC) No 598/2009 ⁽²⁾ the Council imposed a definitive countervailing duty, ranging from EUR 211,2 to EUR 237 per tonne net, on imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, at that time falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 20), ex 1518 00 91 (TARIC code 1518 00 91 20), ex 1518 00 99 (TARIC code 1518 00 99 20), ex 2710 19 41 (TARIC code 2710 19 41 20), ex 3824 90 91, ex 3824 90 97 (TARIC code 3824 90 97 87), and originating in the United States of America ('USA' or 'the country concerned'). The countervailing duty imposed by this regulation is hereafter referred to as 'the original measures'. The investigation that led to the imposition of the original measures will hereafter be referred to as 'the original investigation'.
- (2) By Implementing Regulation (EU) No 443/2011 ⁽³⁾, following an anti-circumvention investigation, the Council extended the definitive anti-countervailing imposed by Council Regulation (EC) No 598/2009 to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, with the exception of those produced by the companies BIOX Corporation, Oakville and Rothsay Biodiesel, Guelph, Ontario, Canada. By the same Regulation, the Council also extended the definitive countervailing duty imposed by Council Regulation (EC) No 598/2009 to imports of biodiesel in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA.
- (3) By Implementing Regulation (EU) 2015/1519 ⁽⁴⁾, the European Commission re-imposed the definitive countervailing measures on imports of biodiesel originating in the USA following an expiry review (the 'previous expiry review').

⁽¹⁾ OJ L 176, 30.6.2016, p. 55.

⁽²⁾ Council Regulation (EC) No 598/2009 of 7 July 2009 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in the United States of America (OJ L 179, 10.7.2009, p. 1).

⁽³⁾ Council Implementing Regulation (EU) No 443/2011 of 5 May 2011 extending the definitive countervailing duty imposed by Regulation (EC) No 598/2009 on imports of biodiesel originating in the United States of America to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, and extending the definitive countervailing duty imposed by Regulation (EC) No 598/2009 to imports of biodiesel in a blend containing by weight 20 % or less of biodiesel originating in the United States of America, and terminating the investigation in respect of imports consigned from Singapore (OJ L 122, 11.5.2011, p. 1).

⁽⁴⁾ Commission Implementing Regulation (EU) 2015/1519 of 14 September 2015 imposing definitive countervailing duties on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 18 of Council Regulation (EC) No 597/2009 (OJ L 239, 15.9.2015, p. 99).

- (4) Moreover, Regulation (EU) 2015/1519 as amended by Regulation (EU) 2016/675 ⁽⁵⁾ also extended the definitive countervailing duty to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, with the exception of those produced by the companies BIOX Corporation, Oakville and Rothsay Biodiesel, Guelph, both located in Ontario, Canada as well as by the company DSM Nutritional Products Canada Inc., Dartmouth, Nova Scotia, Canada. By the same Regulation, the European Commission also extended the definitive countervailing duty to imports of biodiesel in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA.
- (5) The countervailing duties currently in force are fixed amounts ranging from EUR 211,2 to EUR 237 per tonne net on imports from the exporting producers.

1.2. Request for an expiry review

- (6) Following the publication of a notice of impending expiry ⁽⁶⁾ the European Commission ('the Commission') received a request for a review pursuant to Article 18 of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ('the basic Regulation').
- (7) The request for review was lodged on 11 June 2020 by the European Biodiesel Board ('EBB' or 'the applicant'), on behalf of Union producers representing more than 25 % of the total Union production of biodiesel. The request for review was based on the grounds that the expiry of the measures would likely result in continuation or recurrence of subsidised biodiesel entering the Union and of recurrence of injury to the Union industry.

2. INITIATION OF AN EXPIRY REVIEW

- (8) Having determined, after consulting the Committee established by Article 15(1) of Regulation (EU) 2016/1036 of the European Parliament and of the Council ⁽⁷⁾ that sufficient evidence existed for the initiation of an expiry review, the Commission initiated, on 14 September 2020, an expiry review with regard to imports of biodiesel originating in the USA on the basis of Article 18(1) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽⁸⁾ ('the Notice of Initiation').
- (9) On the same day, 14 September 2020, the Commission initiated in parallel an expiry review of the anti-dumping measures in force on imports of biodiesel originating in the USA.
- (10) The Government of Canada commented on this initiation, noting that, if the measures were to be maintained, the exemption granted to three Canadian producers of biodiesel should be retained. The Commission maintained the exemption in Article 2 of the present Regulation.

2.1. Review investigation period and period considered

- (11) The investigation of a continuation or recurrence of subsidisation covered the period from 1 July 2019 to 30 June 2020 ('the review investigation period' or 'the RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2017 to the end of the review investigation period ('the period considered').

⁽⁵⁾ Commission Implementing Regulation (EU) 2016/675 of 29 April 2016 amending Implementing Regulation (EU) 2015/1519 imposing definitive countervailing duties on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 18 of Council Regulation (EC) No 597/2009 (OJ L 116, 30.4.2016, p. 27).

⁽⁶⁾ Notice of the impending expiry of certain anti-subsidy measures (OJ C 18, 20.1.2020, p. 19).

⁽⁷⁾ 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 (OJ L 176, 30.6.2016, p. 21).

⁽⁸⁾ Notice of initiation of an expiry review of the anti-subsidy measures applicable to imports of biodiesel originating in the United States of America (OJ C 303, 14.9.2020, p. 7).

2.2. Withdrawal of the United Kingdom from the EU

- (12) This case was initiated on 14 September 2020, that is during the transition period agreed between the United Kingdom ('UK') and the EU in which the UK remained subject to the Union law. This period ended on 31 December 2020. Consequently, as of 1 January 2021, companies and associations from the UK no longer qualified as interested parties in this proceeding.
- (13) By a note to the case file ⁽⁹⁾ on 15 January 2021, the Commission invited UK operators that considered that they still qualified as interested parties to contact it. BP OIL International Limited and Argent Energy requested to continue to be considered as interested parties and were granted this right based on the evidence submitted. In particular, both companies provided proof of the existence of related entities within the respective group active on the Union market. On the other hand, the UK parent company Valero Energy Limited was replaced by its Irish subsidiary Valero Energy Limited Ireland since the latter one is active on the Union market.

2.3. Interested parties

- (14) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicant, other known Union producers, the known producers in the USA and the US authorities, known importers, users, traders, as well as associations known to be concerned about the initiation of the expiry review and invited them to participate.
- (15) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

2.4. Sampling

- (16) In the Notice of Initiation, the Commission stated that it might use sampling in accordance with Article 27 of the basic Regulation.

Sampling of Union producers

- (17) On 14 September 2020, the Commission notified to interested parties the provisional sample of Union producers pursuant to Section 5.3 of the Notice of Initiation. It selected the sample on the basis of the size of the production and sales volume of the like product in 2019 as well as the geographic location of the producers of the like product. This sample consisted of three Union producers. The sampled Union producers accounted for 17,5 % of the estimated total production volumes of the like product in the Union and it also ensures a good geographical spread. The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline of 7 days of the notification of the provisional sample of Union producers.

Sampling of importers

- (18) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.
- (19) Only one unrelated importer, Shell Trading Rotterdam BV, provided the requested information and, consequently, the Commission decided that sampling was not necessary.

Sampling of exporting producers

- (20) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in the USA to provide the information specified in the Notice of Initiation. In addition, it asked the authorities of the exporting country to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

⁽⁹⁾ Tron document: t21.000417.

- (21) Three exporting producers in the USA came forward and expressed their willingness to cooperate with the Commission in the investigations. In view of the low number, it decided that sampling was not necessary and all three companies were invited to submit a questionnaire reply.

2.5. Cooperation from the country concerned

- (22) On 15 October 2020, one of the originally cooperating companies sent an email to the Commission informing that it would not cooperate further. Moreover, the other two other companies did also not provide the requested information within the required deadline by completing and returning the questionnaire replies.
- (23) On 10 November 2020, the Commission sent a letter informing all three companies about its intention to apply Article 28 of the basic Regulation and base the findings of the investigation on facts available. The US authorities were also informed about this intention. The deadline for providing comments to the letter was 17 November 2020. No comments were received.
- (24) Moreover, at the initiation, by Note Verbale dated 14 September 2020, the Commission requested the authorities of the USA to complete and return the anti-subsidy questionnaire intended for the Government of USA. It did not receive a reply within the required deadline.
- (25) On 10 November 2020, the Commission sent a Note Verbale informing the US authorities about its intention to apply Article 28 of the basic Regulation and base the findings of the investigation on facts available given its lack of cooperation.
- (26) The deadline for providing comments to the Note Verbale was 17 November 2020. No comments were received.
- (27) The Commission therefore concluded that neither any exporting producer nor the Government of USA cooperated in the expiry review investigation. As a consequence, it decided to apply the provisions of Article 28 of the basic Regulation and base its findings, affirmative or negative, on the facts available.

2.6. Questionnaires

- (28) At the initiation, a copy of the questionnaires was made available in the file for inspection by interested parties and on DG Trade's website.
- (29) Questionnaire replies were received from the three sampled Union producers as well from an unrelated Union importer.

2.7. Verification

- (30) 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 26 of the basic Regulation. The Commission instead cross-checked remotely all the information deemed necessary for its determination in line with its Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations ⁽¹⁰⁾. The Commission carried out remote crosschecks ('RCC') of the following companies/parties:

Union producers

- SAIPOL Bu Diester, France
- CAMPA Iberia S.A.U., Spain
- VERBIO Vereinigte BioEnergie AG, Germany

Importers

- Shell Trading Rotterdam BV, The Netherlands

⁽¹⁰⁾ Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations (OJ C 86, 16.3.2020, p. 6).

2.8. Disclosure

- (31) On 21 May 2021, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the countervailing duties in force. All parties were granted a period within which they could make comments on the disclosure.
- (32) The comments made by interested parties were considered by the Commission and taken into account, where appropriate. The parties who so requested were granted a hearing.

3. PRODUCT CONCERNED AND LIKE PRODUCT

3.1. Product concerned

- (33) The product concerned is the same as in the original investigation and previous expiry review namely fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA, currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 29), ex 1518 00 91 (TARIC code 1518 00 91 29), ex 1518 00 99 (TARIC code 1518 00 99 29), ex 2710 19 43 (TARIC code 2710 19 43 29), ex 2710 19 46 (TARIC code 2710 19 46 29), ex 2710 19 47 (TARIC code 2710 19 47 29), ex 2710 20 11 (TARIC code 2710 20 11 29), ex 2710 20 16 (TARIC code 2710 20 16 29), ex 3824 99 92 (TARIC code 3824 99 92 12), ex 3826 00 10 (TARIC codes 3826 00 10 29, 3826 00 10 59, 3826 00 10 99), ex 3826 00 90 (TARIC code 3826 00 90 19) ('the product concerned').
- (34) Biodiesel is a renewable fuel produced from a wide range of raw materials, i.e. vegetable oils such as rapeseed oil, soybean oil, palm oil, used frying oils (UFO), animal fats or biomass.
- (35) Biodiesel is used in the transport sector, mainly blended with mineral diesel (i.e. petroleum/conventional diesel) and very marginally in its pure form (B100).

3.2. Like product

- (36) As established in the original investigation as well as in the previous expiry review, this expiry review investigation confirmed 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 market of the USA; and
 - the product produced and sold in the Union by the Union industry.
- (37) These products are therefore considered to be like products within the meaning of Article 2(c) of the basic Regulation.

3.3. Claims regarding product scope

- (38) The Swedish company Preem AB and Valero Energy Ltd Ireland, fuel producers and suppliers and as such users of the product concerned, argued that Fatty Acid Methyl Ester (FAME) biodiesel and Hydrotreated Vegetable Oil (HVO) biodiesel are two different types of biodiesel, and that HVO should be excluded from the current product scope. In the 2009 Regulation imposing provisional measures ⁽¹⁾, all types of biodiesel and biodiesel blends were considered to be biodiesel fuels. FAME and HVO can both be blended with diesel and despite some differences in physical characteristics, the product end-use is the same and both products are produced by the Union industry. In addition, the complaint in the original investigation explicitly defined diesel fuel produced from HVOs as part of the product concerned and no party challenged this statement at that time. Therefore, the claim was rejected.

⁽¹⁾ Commission Regulation (EC) No 193/2009 of 11 March 2009 imposing a provisional anti-dumping duty on imports of biodiesel originating in the United States of America (OJ L 67, 12.3.2009, p. 22).

4. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF SUBSIDISATION

4.1. Preliminary remarks

- (39) In accordance with Article 28(1) of the basic Regulation, the Commission examined whether the expiry of the existing measures would likely lead to a continuation or recurrence of subsidisation of the product concerned originating in the USA and a continuation or recurrence of injury to the Union industry. Due to the lack of cooperation from the exporting producers and from the US authorities as described in recitals (22) to (27) above, it was not possible to carry out an analysis based on verified data supplied by the exporting producers and by the US authorities.
- (40) Consequently, in accordance with Article 28 of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of subsidisation were based on facts available. The Commission made use of the following sources of information: the request for an expiry review and subsequent submissions from the applicant, Eurostat, the Global Trade Atlas ('GTA') and the websites of the US Energy Information Administration ('EIA') and the US Department of Agriculture ('USDA').
- (41) In particular, the Commission analysed the following Federal and State subsidy schemes, which were identified in the request for review and which the Commission identified as still active.

Federal Schemes

- (a) The Biodiesel Mixture Credit and the Biodiesel Credit
- (b) The Small Agri-biodiesel Producer Income Tax Credit
- (c) The USDA bioenergy programme for advanced biofuels
- (d) Credit for Production of Cellulosic Biofuel
- (e) USDA Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Programme

State Schemes

- (a) Iowa – The Iowa Biodiesel Producer Tax Refund
 - (b) Kentucky – The Kentucky Biodiesel Production Tax Credit
 - (c) Texas – The Texas Fuel Ethanol and Biodiesel Production Incentive Programme
- (42) On the other hand, due to the lack of cooperation by the US authorities and US exporting producers, and in view of the conclusions as regards continuation of subsidisation on the basis of the schemes mentioned above, the Commission did not further analyse the following Federal and State subsidy schemes.

Federal Schemes

- (a) Second Generation Biofuel Plant Depreciation Special Allowance
- (b) Rural Energy for America Program

State Schemes

- (a) Alabama Biofuel Production Jobs Tax Credit
- (b) Hawaii Renewable Fuels Production Tax Credit
- (c) Kentucky Alternative Fuel Production Tax Incentives
- (d) Louisiana Provision for Green Jobs Tax Credit
- (e) Minnesota Biofuel Production Grant Program
- (f) Montana Alternative Fuel and Vehicle Production Property Tax Incentive
- (g) New York Biofuel Production Tax Credit

- (h) North Dakota Biodiesel Production Equipment Tax Credit
- (i) North Dakota Biofuel Loan Program
- (j) Oregon Alternative Fuel Loans
- (k) South Carolina Biofuels Production Facility Tax Credit
- (l) Virginia Green Jobs Tax Credit

4.2. Subsidisation – Federal Schemes

4.2.1. Biodiesel mixture credit and biodiesel credit

4.2.1.1. Legal basis

- (43) Title 26, Section 40A (b) of the US Code (U.S.C.) is the legal basis for a tax credit scheme for biodiesel blenders, retailers and end-users. They provide for the following biodiesel fuel credits:
- (1) The Biodiesel Mixture Credit;
 - (2) The Biodiesel Credit;
 - (3) The Small Agri-biodiesel Producer Credit.
- (44) The Biodiesel Mixture Credit has been in place in the US Federal legislation since 2005 ⁽¹²⁾. According to Section 202(a) of the US Energy and Improvement and Extension Act 2008, this tax credit was due to expire on 31 December 2009 ⁽¹³⁾. However, this subsidy scheme has never truly expired, but has instead been repeatedly reinstated retroactively until now. Lastly, on 20 December 2019 by the Further Consolidated Appropriations Act the U.S. Congress reinstated the scheme for two years as from 31 December 2017 and prolonged it for 3 years, that is until 31 December 2022 ⁽¹⁴⁾. This 5-year extension is the longest extension made since the introduction of this subsidy scheme.
- (45) Following disclosure, the applicant informed the Commission that a bill has been introduced on 25 May 2021 in both the U.S. Senate and the U.S. House of Representatives with a view to extending the Biodiesel Mixture Credit Scheme further for an additional 3 years, i.e. until 31 December 2025.
- (46) Like the Biodiesel Mixture Credit the Biodiesel Credit has been in place in the US Federal legislation since 2005 ⁽¹⁵⁾. According to Section 202(a) of the US Energy and Improvement and Extension Act 2008, this tax credit was due to expire on 31 December 2009 ⁽¹⁶⁾. However, also this subsidy scheme has never expired and have been repeatedly reinstated retroactively until now. Lastly, on 20 December 2019 by the Further Consolidated Appropriations Act the U.S. Congress scheme reinstated the scheme for two years as from 31 December 2017 and prolonged it for 3 years, that is until 31 December 2022 ⁽¹⁷⁾.
- (47) The Small Agri-biodiesel Producer Income Tax Credit is a tax credit, which applies only to small agri-biodiesel producers. This scheme is examined in recitals (63) to (70) below.

4.2.1.2. Eligibility

- (48) In order to be eligible for the Biodiesel Mixture Credit referred to in recital (43) (1) above, a company must create a mixture of biodiesel and diesel fuel, which is sold as a fuel or for use as a fuel.

⁽¹²⁾ Established in 2005 by the American Jobs Creation Act of 2004, §302 (P.L. 108-357), extended by the Energy Policy Act of 2005, §1344 (P.L. 109-58).

⁽¹³⁾ See Section 202(a) of the Energy Improvement and Extension Act 2008 (P.L. 110-343, Division B).

⁽¹⁴⁾ Public Law 116-94—Dec. 20, 2019 Further Consolidated Appropriations Act, 2020, Section 121.

⁽¹⁵⁾ Established in 2005 by the American Jobs Creation Act of 2004, §302 (P.L. 108-357), extended by the Energy Policy Act of 2005, §1344 (P.L. 109-58).

⁽¹⁶⁾ See Section 202(a) of the Energy Improvement and Extension Act 2008 (P.L. 110-343, Division B).

⁽¹⁷⁾ Public Law 116-94—Dec. 20, 2019 Further Consolidated Appropriations Act, 2020, Section 121.

- (49) The person claiming the incentive must obtain a certification from the producer or importer of biodiesel, which identifies the product and the percentage of biodiesel and agri-biodiesel ⁽¹⁸⁾ in the product. This credit takes the form of an excise tax credit or, if a company's excise tax liability is less than the total excise tax credit, the company may then claim the residual credit as a refundable income tax credit. A refundable income tax credit is a credit against the taxpayer's income taxes or a direct payment. It is refundable because the excess credit can be disbursed to the taxpayer as a direct cash payment if the credit is greater than the individual's tax liability.
- (50) The Biodiesel Credit referred to in recital (43) (2) above is a non-refundable income tax credit for retailers or end-users of unmixed neat (pure) biodiesel. The neat biodiesel credit is available only to the person who places neat biodiesel into the fuel tank of a vehicle or uses it as fuel. It should be noted that also biodiesel producers, producing their own biodiesel, would be able to receive this credit. Thus to claim the credit, the biodiesel producer must be acting as either a retailer (putting the gallon of biodiesel into the end-user's gas tank) or an end-user (e.g. putting the biodiesel into his own vehicles).

4.2.1.3. Practical implementation

- (51) Biodiesel that is mixed with diesel fuel is entitled to an excise tax credit, or an income tax credit. During the review investigation period, the credit prevailing was USD 1 per gallon for all types of biodiesel, i.e. including agri-biodiesel and diesel from biomass.
- (52) The final tax credit for the blended fuel depends on the proportion of biodiesel it contains. The minimum requirement, and what is the most common practice, is to add 0,1 % mineral diesel to 99,9 % biodiesel (this blended product is referred to as B99 in the USA), as this ensures that the maximum tax credit is obtained. The proportion of biodiesel in a blended product qualifies for the tax credit (e.g. 100 gallons of B99 will contain 99,9 gallons of biodiesel and be eligible for a tax credit of USD 99,90). The conversion of biodiesel from a pure product (B100) to a mixed product (B99) is a simple process. It implies the addition of 0,1 % of mineral diesel into pure biodiesel and does not entail a major transformation of the product concerned. It is the activity of blending that triggers the eligibility for the credit.
- (53) The producers of biodiesel can claim the incentive when they are themselves performing a blending activity. The producer must blend the neat biodiesel with diesel fuel. In terms of entitlement to the incentive, there are no differences between blended biodiesel destined for domestic sale and sale for export.
- (54) Companies that do not produce but rather purchase pure biodiesel and blend it into a biodiesel mixture are also entitled to the tax credit. Such companies must obtain a certificate from the producer or the importer (and if applicable any intervening resellers) of the biodiesel in which the producer effectively certifies not to have claimed the tax credit ⁽¹⁹⁾.
- (55) The incentive can be claimed either as a credit against excise or income tax liability or as a direct cash payment. The total amount of the incentive remains the same (USD 1 per gallon) whether the incentive is claimed as an excise tax credit, an income tax credit, a direct payment to the taxpayer, or any combination of the foregoing.
- (56) The U.S.C. provides that the biodiesel mixture credit will not be granted unless the company (blender) that makes the mixture of biodiesel and mineral diesel obtains a certificate ('Certificate for Biodiesel') from the producer of the biodiesel in which the producer certifies, inter alia, the quantity of biodiesel to which the certificate relates and whether the biodiesel is agri-biodiesel or biodiesel other than agri-biodiesel.

⁽¹⁸⁾ According to the US law, the term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, mustard seeds, and camelina, and from animal fats (Title 26, Section 40A (d)(2) of the US Code).

⁽¹⁹⁾ <https://www.law.cornell.edu/uscode/text/26/40A>

- (57) In regard to the Biodiesel Credit, and similar to the previous expiry review, the retailer (or a biodiesel producer acting as a retailer) or end-user of unblended biodiesel can claim USD 1,00 per gallon for all types of unmixed (neat) biodiesel placed into the fuel tank of a vehicle or used as fuel. A non-refundable general business credit is a credit against the business's income tax. It is non-refundable because, if the business's credits are greater than its tax liability, the excess credit cannot be disbursed to the business as a direct cash payment.
- (58) Given that biodiesel producers are eligible for these schemes and on the basis of facts available ⁽²⁰⁾ (since there was no cooperation as – indicated in recital (27) above), the Commission concluded that the US exporting producers benefited from it.

4.2.1.4. Conclusion

- (59) The Biodiesel Mixture Credit as well as the Biodiesel Credit have to be regarded as a fiscal incentive whether or not they are given as a cash payment (only possible for Biodiesel Mixture Credit) or has to be offset against tax liabilities (applicable to both tax credits).
- (60) The Commission found, in line with its findings in the original investigation, the schemes to constitute a subsidy in the sense of Article 3(1)(a)(i) and Article 3(1)(a)(ii) of the basic Regulation as the schemes provides a financial contribution by the Government of the USA in the form of direct grants (cash payments, only possible for the biodiesel mixture credit) and revenue foregone which is otherwise due (tax offset) (applicable to both tax credits). The incentives confer a benefit on the companies receiving them.
- (61) The schemes are limited to companies that are involved in the biodiesel industry and are therefore considered to be specific under Article 4(2)(a) of the basic Regulation and thus countervailable.
- (62) Finally, as the Biodiesel Mixture Credit scheme provides for a subsidy of USD 1 per gallon for all types of biodiesel, the Commission considered that this scheme provided significant amount of subsidies to the US biodiesel exporting producers and remained by far the most important scheme during the review investigation period. Such a subsidy of USD 1 per gallon would amount to about EUR 302 per tonne.

4.2.2. *Small Agri-biodiesel Producer Income Tax Credit*

4.2.2.1. Legal basis

- (63) Title 26, U.S.C., Section 40A also provides for a Small Agri-biodiesel Producer Income Tax Credit, like the Biodiesel Mixture Credit and the Biodiesel Credit.
- (64) Moreover, similar to the Biodiesel Mixture Credit and the Biodiesel Credit, as laid down in the recitals (44) and (46), the Small Agri-biodiesel Producer Income Tax Credit has been in place in the US Federal legislation since 2005 ⁽²¹⁾. According to Section 202(a) of the US Energy and Improvement and Extension Act 2008, this tax credit was due to expire on 31 December 2009 ⁽²²⁾. However, this subsidy scheme has never expired but have been repeatedly reinstated retroactively. Lastly, on 20 December 2019 by the Further Consolidated Appropriations Act the U.S. Congress scheme reinstated the scheme for two years as from 31 December 2017 and prolonged it for 3 years, that is until 31 December 2022.

4.2.2.2. Eligibility

- (65) This scheme is only available to small producers of neat agri-biodiesel. Any mixer, blender, or trader who purchases but does not produce biodiesel is not eligible for the credit. A small producer is any person whose production capacity is not more than 60 million gallons of agri-biodiesel per year.

⁽²⁰⁾ See Sections 3.1.1.1 and 3.1.1.2 of the request for review.

⁽²¹⁾ Energy Policy Act of 2005, §1345 (P.L. 109-58); amended by the Energy Improvement and Extension Act of 2008 (P.L. 110-343, Division B), §202-203; extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312), §701.

⁽²²⁾ See Section 202(a) of the Energy and Improvement and Extension Act 2008 (P.L. 110-343, Division B).

- (66) The small agri-biodiesel producer can claim a USD 0,10 non-refundable general business income tax credit for each gallon of agri-biodiesel produced. The qualified production of a producer may not exceed 15 million gallons in any taxable year. For the producer to claim the credit, the agri-biodiesel must be used as a fuel, sold for use as a fuel, or used to create a mixture of biodiesel and diesel fuel that is used as a fuel or sold for use as a fuel. Thus small agri-biodiesel producers can combine this scheme with the biodiesel mixture credit scheme and thus receive altogether USD 1,10 per gallon. By contrast, big agri-biodiesel producers are eligible only for the biodiesel mixture credit scheme.

4.2.2.3. Practical implementation

- (67) Claims for the non-refundable general business income tax credits are made annually when the claimant is making its income tax return. The credit for each gallon of biodiesel produced by the claimant during the relevant tax year, up to a maximum of 15 million gallons, is offset against the claimant's liability for corporate income tax. If the claimant's tax liability is less than the amount of credit claimed, the excess amount can be carried forward to subsequent tax years.
- (68) Given that biodiesel producers are eligible for this scheme and on the basis of facts available ⁽²³⁾ (since there was no cooperation as indicated in recital (27) above), the Commission concluded that the US exporting producers benefited from it by applying facts available in accordance with Article 28 of the basic Regulation.

4.2.2.4. Conclusion

- (69) The Commission found, in line with its finding in the original investigation, that this scheme is a subsidy in the sense of Article 3(1)(a)(ii) of the basic Regulation as the scheme provides a financial contribution by the Government of the USA in the form of revenue foregone which is otherwise due. The incentive confers a benefit on the companies receiving them.
- (70) The scheme is limited to companies that produce biodiesel and is therefore considered to be specific under Article 4(2)(a) of the basic Regulation and thus countervailable.

4.2.3. The USDA Bioenergy Programme for Advanced Biofuel

4.2.3.1. Legal basis

- (71) The US Department of Agriculture ('USDA') Bioenergy Programme for Advanced Biofuel (BPAB) is governed by Title IX, Section 9005 of the Farm Security and Rural Investment Act of 2002 (the '2002 Farm Bill') and is currently codified under Title 7, Section 8105 of the US Code.
- (72) The programme was scheduled to expire in 2012, but was extended in 2013 ⁽²⁴⁾ and subsequently in 2014 ⁽²⁵⁾. In this respect, the Agriculture Act of 2014 extended the programme for another 5 years, until the end of 2018. More recently, the Agricultural Improvement Act dated 20 December 2018 extended this subsidy programme for another five years, i.e. until the end of 2023 ⁽²⁶⁾.

⁽²³⁾ See Section 3.1.1.3 of the request for review.

⁽²⁴⁾ American Taxpayer Relief Act of 2 January 2013 (Public law 112-240, §701(f)(4)).

⁽²⁵⁾ Agricultural Act of 7 February 2014 (Public law 113-79, §9005(2)).

⁽²⁶⁾ Agriculture Improvement Act of 2018 (Public law 115-334), §9005(2)(B).

4.2.3.2. Eligibility

- (73) This programme provides direct grants to producers of advanced biofuels, which are generally defined as 'fuel derived from biomass other than corn kernel starch'. The definition includes diesel produced from biomass ⁽²⁷⁾. No more than five per cent of the programme's funds may be distributed to eligible producers with a refining capacity exceeding 150 million gallons of advanced biofuel per year. Blenders are not eligible for the programme.

4.2.3.3. Practical implementation ⁽²⁸⁾

- (74) Participants receive direct payments from the government after having applied for the programme. Producers have to register first with the authority and sign a contract. The producers must submit payment applications for each quarter of the fiscal year in order to receive payment for that quarter's production of advanced biofuel. Payments are provided for both actual production and incremental production. Actual production payments are calculated quarterly for the amount of actual advanced biofuel produced each quarter.
- (75) Incremental production payments are made for the quantity of eligible advanced biofuel produced in a fiscal year that exceeded the quantity produced in the prior fiscal years (since 2009).
- (76) The funding is divided among all producers who come forward based on the Btu ⁽²⁹⁾ value of the production. The funding is distributed evenly among all producers depending on Btu value.
- (77) Given that biodiesel producers are eligible for this scheme and on the basis of facts available ⁽³⁰⁾ (since there was no cooperation as in indicated in recital (27) above), the Commission concluded that the US exporting producers benefited from it by applying facts available in accordance with Article 28 of the basic Regulation.

4.2.3.4. Conclusion

- (78) The Commission considered that this scheme is a subsidy in the sense of Article 3(1)(a)(i) of the basic Regulation as the scheme provides a financial contribution by the Government of the USA in the form of a direct grant. The incentive confers a benefit on the companies receiving them.
- (79) The scheme is limited to companies that produce biodiesel and is therefore considered to be specific under Article 4(2)(a) of the basic Regulation and thus countervailable.

4.2.4. *Credit for Production of Cellulosic Biofuel*

4.2.4.1. Legal basis

- (80) The programme exists since 1 January 2009 and was established by the Food, Conservation, and Energy Act of 2008 and is administered by the Internal Revenue Service. It is codified under Title 26, Section 40 (b)(6) of the US Code.
- (81) This subsidy was originally supposed to expire on 31 December 2012. However, it was extended several times and, lastly, by the Further Consolidated Appropriations Act of 20 December 2019 until 1 January 2021.

⁽²⁷⁾ See Code of Federal Regulations (CFR), Title 7 Part 428.102 of the US Code, 'Definitions' of the implementing regulations: 'Diesel-equivalent fuel derived from renewable biomass, including vegetable oil and animal fat'. Potentially 'biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste' could also include production of biodiesel.

⁽²⁸⁾ https://www.rd.usda.gov/sites/default/files/fact-sheet/508_RD_FS_RBS_AdvancedBioFuel.pdf

⁽²⁹⁾ The British thermal unit (BTU or Btu) is a unit of energy equal to about 1055 joules.

⁽³⁰⁾ See Section 3.1.1.4 of the request for review.

4.2.4.2. Eligibility

- (82) This scheme provides for USD 1,01 per gallon non-refundable general business income tax credit to second generation biofuel used as fuel or sold for use as fuel. Producers are eligible, including producers of biofuel derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, as well as algae-based fuels.

4.2.4.3. Practical implementation

- (83) Given that biodiesel producers are eligible for this scheme and on the basis of facts available ⁽³¹⁾ (since there was no cooperation as in indicated in recital (28) above), the Commission concluded that the US exporting producers benefited from it by applying facts available in accordance with Article 28 of the basic Regulation.
- (84) Moreover, it is expected that the cellulosic biofuels will constitute a significant part of US production in the future as demonstrated by the ongoing several projects that aims at developing cellulosic diesel capacities ⁽³²⁾.

4.2.4.4. Conclusion

- (85) The Commission considered that this scheme is a subsidy in the sense of Article 3(1)(a)(i) of the basic Regulation as the scheme provides a financial contribution by the Government of the USA in the form of a direct grant. The incentive confers a benefit on the companies receiving them.
- (86) The scheme is limited to companies that produce biofuel derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, as well as algae-based fuels. It is therefore considered to be specific under Article 4(2)(a) of the basic Regulation and therefore countervailable.

4.2.5. *The USDA Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Programme*

4.2.5.1. Legal basis

- (87) The USDA Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Programme is provided under Title 7, Section 8103 (Biorefinery assistance) of the U.S. Code and is administered by the U.S. Department of Agriculture (USDA).
- (88) The same programme was called 'Advanced biofuels loan guarantees' in the previous expiry review, but was not analysed during the previous expiry review.
- (89) The programme was in force during the review investigation period on the basis of the request for review.

4.2.5.2. Eligibility

- (90) This programme provides loan guarantees up to \$250 million to assist in the development of new and emerging technologies for advanced biofuels (including biodiesel), renewable chemicals, and biobased products. In broad terms, two types of projects are eligible for the programme: biorefineries, and biobased Product Manufacturing facilities. Advanced biofuel is defined as fuel derived from renewable biomass other than corn kernel starch. The project must be located in a US State.
- (91) Eligible applicants include, but are not limited to, individuals, state or local governments, farm cooperatives, national laboratories, institutions of higher education, and rural electric cooperatives.

⁽³¹⁾ See Section 3.2.1 of the request for review.

⁽³²⁾ Request for review, version open for interested parties, lodged on 11 June 2020 by the European Biodiesel Board ('EBB' or 'the applicant'), on behalf of Union producers representing more than 25 % of the total Union production of biodiesel, recital 102, p. 21.

- (92) The total amount of a federal participation (loan guarantee, plus other federal funding) must not exceed 80 per cent of the total eligible project costs. The borrower and other principals involved in the project must make a significant cash equity contribution.

4.2.5.3. Practical implementation

- (93) Given that biodiesel producers are eligible for this scheme and on the basis of facts available ⁽³³⁾ (since there was no cooperation as in indicated in recital (27) above), the Commission concluded that the US exporting producers benefited from it by applying facts available in accordance with Article 28 of the basic Regulation.

4.2.5.4. Conclusion

- (94) The Commission considered that this scheme is a subsidy in the sense of Article 3(1)(a)(i) of the basic Regulation as it provides a financial contribution by the Government of the USA in the form of a fiscal incentive. The incentive confers a benefit on the companies receiving them.
- (95) The scheme is limited to companies that are involved in the advanced biofuel industry and is therefore considered to be specific under Article 4(2)(a) of the basic Regulation and therefore countervailable.

4.3. Subsidisation – State Schemes

4.3.1. *The Iowa Biodiesel Producer Tax Refund*

4.3.1.1. Legal basis

- (96) The legal basis of this scheme operated by the Iowa Department of Revenue is Section 423.4(9) of the Iowa Code.
- (97) The scheme was scheduled to expire on 1 January 2015 but was first extended until 1 January 2018 by the 85th General Assembly of the State of Iowa in 2014. In 2016, the 86th General Assembly of the State of Iowa through an act adopted on 24 May 2016 (Chapter 1106) extended this scheme for another nine-year period, i.e. until 1 January 2025.

4.3.1.2. Eligibility

- (98) The producer must be a manufacturer of biodiesel, registered by the United States Environmental Protection Agency, pursuant to 40 C.F.R. §79.4. The biodiesel must be for use in biodiesel blended fuel in accordance with Iowa Code Section 214A.2. The biodiesel must be produced in Iowa.

4.3.1.3. Practical implementation

- (99) Eligible biodiesel producers need to introduce a refund claim providing data on the number of biodiesel gallons produced during the quarter. The Department of Revenue reviews the refund claim and, if approved, refunds each eligible biodiesel producer.
- (100) The refund claims are filed in April, July, October and January of each year, and the refund checks are issued in May, August, November and February of each year.
- (101) The programme provides a refund of USD 0,02 per gallon of biodiesel produced in Iowa. The refund is limited to the first 25 million gallons produced at each facility.
- (102) Given that biodiesel producers are eligible for this scheme and on the basis of facts available ⁽³⁴⁾ (since there was no cooperation as in indicated in recital (27) above), the Commission concluded that the US exporting producers benefited from it by applying facts available in accordance with Article 28 of the basic Regulation.

⁽³³⁾ See Section 3.2.2 of the request for review.

⁽³⁴⁾ See Section 3.1.2.1 of the request for review.

4.3.1.4. Conclusion

- (103) The Commission considered that this scheme is a subsidy in the sense of Article 3(1)(a)(ii) of the basic Regulation as the scheme provides a financial contribution by the State of Iowa in the form of revenue foregone which is otherwise due. The incentive confers a benefit on the companies receiving them.
- (104) The scheme is limited to companies that produce biodiesel and other types of fuel and is therefore considered to be specific under Article 4(2)(a) of the basic Regulation and therefore countervailable.

4.3.2. *The Kentucky Biodiesel Production Tax Credit*

4.3.2.1. Legal basis

- (105) The legal basis of this scheme operated by the Kentucky Department of Revenue is the Kentucky Revised Statutes (KRS) under Sections 141.422 to 141.425.
- (106) The scheme was created by the 2005 Kentucky Acts, Chapter 168, Sec. 137, and became effective on 18 March 2005. It has been amended in 2006 and 2007. It is currently governed by the 2019 version of the KRS, as mentioned in the previous recital.

4.3.2.2. Eligibility

- (107) Any biodiesel producer, biodiesel blender, or renewable diesel producer physically located in Kentucky is entitled to the production tax credit.

4.3.2.3. Practical implementation

- (108) An eligible applicant must submit to the Department of Revenue a tax credit claim for biodiesel gallons produced or blended (or for the renewable diesel produced) in Kentucky by the 15th day of the first month following the close of the preceding calendar year.
- (109) An applicant claiming the tax credit must attach the credit certificate issued by the department to its tax return on which the tax credit is claimed ⁽³⁵⁾.
- (110) The amount of the tax credit is one dollar (USD 1) per biodiesel gallon produced by a biodiesel producer, or one dollar (USD 1) per gallon of biodiesel used in the blending process by a biodiesel blender, and one dollar (USD 1) per gallon of renewable diesel (that is diesel from biomass) produced by a renewable diesel producer, unless the total amount of approved credit for all biodiesel producers, biodiesel blenders, and renewable diesel producers exceeds the annual cap of USD 10 million.
- (111) Given that biodiesel producers are eligible for this scheme and on the basis of facts available ⁽³⁶⁾ (since there was no cooperation as indicated in recital (27) above), the Commission concluded that the US exporting producers benefited from it by applying facts available in accordance with Article 28 of the basic Regulation.

4.3.2.4. Conclusion

- (112) The Commission found that this scheme is a subsidy in the sense of Article 3(1)(a)(ii) of the basic Regulation as the scheme provides a financial contribution by the State of Kentucky in the form of revenue foregone which is otherwise due. The incentive confers a benefit on the companies receiving them.
- (113) The scheme is limited to companies that produce biodiesel and other types of fuel and is therefore considered to be specific under Article 4(2)(a) of the basic Regulation and therefore countervailable.

⁽³⁵⁾ <https://revenue.ky.gov/Business/Pages/Biodiesel-Tax-Credit.aspx>

⁽³⁶⁾ See Section 3.1.2.2 of the request for review.

4.3.3. *The Texas Fuel Ethanol and Biodiesel Production Incentive Programme*

4.3.3.1. Legal basis

- (114) The legal basis of this scheme operated by the Texas Economic Development and Tourism Office is Chapter 16 of the Texan Agriculture Code entitled 'Fuel Ethanol, Renewable Methane, Biodiesel, And Renewable Diesel Production Incentive Program'.
- (115) Since 2011, there has been no change in Chapter 16 of the Texan Agriculture Code. This scheme is therefore still in force.

4.3.3.2. Eligibility

- (116) Under this scheme, the Texas government distributes grants to eligible companies producing ethanol, renewable methane, biodiesel, or renewable diesel in Texas.
- (117) To be eligible, such companies must be registered before the Texas Economic Development and Tourism Office.

4.3.3.3. Practical implementation

- (118) Registered Producers that paid a fee of 32 cents for each gallon of fuel ethanol or MMBtu of renewable methane and 1,6 cents for each gallon of biodiesel produced are entitled to receive the grant amounting to 20 cents for each gallon of fuel ethanol or MMBtu of renewable methane and 10 cents for each gallon of biodiesel produced in each registered plant (in the limit of 18 million gallons annually per plant) until the 10th anniversary of the date production from the plant begins ⁽³⁷⁾.
- (119) Given that biodiesel producers are eligible for this scheme and on the basis of facts available ⁽³⁸⁾ (since there was no cooperation as in indicated in recital (27) above), the Commission concluded that the US exporting producers benefited from it by applying facts available in accordance with Article 28 of the basic Regulation.

4.3.3.4. Conclusion

- (120) The Commission considered that this scheme is a subsidy in the sense of Article 3(1)(a)(i) of the basic Regulation as the scheme provides a financial contribution by the State of Texas in the form of direct grants. The incentive confers a benefit on the companies receiving them under Article 3(2) of the basic Regulation.
- (121) The scheme is limited to companies that produce biodiesel and other types of fuel and is therefore considered to be specific under Article 4(2)(a) of the basic Regulation and therefore countervailable.

4.4. **Likelihood of continuation or recurrence of subsidisation**

4.4.1. *Likelihood of continuation of subsidisation of the three federal schemes*

- (122) The main scheme, as in the original investigation and in the previous expiry review, continued to be the Biodiesel Mixture Credit scheme. This scheme was reinstated by the Further Consolidated Appropriations Act by the U.S. Congress on 20 December 2019 (see in this respect recital (44) above), and was in force during the review investigation period. It will at the earliest expire on 1 January 2023.
- (123) Like the Biodiesel Mixture Credit, the Biodiesel Credit and the Small Agri-biodiesel Producer Income Tax Credit have been also reinstated by the Further Consolidated Appropriations Act by the U.S. Congress on 20 December 2019 until 31 December 2022 (see in this respect respectively recitals (46) and (64) above).

⁽³⁷⁾ Chapter 16 of the Texan Agriculture Code, Section 16.006 (b).

⁽³⁸⁾ See Section 3.1.2.3 of the request for review.

- (124) Consequently, these three federal schemes (Biodiesel Mixture Credit, Biodiesel Credit and Small Agri-biodiesel Producer Credit) were enacted by the American Jobs Creation Act of 2004 ⁽³⁹⁾ and first entered into force on 1 January 2005. Moreover, they all have been repeatedly reinstated retroactively until now.
- (125) Furthermore, as explained in recital (72), the USDA bioenergy programme for advanced biofuels was scheduled to expire in 2012, but was extended in 2013 and subsequently in 2014. The Agriculture Act of 2014 extended the programme for another 5 years, until the end of 2018. More recently, the Agricultural Improvement Act dated 20 December 2018 extended this subsidy programme for another five years, i.e. until the end of 2023.
- (126) In addition, as described in recital (81), the 'Credit for production of cellulosic biofuel' was scheduled to expire in 2012. It was extended several times, and lastly, has been reinstated by the Further Consolidated Appropriations Act by the U.S. Congress on 20 December 2019 until 1 January 2021 ⁽⁴⁰⁾.
- (127) 'USDA Biorefinery, renewable chemical and biobased product manufacturing assistance programme' was previously called 'Advanced biofuels loan guarantees'. Throughout its existence, it has been constantly available to US biodiesel producers. It was still in force during the review investigation period, and has been characterised by continuous reinstatements since their first entry into force. All subsidy schemes analysed above, on the basis of which subsidies were granted, were in force during the review investigation period. On the basis of facts available ⁽⁴¹⁾, the Biodiesel Mixture Credit subsidy alone amounts to USD 300 for each tonne of biodiesel mixed with diesel fuel. As a result, given the magnitude of the subsidy amount alone provided by this Biodiesel Mixture Credit subsidy scheme, and the multitude of other available subsidy schemes to US biodiesel producers, the Commission concluded that the US biodiesel industry has continued to be subsidised with subsidy amounts above *de minimis*.

4.4.2. Likelihood of continuation of subsidisation of other schemes

- (128) All subsidy schemes analysed above, on the basis of which subsidies were granted, were in force during the review investigation period.
- (129) A number of other small state subsidy schemes are currently still in force, as those listed under recital (41), and there are no indications that these schemes will come to an end in the near future.

4.4.3. Conclusion on the continuation of subsidisation

- (130) In view of the findings above, and given the lack of cooperation from the US authorities and the US exporting producers, the Commission concluded that the US biodiesel producers have continued to benefit from all the federal and state schemes described in the above recitals, and that the subsidy amounts are above *de minimis*.

4.5. Likelihood of subsidised imports in significant quantities

- (131) Further to the finding of the existence of subsidisation during the review investigation period, the Commission investigated the likelihood of continuation of subsidised imports from the country concerned, should the measures be repealed. Following the imposition of measures in 2009, imports of biodiesel from the USA to the Union dropped to almost zero from the year 2013 onwards. For instance, about 156 tonnes were imported from the USA during the RIP (from 1 July 2019 to 30 June 2020). These volumes only represent 0,04 % of total US exports and even less of the Union consumption. The Commission analysed whether it was likely that subsidised imports would resume in significant quantities should the measure lapse. In particular, the following elements were analysed: the production capacity and spare capacity in the USA, the availability of other markets, and the attractiveness of the Union market.

⁽³⁹⁾ As extended by the Energy Policy Act of 2005, §1344 (P.L. 109-58) and amended by the Energy Improvement and Extension Act of 2008 (P.L. 110-343, Division B) §202-203.

⁽⁴⁰⁾ Further Consolidated Appropriations Act of 20 December 2019 (Public law 116-94).

⁽⁴¹⁾ See recital (50) of Section 3.1.1.1 of the request for review.

4.5.1. Existing spare capacities at US exporting producers

- (132) The Commission examined whether the subsidised exports from the USA to the Union would be made in significant volumes should the measures be allowed to lapse. Due to lack of cooperation from the exporting producers and from the Government of USA mentioned in recital (27) above, it was not possible to carry out an analysis based on verified data supplied by US producers and by the US authorities. The Commission therefore made use of the following sources of information: Eurostat, the request for an expiry review, subsequent submissions from the applicant and the websites of the US Energy Information Administration (EIA) and the US Department of Agriculture (USDA).
- (133) On the basis of data collected from the EIA, the US biodiesel producers' capacity during the review investigation period was 8 412 000 tonnes.
- (134) The US actual production of biodiesel during the RIP was 5 718 000 tonnes (EIA's data), which corresponds to a capacity utilisation of 68 % and a spare capacity of 32 %, or around 2 694 000 tonnes. This significant spare capacity of the US producers presents an incentive to increase production and sell biodiesel at subsidised prices to the Union market, and is therefore likely to be used to supply the Union market should measures be allowed to lapse. Indeed, the US producers can easily increase their production and export it to the EU with the economic benefit of the increase in capacity utilisation ratio and reduction of unit cost of production. The release in the Union market of the US spare capacity would have a significant impact as it amounts to nearly 18 % of the Union consumption during the RIP.
- (135) Moreover, during the RIP, the US production of biodiesel (5 718 000 tonnes) was lower than the consumption (5 934 000 tonnes). Consequently, the USA was importing more biodiesel than it was exporting. During the RIP the total imports amounted to 629 000 tonnes, and the total exports to 428 000 tonnes. However, if the available production capacity was not used to satisfy the domestic demand during the period considered it is unlikely that such available production capacity would be used in the future for the same purpose. The US production capacity reported in the RIP (8 412 000 tonnes, see previous recital) was significantly higher than the domestic consumption. This means that if export market opportunities open up, the US producers are likely to use their spare capacity for export sales rather than for domestic consumption.

4.5.2. Availability of other markets

- (136) It is unlikely that the spare capacity would be used to increase exports to third countries other than the EU. The large third country markets (Brazil, Indonesia, Argentina, China, Thailand) are self-sufficient in terms of domestic biodiesel production and the US has thus far not exported much to those countries in spite of their spare capacities. There is no reason to believe that this will change in the future.

4.5.3. Attractiveness of the Union market

- (137) In order to establish the export price to third countries, the Commission based its findings on publicly available information, that is Global Trade Atlas ('GTA'). It extracted the quantities and values of the export of biodiesel under the HS code 3826 00 for the RIP. The export quantities (in tonnes) to all countries (EU included) amount to 389 075 tonnes, of which insignificant volumes were exported to the Union.
- (138) The average ex-works price of biodiesel sold in the Union by Union producers during the RIP, as shown in Table 1 below, was EUR 771 per tonne.
- (139) Table 1 below shows the average sales price in US dollars per tonne duly adjusted to ex-works (by deducting USD 82,52 per tonne for the inland freight as indicated in the request for the expiry review) for the six countries (outside the EU) to which the USA exported more than 0,1 % of their total exports during the RIP.

Table 1

US export volumes and prices during the RIP

Countries of destination	Export quantities (in tonnes)	Percentage of exports to all countries	Average ex-works price (USD) per tonne	Average ex-works price (EUR) per tonne
Canada	354 442	91,1	805,33	728,48
China	12 363	3,2	316,49	286,29
Norway	3 500	0,9	862,48	780,18
Peru	2 144	0,6	591,72	535,26
Mexico	1 204	0,3	661,23	598,13
South-Korea	475	0,1	363,15	328,49

Source: GTA

- (140) Table 1 shows a lot of variation in the export prices among the various countries to which the USA exported the most during the RIP.
- (141) Table 1 also shows that the highest average export prices are those to countries such as Canada and Norway to which the US is selling 92 % of their total exports. The expiry review request provides in this respect that the more expensive ‘... biodiesel exported to Canada shall be made from specific types of raw materials that have a better resistance to cold temperatures, such as canola, or can also be HVO which has excellent cold properties ...’. As a result, the more expensive average export prices to the two countries in question are explained by the higher cost price of the feedstock (such as for canola).
- (142) Based on GTA, the Commission calculated, an average export price to all destinations subsequently during the RIP, taking into consideration the following elements:
- Due to the large variation of US export prices (as also shown in Table 1 in recital (139)), the Commission excluded from this calculation all countries which represent for the USA a share below 0,1 % of their total sales volume they exported during the RIP. There were in total six countries (apart from the EU) which share is above 0,1 % of the total export volumes of the USA as laid down in Table 1 above.
 - As also demonstrated in Table 1, the highest average export prices are those to countries such as Canada and Norway to which the US is selling 92 % of their total exports. These higher export prices are due to the higher cost price of the feedstock (such as for canola).
 - Biodiesel exports to the EU will be mainly a mix of different biodiesel types due to the various climates in the EU, whereby the biodiesel to be used in Northern Europe exports will mainly be those that have a better resistance to cold temperatures.
 - As a consequence, the calculation of a simple average export price for the purposes of the current assessment gives a fair representation of the average price that would be observed on the Union market and avoids giving disproportionate weight to the exports to Canada and Norway, given the mix of biodiesel types that would likely be exported to the Union where climate conditions vary greatly among Member States.
- (143) Taking into account all the above elements, the Commission calculated a simple average export price amounting to USD 682 per tonne (EUR 617). This average export price of EUR 617 is a FOB price to which the ocean freight and insurance costs need to be added to come to a CIF price. These costs amounted to about USD 52 per tonne (EUR 47 per tonne) if the destination would be the Union as per the request for an expiry review.

- (144) The Commission considered that the EUR 47 per tonne is a reasonable indication for the additional ocean freight and insurance costs to other destinations. The average US export price to third countries was thus established at EUR 617 (FOB), which is, even if we were to add ocean freight, insurance costs, the existing customs duty (6,5 %) (in total rounded up to 104 euros per tonne to cover also some additional post-importation expenses) from US to the EU (in total around EUR 721 per tonne) would be far below the Union industry ex-works price of EUR 771 per tonne.
- (145) As a result, this shows that the exporting producers from the USA would be able to sell at a price below EUR 771 per tonne to penetrate the Union market, and that this would be for them an incentive to redirect some of the current exports to third countries towards the Union market, as it is more attractively priced than some other third countries' markets.

4.6. Circumvention and absorption practices

- (146) As mentioned in recital (1), the anti-subsidy measures imposed in 2009 were found to be circumvented by means of transshipments via Canada and by a change in the composition of the blend. The existence of such practices shows the interest of some US producers to enter the Union market, even after the imposition of measures, and is therefore considered as an indication of the attractiveness of the Union market for US biodiesel producers

4.7. Conclusion

- (147) In view of the above considerations, the Commission concluded that there was continuation of subsidisation. In view of the significant spare capacity of the US biodiesel industry and the attractiveness of the Union market in terms of size and sales price, in particular with regard to the price level of US exports to third countries, the Commission found that it is likely that US biodiesel producers will resume exporting biodiesel at subsidised prices to the Union market at large volumes, if measures are allowed to lapse.

5. INJURY

5.1. Definition of the Union industry and Union production

- (148) According to the data provided by the applicant, the like product was manufactured by 49 producers in the Union during the period considered. They constitute the 'Union industry' within the meaning of Article 9(1) of the basic Regulation.
- (149) The total Union production during the review investigation period was established at around 14 million tonnes. The Commission established the figure on the basis of information provided by the Union industry. As indicated in recital (17), three Union producers were selected in the sample representing 17,5 % of the total Union production of the like product.

5.2. Union consumption

- (150) The Commission established the Union consumption on the basis of industry information and Comext for import data.
- (151) Union consumption developed as follows:

Table 2

Union consumption (tonnes) ⁽⁴²⁾

	2017	2018	2019	Review Investigation period
Total Union consumption (tonnes)	13 843 702	15 444 700	15 762 282	16 955 685
Index	100	112	114	122

Source: Union industry data, Comext

⁽⁴²⁾ Consumption is based on EU-27 data, excluding data related to the United Kingdom.

- (152) During the review investigation period, consumption of biodiesel in the Union, calculated as the sum of imports of biodiesel and the total sales of the Union industry on the EU market, increased by 22 %, that is from 13,8 million tonnes in 2017 to 16,9 million tonnes.

5.3. Imports of the product concerned from the USA

5.3.1. Volume and market share of the imports from the country concerned

- (153) The Commission established the volume of imports on the basis of the information provided by Eurostat (Comext database). The market share of the imports was established on the basis of data provided by the applicant for the Union industry domestic sales and Comext for trade data.

- (154) Imports from the country concerned developed as follows:

Table 3

Import volume (tonnes), market share and prices ⁽⁴³⁾

	2017	2018	2019	Review Investigation period
Volume of imports from the country concerned (tonnes)	176	2 339	139	156
<i>Index</i>	100	1 329	79	89
Market share	0 %	0 %	0 %	0 %
Average price EUR/tonne	1 243	972	1 269	1 812
<i>Index</i>	100	78	102	146

Source: Comext, EU industry sales data for the calculation of the market share

- (155) Since the imposition of measures in 2009, imports from the US have virtually ceased and amounted to only 156 tonnes during the RIP (as compared to more than 1 137 000 tonnes during the original investigation period). Given the negligible import quantities, the average prices could not be considered representative.

5.3.2. Prices and price undercutting

- (156) There were virtually no imports of biodiesel from the US to the Union during the review investigation period that could be used as a reliable basis for calculating undercutting.

- (157) As an alternative, the Commission determined the price undercutting during the review investigation period by comparing:

- (1) the weighted average sales prices of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level (771 EUR/tonne); and
- (2) the average export price of US producers to third countries, duly adjusted for transport cost to the Union and EU customs duty (721 EUR/tonne – see recital (144)).

- (158) The result of the comparison was a price undercutting of 6,4 %.

5.3.3. Imports from other third countries

- (159) During the RIP, imports from third countries amounted to 3 750 000 tonnes or approximately 22 % of the overall Union consumption. The main sources of imports of biodiesel other than the US were Argentina (24 % of EU imports), Malaysia (18 %), Singapore (13 %) and Indonesia (5 %).

⁽⁴³⁾ The import volume is based on EU-27 data, excluding data related to the United Kingdom.

- (160) The (aggregated) volume of imports as well as the market share and price trends for imports of biodiesel from other third countries developed as follows:

Table 4

Imports from third countries ⁽⁴⁴⁾

Country		2017	2018	2019	Review Investigation period
Argentina	Volume (tonnes)	355 782	1 467 325	873 325	905 781
	<i>Index</i>	100	412	245	255
	Market share	3 %	10 %	6 %	5 %
	Average price EUR/tonne	635	620	707	728
	<i>Index</i>	100	98	111	115
Malaysia	Volume (tonnes)	335 769	388 615	731 679	679 860
	<i>Index</i>	100	116	218	202
	Market share	2 %	3 %	5 %	4 %
	Average price EUR/tonne	952	813	669	730
	<i>Index</i>	100	85	70	77
Indonesia	Volume (tonnes)	24 984	777 992	743 456	195 858
	<i>Index</i>	100	3 114	2 976	784
	Market share	0 %	5 %	5 %	1 %
	Average price EUR/tonne	803	671	636	665
	<i>Index</i>	100	84	79	83
Other third countries	Volume (tonnes)	822 027	820 093	1 450 938	1 983 471
	<i>Index</i>	100	100	177	241
	Market share	6 %	5 %	9 %	12 %
	Average price EUR/tonne	662	723	829	874
	<i>Index</i>	100	109	125	132
Total of all third countries except the US	Volume (tonnes)	1 538 562	3 454 050	3 799 448	3 765 041
	<i>Index</i>	100	224	247	245
	Market share	11 %	22 %	24 %	22 %
	Average price EUR/tonne	721	678	732	802
	<i>Index</i>	100	94	102	111

Source: Comext, EU industry sales data for the calculation of the market share

- (161) Duties on imports from Argentina and Indonesia – two major biodiesel exporting countries – were removed in 2018. Consequently, imports from third countries increased in 2018 and stayed at a level of around 3,8 million tonnes in 2019 and during the RIP. Overall, imports from third countries except the US increased by 145 % during the period considered. In addition, their market share increased from 11 % to 22 % during the period considered.

⁽⁴⁴⁾ Imports from third countries are based on EU-27 data, excluding data related to the United Kingdom as a Member State but including data related to the United Kingdom as a third country.

- (162) As far as prices are concerned, the situation is different from one country to another.
- (163) Regarding Argentina, the main source of imports, in February 2019, the Commission imposed definitive anti-subsidy measures on imports of biodiesel from this country, and, in parallel, adopted a decision accepting sustainable price commitments (known as 'undertakings') from eight Argentine producers and the Argentinian Chamber of Biofuels (CARBIO). This led to a significant increase in prices for year 2019 (by 14 % in comparison with 2018) and the RIP (by 17 % in comparison with 2018).
- (164) For Indonesia and Malaysia, prices were on a decreasing trend. At the same time, for the other third countries, they were significantly increasing. Overall, the average sales prices of imports from third countries other than the USA increased during the period considered by 11 % during the period considered. This trend is consistent with the trend observed for imports from the countries concerned in Table 3 above. However, the price trend is different in comparison with the sales prices of the Union industry on the Union market in Table 8 below. The prices of the sampled Union producers were on the decrease, in line with the decrease of the production costs. The consequence is that the price gap between third countries exporters and the sampled Union producers reduced, increasing the competitiveness of the Union industry.

5.4. Economic situation of the Union industry

5.4.1. General remarks

- (165) The assessment of the economic situation of the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (166) As mentioned in recital (17), sampling was used for the assessment of the economic situation of the Union industry.
- (167) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. It evaluated the macroeconomic indicators on the basis of data provided by the EU industry and other sector-specific macroeconomic data such as the FAO-OECD. It evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.
- (168) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the subsidy margin, and recovery from past subsidisation.
- (169) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

5.4.2. Macroeconomic indicators ⁽⁴⁵⁾

5.4.2.1. Production, production capacity and capacity utilisation

⁽⁴⁵⁾ The macroeconomic data was based on EU-27 excluding data from the UK.

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

Table 5

Production, production capacity and capacity utilisation

	2017	2018	2019	Review Investigation period
Production volume (tonnes)	12 639 715	13 166 083	13 931 438	13 984 220
<i>Index</i>	100	104	110	111
Production capacity (tonnes)	16 047 231	16 707 893	16 862 595	17 529 047
<i>Index</i>	100	104	105	109
Capacity utilisation	79 %	79 %	83 %	80 %
<i>Index</i>	100	104	105	101

Source: Information provided by the applicant and the sampled Union producers.

- (171) Union production increased from 12,6 million tonnes in 2017 to 14,0 million tonnes during the RIP, that is an increase by 11 % during the period considered. In a situation of consumption increase by 22 % over the period considered, the Union industry responded positively by increasing its production.
- (172) At the same time the production capacity increased by 9 % during the period considered and reached 17,5 million tonnes during the RIP. The Union industry is developing its capacity to respond to an increasing demand. According to a report ⁽⁴⁶⁾, this capacity expansion concerns mainly Hydrotreated Vegetable Oil (HVO) production.
- (173) As a result of the simultaneous increase of the production and the production capacity, the capacity utilisation was stable during the period considered, at around 80 %

5.4.2.2. Sales volume and market share

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

Table 6

Sales volume and market share

	2017	2018	2019	Review Investigation period
Sales volume on the Union market (tonnes)	12 305 049	11 988 560	11 962 754	13 190 560
<i>Index</i>	100	97	97	107
Market share	89 %	78 %	76 %	78 %
<i>Index</i>	100	87	85	88

Source: Information provided by the applicant and the sampled Union producers

- (175) The Union industry increased their sales on the Union market from 12,3 million tonnes in 2017 to 13,2 million tonnes during the RIP (+7 %).
- (176) Since the consumption in the Union increased by 22 %, because of the lower increase in the actual sales volume, the market share of the Union industry decreased, from around 89 % in 2017 to 78 % during the RIP. This decrease of market share is linked to the increase of imports from third countries especially from 2018 onwards (recital (161)).

⁽⁴⁶⁾ USDA, Biofuels Annual report (GAIN report), 29 June 2020.

5.4.2.3. Growth

- (177) A number of indicators (production, production capacity, sales, employment) demonstrate a positive growth of the Union industry during the period. Yet, this growth is moderate as compared to the development of the consumption of biodiesel during the same period. In fact, the market share of the Union industry actually decreased during the reference period.

5.4.2.4. Employment and productivity

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

Table 7

Employment and productivity

	2017	2018	2019	Review Investigation period
Number of employees	2 643	3 126	3 527	3 909
Index	100	118	133	148
Productivity (tonne/employee)	4 782	4 211	3 950	3 577
Index	100	88	83	75

Source: Information provided by the applicant and the sampled Union producers

- (179) During the period considered, employment grew from 2 643 to 3 909, an increase of 48 %.
- (180) As production grew to a lesser extent (+11 %), this materialised in a decrease in productivity (-25 %).

5.4.2.5. Magnitude of the amount of subsidisation and recovery from subsidisation

- (181) As explained in recital (155), imports from biodiesel virtually ceased after the imposition of countervailing measures and there were virtually no subsidised imports from the USA during the review investigation period. Therefore, the magnitude of subsidisation could not be assessed on actual data, so it was estimated as still significant above *de minimis*. The investigation therefore focused on the likelihood of a recurrence of subsidisation should the countervailing measures be repealed.
- (182) In the previous expiry review the Union industry showed signs of recovery from the effects of past subsidisation. During the period considered of the current expiry review investigation, the recovery process continued as demonstrated by a favourable trend for the Union industry of the main injury indicators.

5.4.3. Microeconomic indicators ⁽⁴⁷⁾

5.4.3.1. Prices and factors affecting prices

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

⁽⁴⁷⁾ Microeconomic indicators are based on EU-28 data, including the United Kingdom. Based on the low volume of sales of the sampled Union producers in the United Kingdom (approx. 1,1 % of the average EU sales of those producers in the RIP), the impact of transactions concerning the United Kingdom would appear to be minimal on the injury findings, and the conclusions on material injury would therefore not have been altered when using EU-27 data.

Table 8

Sales prices in the Union

	2017	2018	2019	Review Investigation period
Average unit sales price in the Union on the total market (EUR/tonne)	834	801	771	771
<i>Index</i>	100	96	92	92
Average price of vegetable oils (index)	100	86	81	86
Unit cost of production (EUR/tonne)	828	778	760	755
<i>Index</i>	100	94	92	91

Source: Sampled companies, FAO for the vegetable oil price index

- (184) During the period considered the cost of production decreased by 9 % (from 828 EUR/tonne to 755 EUR/tonne). This is partly due to the decrease in the price of vegetable oils which was on the decrease over the period. While not all biofuel is made of vegetable oils, the price of vegetable oils is a good proxy for the price of the main input for the production of biodiesel.
- (185) The average sales price decreased by 8 %, from 834 EUR/tonne in 2017 to 771 EUR/tonne during the RIP. This can be linked to the decrease observed in the price of production (see recitals (183) and (184)).

5.4.3.2. Labour costs

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

Table 9

Average labour costs per employee

	2017	2018	2019	Review Investigation period
Average labour costs per employee (EUR)	63 785	70 533	72 306	72 533
<i>Index</i>	100	111	113	114

Source: Sampled companies

- (187) The average labour cost in the sampled companies increased by 14 % over the RIP. The impact of this variation is rather small given that labour cost represent only about 3 % of the total cost of manufacturing.

5.4.3.3. Inventories

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

Table 10

Inventories

	2017	2018	2019	Review Investigation period
Closing stocks (tonnes)	99 868	126 345	124 567	114 216
<i>Index</i>	100	127	125	114
Closing stocks as a percentage of production	0,8 %	1,0 %	0,9 %	0,8 %
<i>Index</i>	100	121	113	103

Source: Sampled companies

- (189) The level of inventory was stable around 1 % of the production. This is a very low ratio indicating that the industry is able to work on demand and in just-in-time and limit the inventory. This is also necessary to avoid biodiesel degradation.

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

- (190) Profitability, cash flow, investments and return on investments of the sampled Union producers developed over the period considered as follows:

Table 11

Profitability, cash flow, investments and return on investments

	2017	2018	2019	Review Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	0,96 %	2,13 %	1,78 %	2,84 %
<i>Index</i>	100	223	186	297
Cash flow (EUR)	45 139 254	10 723 312	54 431 877	58 021 678
<i>Index</i>	100	24	121	129
Investments (EUR)	40 430 425	20 634 073	34 169 705	17 028 015
<i>Index</i>	100	51	85	42
Return on investments	22 %	29 %	25 %	44 %
<i>Index</i>	100	128	112	198

Source: Sampled companies

- (191) 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. The profitability remained at a low level. Yet it shows a slightly positive trend over the period considered increasing from 1 % to 3 %. This was linked to the decreasing cost of production for the sampled companies (-9 %). Behind this average, there is however a great disparity among the sampled Union producers with some companies not making any profit at all.

- (192) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow developed positively toward the end of the period considered (in 2019 and first half of 2020), but year 2018 saw a sharp drop in cash flow. The drop in 2018 is impacted mainly by the specific situation of only one of the sampled companies which has a special business model while for the other two sampled companies the trend was rather stable.
- (193) Investments in the sampled companies does not present a clear trend over the period considered. Investment from one or the other sampled company or the absence thereof can bring the level of investments up and down from one year to the other. Investments represented about 1-2 % of turnover during the period considered, which is limited.
- (194) The return on investments (ROI) is the profit in percentage of the net book value of investments. It developed positively over the period considered and remained high in the RIP. This high ROI is however mainly linked to low net book value of investments, rather than high profit.

5.4.4. Conclusion on injury

- (195) During the period considered, in the context of almost non-existent imports from the USA, the volumes of imports from third countries increased significantly (by 145 %), but their price level increased as well (by 11 %). At the same time the prices of the Union industry decreased (by 8 %), in line with a decrease in the production costs (by 9 %). Consequently, the price gap between third countries exporters and the sampled Union producers reduced, thereby increasing the competitiveness of the Union industry.
- (196) Overall, the injury indicators depict a positive trend during the period considered, in particular with regard to production (+11 %), production capacity (+9 %) and sales (+7 %) and show that the Union biodiesel industry is slowly recovering from past injury. The analysis of the injury indicators demonstrates that the Union industry is currently not suffering from material injury. However, some indicators, in particular a low profitability ($\leq 3\%$) indicate that it is nevertheless still in a fragile economic situation.
- (197) On the basis of the above, the Commission concluded that the Union industry did not suffer material injury within the meaning of Article 8(4) of the basic Regulation during the review investigation period.

6. LIKELIHOOD OF RECURRENCE OF INJURY

- (198) The Commission assessed, in accordance with Article 18(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury originally caused by the subsidized imports from the US if the measures were allowed to lapse.
- (199) In this regard, the Commission examined the production capacity and spare capacity in the US, the likely price levels of imports from the US in the absence of countervailing measures, and their impact on the Union industry including undercutting without countervailing measures

6.1. Production capacity and spare capacity in the US

- (200) As described in Section 4.5.1 above, the quantities that could be exported by US biodiesel producers are significant compared to the size of the Union market. Indeed, the spare capacities represent 18 % of the Union consumption during the RIP. Consequently, the Commission concluded that the spare capacities available are significant.

6.2. The likely price levels of imports from the US in the absence of countervailing measures

- (201) As described in Section 4.5.3 above, based on the current pricing behaviour on third countries export markets, the US producers exported to their main third markets at prices lower than the domestic prices in the US. In addition, as indicated in recitals (157)-(158) above, those prices are also on average undercutting the Union industry prices on the Union market by 6,4 %. Therefore, taking into account the price level of exports from the USA to other third markets, exporting to the Union is potentially much more attractive for the US exporters. In addition, as indicated in Section 4.5.3 above the Union market is very attractive as it is the biggest in the world and there are significant Union and national incentives for biodiesel consumption.

6.3. Likely impact on the Union industry

- (202) Therefore, if measures were allowed to lapse, significant volumes of subsidised biodiesel from the USA would exert a very strong downward pressure on Union prices and have a significant impact on the Union industry's economic situation. As a result, it is likely that Union industry production and sales volumes would decrease and the small profits currently achieved by the industry would turn into losses.

- (203) The Commission further assessed the possible impact of the imports by modelling two possible scenarios should the measures be allowed to lapse, namely (1) a surge of imports from the US; and (2) a drop of prices in the EU due to increased competition, all other things being equal.
- (204) In the first scenario, the Commission modelled two possible levels of US imports. The first option entailed that imports from the US would come at their historical volumes (during the initial IP ⁽⁴⁸⁾), that is 1,1 million tonnes. As a result of the increase in imports from the US and the consequent decrease in sales of the EU industry, the profitability of the EU industry would fall by 0,14 % point, that is from +2,84 % to +2,70 %. The second option took into account the very significant increase in the size of the EU market from 6,6 million tonnes during the initial IP to 17 million tonnes during the RIP (+158 %). In that context, the Commission modelled a surge of imports corresponding to the same market share for the US of 17,2 % as during the initial investigation period. The result was that the profitability of the Union industry would fall by 0,41 % point from +2,84 % to +2,43 %. In both cases, the impact of a surge of US imports, at constant prices, can be described as rather moderate. This is linked to the high share of the variable costs in the biodiesel industry.
- (205) In the second scenario, the effect of a price decrease was found to be potentially highly damaging. In case of a decrease of Union prices to the level of US exports prices to third country (721 EUR/tonne), the profit would drop from +2,84 % to -3,88 %. In case of a decrease of Union prices by 10 %, that is from 771 EUR/tonne to 694 EUR/tonne, the profit would be reduced from +2,84 % to -7,94 %. In any case, any price decrease higher than -2,9 % would zero the Union industry profit.
- (206) In reality, if measures were allowed to lapse, it is very likely that a combination of the two scenarios above would occur on the market. In particular, significant volumes of biodiesel originating in the USA could be expected to enter the Union market and at lower prices than the Union industry. As a result, the market share of the Union industry would shrink as well as their prices. This would result in significant losses to the Union industry.

6.4. Conclusion on likelihood of recurrence of injury

- (207) On this basis, and noting the current fragile situation of the Union industry, the Commission concluded that the absence of measures would in all likelihood result in a significant increase of subsidised imports from the USA at injurious prices and material injury would be likely to recur.

7. UNION INTEREST

- (208) In accordance with Article 31 of the basic Regulation, the Commission examined whether maintaining the existing countervailing measures would be against the interest of the Union as whole. 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

- (209) If existing measures were allowed to lapse, the Union industry will most certainly be faced with increased unfair competition from the US biodiesel producers most likely putting an abrupt halt to the on-going recovery of the Union industry.

- (210) The Commission concluded that the continuation of the measures would be in the interest of the Union industry.

⁽⁴⁸⁾ 1 April 2007 to 31 March 2008.

7.2. Interest of unrelated importers

- (211) No importer opposed the prolongation of the measures.
- (212) Shell Trading Rotterdam argued that the measures, by limiting the supply of the Union market, lead to increased prices. It also noted the availability of the biodiesel from other markets.
- (213) The measures do not seem to affect significantly the importers as alternative sources of supplies are available. This is evidenced by the significant market share of imports from third countries.
- (214) The Commission therefore concluded that the continuation of the measures would not be detrimental to the interest of the importers.

7.3. Interest of users

- (215) The participation of users in the investigation was limited.
- (216) Two users, Preem, the largest fuel company in Sweden, and Valero Energy Ltd Ireland claimed that the prolongation of the measures will be a direct hindrance for the green development of the transport sector in Europe. Preem and Valero Energy Ltd Ireland requested specifically that HVO should be excluded from the current product scope as they expect a shortage of HVO in the coming years. Valero Energy Ltd Ireland specifically referred to the EU renewable energy targets for transport for 2030, claiming that those targets would not be met given current EU production.
- (217) The Commission observed that Union producers have enough capacity to satisfy the current demand and even spare capacity to satisfy future increase and exports if need be. Furthermore, it was too early to assess with confidence whether shortages are likely to materialise in 2030, given, in particular, recent expansions in EU capacity. This said, the Commission may be in a better position to assess the situation in case it is asked to conduct an expiry review in five years' time. Consequently, this claim was dismissed.
- (218) There are no indications that the existing measures in force have affected negatively the Union users of biodiesel, and notably there is no evidence that existing measures had an adverse impact on their profitability.
- (219) The Commission therefore concluded that the continuation of the measures would not be detrimental to the interest of the users.

7.4. Conclusion on Union interest

- (220) On the basis of the above, the Commission concluded that there were no compelling reasons of the Union interest against the maintenance of the existing measures on imports of biodiesel originating in the USA.

8. COUNTERVAILING MEASURES

- (221) In view of the conclusions reached with regard to the likelihood of continuation or recurrence of subsidisation and injury, it follows that, in accordance with Article 18(1) of the basic Regulation, the countervailing duties applicable to imports of biodiesel originating in the USA, imposed by Regulation (EU) 2015/1519 as amended by Regulation (EU) 2016/675 ⁽⁴⁹⁾ should be maintained for an additional period of five years.
- (222) As outlined in recital (2) above, the countervailing duties in force on imports of biodiesel from the USA were extended to cover also imports of the same product consigned from Canada, whether declared as originating in Canada or not, and to imports of biodiesel in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA.

⁽⁴⁹⁾ Commission Implementing Regulation (EU) 2016/675 of 29 April 2016 amending Implementing Regulation (EU) 2015/1519 imposing definitive countervailing duties on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 18 of Council Regulation (EC) No 597/2009 (OJ L 116, 30.4.2016, p. 27).

- (223) The countervailing duties to be maintained shall continue to be extended to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not as well as to biodiesel in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA.
- (224) The exporting producers from Canada that were exempted from the measures, as extended by Regulation (EU) 2015/1519 as amended by Regulation (EU) 2016/675, shall also be exempted from the measures imposed by this Regulation.
- (225) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036 ⁽⁵⁰⁾.
- (226) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 ⁽⁵¹⁾, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive countervailing duty is imposed on imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA, currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 29), ex 1518 00 91 (TARIC code 1518 00 91 29), ex 1518 00 99 (TARIC code 1518 00 99 29), ex 2710 19 43 (TARIC code 2710 19 43 29), ex 2710 19 46 (TARIC code 2710 19 46 29), ex 2710 19 47 (TARIC code 2710 19 47 29), ex 2710 20 11 (TARIC code 2710 20 11 29), ex 2710 20 16 (TARIC code 2710 20 16 29), ex 3824 99 92 (TARIC code 3824 99 92 12), ex 3826 00 10 (TARIC codes 3826 00 10 29, 3826 00 10 59, 3826 00 10 99) and ex 3826 00 90 (TARIC code 3826 00 90 19).

2. The rates of the definitive countervailing duty applicable to the, net free-at Union frontier price, before duty, of the product described in paragraph 1, and manufactured by the companies listed below, shall be a fixed amount as follows:

Company	Countervailing duty rate EUR per tonne net	TARIC additional code
Archer Daniels Midland Company, Decatur	237,0	A933
Cargill Inc., Wayzata	213,8	A934
Green Earth Fuels of Houston LLC, Houston	213,4	A935
Imperium Renewables Inc., Seattle	216,8	A936
Peter Cremer North America LP, Cincinnati	211,2	A937
Vinmar Overseas Limited, Houston	211,2	A938
World Energy Alternatives LLC, Boston	211,2	A939
Companies listed in Annex I	219,4	See Annex I
All other companies	237,0	A999

⁽⁵⁰⁾ 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 (OJ L 176, 30.6.2016, p. 21).

⁽⁵¹⁾ 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).

The countervailing duty on blends shall be applicable in proportion in the blend, by weight, of the total content of fatty-acid mono-alkyl esters and of paraffinic gasoils obtained from synthesis and/or hydro-treatment, of non-fossil origin (biodiesel content).

3. The application of the individual duty rate specified for the companies listed in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex II. If no such invoice is presented, the duty rate applicable to 'all other companies' shall apply.

Article 2

1. The definitive countervailing duty applicable to 'all other companies' as set out in Article 1, paragraph 2, is extended to imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, consigned from Canada, whether declared as originating in Canada or not, currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 21), ex 1518 00 91 (TARIC code 1518 00 91 21), ex 1518 00 99 (TARIC code 1518 00 99 21), ex 2710 19 43 (TARIC code 2710 19 43 21), ex 2710 19 46 (TARIC code 2710 19 46 21), ex 2710 19 47 (TARIC code 2710 19 47 21), ex 2710 20 11 (TARIC code 2710 20 11 21), ex 2710 20 16 (TARIC code 2710 20 16 21), ex 3824 99 92 (TARIC code 3824 99 92 10), ex 3826 00 10 (TARIC codes 3826 00 10 20, 3826 00 10 50, 3826 00 10 89) and ex 3826 00 90 (TARIC code 3826 00 90 11), with the exception of those produced by the companies listed below:

Country	Company	TARIC additional code
Canada	BIOX Corporation, Oakville, Ontario, Canada	B107
Canada	DSM Nutritional Products Canada Inc., Dartmouth, Nova Scotia, Canada	C114
Canada	Rothsay Biodiesel, Guelph, Ontario, Canada	B108

The duty to be extended shall be the one established for 'all other companies' in Article 1(2), which is a definitive countervailing duty of EUR 237 per tonne net.

The countervailing duty on blends shall be applicable in proportion, in the blend, by weight, of the total content of fatty-acid mono-alkyl esters and of paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin (biodiesel content).

2. The application of exemptions granted to the companies listed in paragraph 1 or authorised by the Commission in accordance with Article 4(2) shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex II. If no such invoice is presented, the countervailing duty as imposed by paragraph 1 shall apply.

Article 3

1. The definitive countervailing duty as set out in Article 1, paragraph 2, is hereby extended to imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the United States of America, and currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 30), ex 1518 00 91 (TARIC code 1518 00 91 30), ex 1518 00 99 (TARIC code 1518 00 99 30), ex 2710 19 43 (TARIC code 2710 19 43 30), ex 2710 19 46 (TARIC code 2710 19 46 30), ex 2710 19 47 (TARIC code 2710 19 47 30), ex 2710 20 11 (TARIC code 2710 20 11 30), ex 2710 20 16 (TARIC code 2710 20 16 30), ex 3824 99 92 (TARIC code 3824 99 92 20) and ex 3826 00 90 (TARIC code 3826 00 90 30).

The countervailing duty on blends shall be applicable in proportion in the blend, by weight, of the total content of fatty-acid mono-alkyl esters and of paraffinic gasoils obtained from synthesis and/or hydro-treatment, of non-fossil origin (biodiesel content).

2. The application of the individual duty rate specified for the companies listed in Article 1, paragraph 2, shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex III. If no such invoice is presented, the duty rate applicable under Article 1(2) to 'all other companies' shall apply.

Article 4

1. Requests for exemption from the duty extended by Article 2(1) and Article 3(1) shall be made in writing in one of the official languages of the European Union and must be signed by a person authorised to represent the entity requesting the exemption. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate G
Office: Rue de la loi 170, CHAR 04/034
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Email: TRADE-TDI-INFORMATION@ec.europa.eu

2. In accordance with Article 23(6) of Regulation (EU) 2016/1037, the Commission, after consulting the Advisory Committee, may authorise, by decision, the exemption of imports from companies which do not circumvent the countervailing measures imposed by Article 1, from the duty extended by Article 2(1) and Article 3(1).

Article 5

In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 131(2) of Commission Implementing Regulation (EU) 2015/2447 ⁽⁵²⁾, the amount of countervailing duty laid down in Articles 1, 2 and 3 shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

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

Article 6

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, 29 July 2021.

For the Commission
The President
Ursula VON DER LEYEN

⁽⁵²⁾ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

ANNEX I

Company Name	City	TARIC additional code
AC & S Inc.	Nitro	A941
Alabama Clean Fuels Coalition Inc.	Birmingham	A940
American Made Fuels, Inc.	Canton	A940
Arkansas SoyEnergy Group	DeWitt	A940
Arlington Energy, LLC	Mansfield	A940
Athens Biodiesel, LLC	Athens	A940
Beacon Energy	Cleburne	A940
Biodiesel of Texas, Inc.	Denton	A940
BioDiesel One Ltd	Southington	A940
BioPur Inc.	Bethlehem	A941
Buffalo Biodiesel, Inc	Tonawanda	A940
BullDog BioDiesel	Ellenwood	A940
Carbon Neutral Solutions, LLC	Mauldin	A940
Central Iowa Energy LLC	Newton	A940
Chesapeake Custom Chemical Corp.	Ridgeway	A940
Community Fuels	Stockton	A940
Delta BioFuels Inc.	Natchez	A940
Diamond Biofuels	Mazon	A940
Direct Fuels	Euless	A940
Eagle Creek Fuel Services, LLC	Baltimore	A940
Earl Fisher Bio Fuels	Chester	A940
East Fork Biodiesel LLC	Algona	A940
ECO Solutions, LLC	Chatsworth	A940
Ecogy Biofuels LLC	Tulsa	A940
ED&F Man Biofuels Inc.	New Orleans	A940
Freedom Biofuels Inc.	Madison	A940
Freedom Fuels LLC	Mason City	A941
Fuel & Lube, LLC	Richmond	A940
Fuel Bio	Elizabeth	A940
FUMPA Bio Fuels	Redwood Falls	A940
Galveston Bay Biodiesel LP (BioSelect Fuels)	Houston	A940
GeoGreen Fuels LLC	Houston	A940
Georgia Biofuels Corp.	Loganville	A940
Green River Biodiesel, Inc.	Moundville	A940

Griffin Industries Inc.	Cold Spring	A940
High Plains Bioenergy	Guymon	A940
Huish Detergents Inc.	Salt Lake City	A940
Incobrasa Industries Ltd.	Gilman	A940
Independence Renewable Energy Corp.	Perdue Hill	A940
Indiana Flex Fuels	LaPorte	A940
Innovation Fuels Inc.	Newark	A940
Integrity Biofuels	Morristown	A941
Iowa Renewable Energy LLC	Washington	A940
Johann Haltermann Ltd.	Houston	A940
Lake Erie Biofuels LLC	Erie	A940
Leland Organic Corporation	Leland	A940
Louis Dreyfus Agricultural Industries LLC	Claypool	A940
Louis Dreyfus Claypool Holdings LLC	Claypool	A940
Middle Georgia Biofuels	East Dublin	A940
Middletown Biofuels LLC	Blairsville	A940
Musket Corporation	Oklahoma City	A940
Natural Biodiesel Plant LLC	Hayti	A941
New Fuel Company	Dallas	A940
North Mississippi Biodiesel	New Albany	A940
Northern Biodiesel, Inc.	Ontario	A940
Northwest Missouri Biofuels, LLC	St. Joseph	A940
Nova Biofuels Clinton County LLC	Clinton	A940
Nova Biosource	Senaca	A940
Organic Fuels Ltd.	Houston	A940
Owensboro Grain Company LLC	Owensboro	A940
Paseo Cargill Energy, LLC	Kansas City	A940
Peach State Labs Inc.	Rome	A940
Perihelion Global, Inc.	Opp	A940
Philadelphia Fry-O-Diesel Inc.	Philadelphia	A940
Piedmont Biofuels Industrial LLC	Pittsboro	A941
Pinnacle Biofuels, Inc.	Crossett	A940
PK Biodiesel	Woodstock	A940
Pleasant Valley Biofuels, LLC	American Falls	A940
Prairie Pride	Deerfield	A941

RBF Port Neches LLC	Houston	A940
Red Birch Energy, Inc.	Bassett	A940
Red River Biodiesel Ltd.	New Boston	A940
REG Ralston LLC	Ralston	A940
Renewable Energy Products, LLC	Santa Fe Springs	A940
Riksch BioFuels LLC	Crawfordsville	A940
Safe Renewable Corp.	Conroe	A940
Sanimax Energy Inc.	DeForest	A940
Seminole Biodiesel	Bainbridge	A940
Southeast BioDiesel LLC	Charlotte	A941
Soy Solutions	Milford	A940
SoyMor Biodiesel LLC	Albert Lea	A940
Stepan Company	Northfield	A941
Sunshine BioFuels, LLC	Camilla	A940
TPA Inc.	Warren	A940
Trafigura AG	Stamford	A940
U.S. Biofuels Inc.	Rome	A940
United Oil Company	Pittsburgh	A940
Valco Bioenergy	Harlingen	A940
Vanguard Synfuels, LLC	Pollock	A940
Vitol Inc.	Houston	A940
Walsh Bio Diesel, LLC	Mauston	A940
Western Dubque Biodiesel LLC	Farley	A940
Western Iowa Energy LLC	Wall Lake	A940
Western Petroleum Company	Eden Prairie	A940
Yokaya Biofuels Inc.	Ukiah	A941

ANNEX II

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3) or Article 2(2):

- The name and function of the official of the entity issuing the commercial invoice.
- The following declaration: 'I, the undersigned, certify that the (volume) of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as "biodiesel", in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin sold for export to the European Union covered by this invoice was manufactured by [*company name and address (TARIC additional code)*] in [*country/ies concerned*]. I declare that the information provided in this invoice is complete and correct.'

ANNEX III

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 3(2):

- The name and function of the official of the entity issuing the commercial invoice.
- The following declaration: 'I, the undersigned, certify that the (volume) of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as "biodiesel", in pure form or in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin sold for export to the European Union covered by this invoice was manufactured by [company name and address] [TARIC additional code] in the United States of America. I declare that the information provided in this invoice is complete and correct.'

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1268**of 29 July 2021****amending Annex I to Implementing Regulation (EU) 2021/605 laying down special control measures for African swine fever****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') ⁽¹⁾, and in particular Article 71(3) thereof,

Whereas:

- (1) African swine fever is an infectious viral disease affecting kept and wild porcine animals and can have a severe impact on the concerned animal population and the profitability of farming causing disturbance to movements of consignments of those animals and products thereof within the Union and exports to third countries.
- (2) Commission Implementing Regulation (EU) 2021/605 ⁽²⁾ was adopted within the framework of Regulation (EU) 2016/429, and it lays down special disease control measures regarding African swine fever to be applied for a limited period of time by the Member States listed in Annex I thereto (the Member States concerned), in restricted zones I, II and III listed in that Annex.
- (3) The areas listed as restricted zones I, II and III in Annex I to Implementing Regulation (EU) 2021/605 are based on the epidemiological situation of African swine fever in the Union. Annex I to Implementing Regulation (EU) 2021/605 was last amended by Commission Implementing Regulation (EU) 2021/1205 ⁽³⁾ following changes in the epidemiological situation as regards that disease in Poland and Germany.
- (4) Any amendments to restricted zones I, II and III in Annex I to Implementing Regulation (EU) 2021/605 should be based on the epidemiological situation as regards African swine fever in the areas affected by that disease and the overall epidemiological situation of African swine fever in the Member State concerned, the level of risk for the further spread of that disease, as well as scientifically based principles and criteria for geographically defining zoning due to African swine fever and the Union's guidelines agreed with the Member States at the Standing Committee on Plants, Animals, Food and Feed and publicly available on Commission's website ⁽⁴⁾. Such amendments should also take account of international standards, such as the Terrestrial Animal Health Code ⁽⁵⁾ of the World Organisation for Animal Health and justifications for zoning provided by the competent authorities of the Member States concerned.
- (5) Since the date of adoption of Implementing Regulation (EU) 2021/1205, there have been new outbreaks of African swine fever in kept and wild porcine animals in Poland and in wild porcine animals in Slovakia and Germany.

⁽¹⁾ OJ L 84, 31.3.2016, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) 2021/605 of 7 April 2021 laying down special control measures for African swine fever (OJ L 129, 15.4.2021, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) 2021/1205 of 20 July 2021 amending Annex I to Implementing Regulation (EU) 2021/605 laying down special control measures for African swine fever (OJ L 261, 22.7.2021, p. 8).

⁽⁴⁾ Working Document SANTE/7112/2015/Rev. 3 'Principles and criteria for geographically defining ASF regionalisation'. https://ec.europa.eu/food/animals/animal-diseases/control-measures/asf_en

⁽⁵⁾ OIE Terrestrial Animal Health Code, 28th Edition, 2019. ISBN of volume I: 978-92-95108-85-1; ISBN of volume II: 978-92-95108-86-8. <https://www.oie.int/standard-setting/terrestrial-code/access-online/>

- (6) In July 2021, several outbreaks of African swine fever in kept porcine animals were observed in the zuromiński and mławski districts in Poland in areas currently listed as restricted zones I in Annex I to Implementing Regulation (EU) 2021/605. Those outbreaks of African swine fever in kept porcine animals constitute an increased level of risk, which should be reflected in that Annex. Accordingly, those areas of Poland currently listed as restricted zones I in that Annex, affected by those recent outbreaks of African swine fever, should now be listed as restricted zones III in that Annex instead of as restricted zones I thereof and the current boundaries of other restricted zones I also need to be redefined to take account of those recent outbreaks.
- (7) Additionally, in July 2021, one outbreak of African swine fever in kept porcine animals was observed in the nowomiejski district in Poland in an area currently listed as a restricted zone II in Annex I to Implementing Regulation (EU) 2021/605. This outbreak of African swine fever in kept porcine animals constitutes an increased level of risk, which should be reflected in that Annex. Accordingly, this area of Poland currently listed as restricted zone II in that Annex, affected by this recent outbreak of African swine fever, should now be listed as restricted zone III in that Annex instead of as restricted zone II thereof and the current boundaries of restricted zones I also need to be redefined to take account of that recent outbreak.
- (8) Further, in July 2021, several outbreaks of African swine fever in wild porcine animals were observed in the gorzowski and leszczyński districts in Poland in areas currently listed as restricted zones I in Annex I to Implementing Regulation (EU) 2021/605. Those new outbreaks of African swine fever in wild porcine animals constitute an increased level of risk, which should be reflected in that Annex. Accordingly, those areas of Poland currently listed as restricted zones I in that Annex affected by those recent outbreaks of African swine fever, should now be listed as restricted zones II in that Annex instead of as restricted zones I thereof and the current boundaries of other restricted zones I also need to be redefined to take account of those recent outbreaks.
- (9) In addition, in July 2021, several outbreaks of African swine fever in wild porcine animals were observed in the Banskobystrický region in Slovakia in areas currently listed as restricted zones II in Annex I to Implementing Regulation (EU) 2021/605, located in close proximity to areas currently listed as restricted zones I thereof. Those new outbreaks of African swine fever in wild porcine animals constitute an increased level of risk, which should be reflected in that Annex. Accordingly, those areas of Slovakia currently listed as restricted zones I in that Annex, that are in close proximity to areas listed as restricted zones II affected by those recent outbreaks of African swine fever, should now be listed as restricted zones II in that Annex instead of as restricted zones I thereof and the current boundaries of other restricted zones I also need to be redefined to take account of those recent outbreaks.
- (10) Furthermore, in July 2021, several outbreaks of African swine fever in wild porcine animals were observed in the state of Brandenburg of Germany in areas currently listed as restricted zones III in Annex I to Implementing Regulation (EU) 2021/605, located in close proximity to areas currently listed as restricted zones I thereof. Those new outbreaks of African swine fever in wild porcine animals constitute an increased level of risk, which should be reflected in that Annex. Accordingly, those areas of Germany currently listed as restricted zones I in that Annex, that are in close proximity to areas listed as restricted zones III affected by those recent outbreaks of African swine fever, should now be listed as restricted zones II in that Annex instead of as restricted zones I thereof and the current boundaries of other restricted zones I also need to be redefined to take account of those recent outbreaks.
- (11) Following those recent outbreaks of African swine fever in kept and wild porcine animals in Poland and in wild porcine animals in Slovakia and Germany, taking into account the current epidemiological situation as regards African swine fever in the Union, zoning in those three Member States has been reassessed and updated. In addition, the risk management measures in place have also been reassessed and updated. These changes should be reflected in Annex I to Implementing Regulation (EU) 2021/605.
- (12) In order to take account of recent developments in the epidemiological situation of African swine fever in the Union, and in order to combat the risks associated with the spread of that disease in a proactive manner, new restricted zones of a sufficient size should be demarcated for Poland, Slovakia and Germany and duly listed as restricted zones I, II and III in Annex I to Implementing Regulation (EU) 2021/605. As the situation as regards African swine fever is very dynamic in the Union, when demarcating those new restricted zones, account has been taken of the situation in the surrounding areas.

- (13) Given the urgency of the epidemiological situation in the Union as regards the spread of African swine fever, it is important that the amendments to be made to Annex I to Implementing Regulation (EU) 2021/605 by this Implementing Regulation take effect as soon as possible.
- (14) 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

Annex I to Implementing Regulation (EU) 2021/605 is replaced by the text 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, 29 July 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Annex I to Implementing Regulation (EU) 2021/605 is replaced by the following:

'ANNEX I

RESTRICTED ZONES

PART I

1. Germany

The following restricted zones I in Germany:

Bundesland Brandenburg:

— Landkreis Dahme-Spreewald:

- Gemeinde Alt Zauche-Wußwerk,
- Gemeinde Byhleguhre-Byhlen,
- Gemeinde Märkische Heide, mit den Gemarkungen Alt Schadow, Neu Schadow, Pretschen, Plattkow, Wittmannsdorf, Schuhlen-Wiese, Bückchen, Kuschkow, Gröditsch, Groß Leuthen, Leibchel, Glietz, Groß Leine, Dollgen, Krugau, Dürrenhofe, Biebersdorf und Klein Leine,
- Gemeinde Neu Zauche,
- Gemeinde Schwielochsee mit den Gemarkungen Groß Liebitz, Guhlen, Mochow und Siegadel,
- Gemeinde Spreewaldheide,
- Gemeinde Straupitz,

— Landkreis Märkisch-Oderland:

- Gemeinde Lietzen westlich der L 37,
- Gemeinde Falkenhagen (Mark) westlich der L 37,
- Gemeinde Zeschdorf westlich der L 37,
- Gemeinde Lindendorf mit der Gemarkung Dolgeln – westlich der L 37,
- Gemeinde Müncheberg mit den Gemarkungen Müncheberg, Eggersdorf bei Müncheberg und Hoppegarten bei Müncheberg,
- Gemeinde Bliesdorf mit den Gemarkungen Kunersdorf - westlich der B167 und Bliesdorf - westlich der B167,
- Gemeinde Märkische Höhe mit den Gemarkungen Reichenberg und Batzlow,
- Gemeinde Wriezen mit den Gemarkungen Haselberg, Frankenfelde, Schulzendorf, Lüdersdorf, Biesdorf, Rathsdorf - westlich der B 167 und Wriezen - westlich der B167,
- Gemeinde Buckow (Märkische Schweiz),
- Gemeinde Strausberg mit den Gemarkungen Hohenstein und Ruhlsdorf,
- Gemeine Garzau-Garzin,
- Gemeinde Waldsiefersdorf,
- Gemeinde Rehfelde mit der Gemarkung Werder,
- Gemeinde Reichenow-Mögelin,
- Gemeinde Prötzel mit den Gemarkungen Harnekop, Sternebeck und Prötzel östlich der B 168 und der L35,
- Gemeinde Oberbarnim,
- Gemeinde Bad Freienwalde mit den Gemarkungen Altglietzen – westlich des Feldweges zur „Stille Oder“, Altranft – westlich der B 167 und westlich der „Alte Oder“, Bad Freienwalde, Bralitz, Hohensaaten, Schiffmühle – westlich von „Herrenwiese“, Hohenwutzen – nördlich des „Laufgraben“, Neuenhagen und Sonnenburg,

- Landkreis Barnim:
 - Gemeinde Oderberg,
- Landkreis Oder-Spree:
 - Gemeinde Storkow (Mark),
 - Gemeinde Spreenhagen mit den Gemarkungen Braunsdorf, Markgrafpieske, Lebbin und Spreenhagen,
 - Gemarkung Grünheide (Mark) mit den Gemarkungen Kagel, Kienbaum und Hagelsberg,
 - Gemeinde Fürstenwalde,
 - Gemeinde Rauen,
 - Gemeinde Wendisch Rietz bis zur östlichen Uferzone des Scharmützelsees und von der südlichen Spitze des Scharmützelsees südlich der B 246,
 - Gemeinde Reichenwalde,
 - Gemeinde Bad Saarow mit der Gemarkung Petersdorf und der Gemarkung Bad Saarow-Pieskow westlich der östlichen Uferzone des Scharmützelsees und ab nördlicher Spitze westlich der L35,
 - Gemeinde Tauche mit der Gemarkung Werder,
 - Gemeinde Steinhöfel,
 - Gemeinde Langewahl nördlich der A12,
 - Gemeinde Berkenbrück nördlich der A12,
 - Gemeinde Briesen (Mark) mit den Gemarkungen Wilmersdorf, Falkenberg, Madlitz Forst,
- Landkreis Spree-Neiße:
 - Gemeinde Jänschwalde,
 - Gemeinde Peitz,
 - Gemeinde Tauer,
 - Gemeinde Turnow-Preilack,
 - Gemeinde Drachhausen,
 - Gemeinde Schmogrow-Fehrow,
 - Gemeinde Drehnöw,
 - Gemeinde Guben mit der Gemarkung Schlagsdorf,
 - Gemeinde Schenkendöbern mit den Gemarkungen Grabko, Kerkwitz, Groß Gastrose,
 - Gemeinde Teichland,
 - Gemeinde Dissen-Striesow,
 - Gemeinde Heinersbrück,
 - Gemeinde Briesen,
 - Gemeinde Forst mit den Gemarkungen Briesnig, Weißagk, Bohrau, Naundorf, Mulknitz,
 - Gemeinde Spremberg mit den Gemarkungen, Graustein, Sellessen, Spremberg, Bühlöw und die Gemarkungen Groß Buckow, Klein Buckow östlich des Tagebaues Welzow-Süd,
 - Gemeinde Neuhausen/Spree mit den Gemarkungen Kathlöw, Haasow, Roggosen, Koppatz, Neuhausen, Frauendorf, Groß Oßnig, Groß Döbern und Klein Döbern,

Bundesland Sachsen:

— Landkreis Bautzen:

- Gemeinde Burkau östlich des Verlaufes S 94 und B 98,
- Gemeinde Crostwitz,
- Gemeinde Cunewalde,
- Gemeinde Demitz-Thumitz,
- Gemeinde Doberschau-Gaußig,
- Gemeinde Elsterheide,
- Gemeinde Göda,
- Gemeinde Großpostwitz/O.L.,
- Gemeinde Hochkirch, sofern nicht bereits Teil des gefährdeten Gebietes,
- Gemeinde Königswartha, sofern nicht bereits Teil des gefährdeten Gebietes,
- Gemeinde Kubschütz, sofern nicht bereits Teil des gefährdeten Gebietes,
- Gemeinde Lohsa sofern nicht bereits Teil des gefährdeten Gebietes,
- Gemeinde Nebelschütz östlich des Verlaufes der S 94 in südliche Richtung bis Brücke Prietitzer Straße, Prietitzer Straße nordöstlich bis Lindenstraße, östlich der Lindenstraße bis Abzweig Nr. 25, in westliche Richtung zurück bis S 94, von dort östlich des Verlaufs der S 94 bis zur südlichen Gemeindegrenze,
- Gemeinde Neschwitz, sofern nicht bereits Teil des gefährdeten Gebietes,
- Gemeinde Neukirch/Lausitz,
- Gemeinde Obergurig,
- Gemeinde Oßling,
- Gemeinde Panschwitz-Kuckau östlich der S 94,
- Gemeinde Puschwitz,
- Gemeinde Räckelwitz,
- Gemeinde Radibor sofern nicht bereits Teil des gefährdeten Gebietes,
- Gemeinde Ralbitz-Rosenthal,
- Gemeinde Rammenau östlich der B 98,
- Gemeinde Schmölln-Putzkau östlich des Verlaufes der B 98 bis Abzweig S 156, östlich des Verlaufs der S 156 bis Kreisgrenze,
- Gemeinde Sohland a. d. Spree,
- Gemeinde Spreetal, sofern nicht bereits Teil des gefährdeten Gebietes,
- Gemeinde Stadt Bautzen, sofern nicht bereits Teil des gefährdeten Gebietes,
- Gemeinde Stadt Bernsdorf südlich der Landesgrenze Brandenburg-Sachsen und östlich entlang des Verlaufs der Bahnlinie DB6194 "Hosena - Kamenz (Sachs)" bis Bahnabzweig im Süden des Ortsteils Strassgräbchen der Stadt Bernsdorf bis zum Bahnübergang S 94, ab Bahnübergang östlich des Verlaufs der S 94 bis zur südlichen Gemeindegrenze,
- Gemeinde Stadt Bischofswerda östlich der B 98,
- Gemeinde Stadt Elstra östlich der S 94,
- Gemeinde Stadt Hoyerswerda, sofern nicht bereits Teil des gefährdeten Gebietes,
- Gemeinde Stadt Kamenz östlich der S 94,
- Gemeinde Stadt Lauta,
- Gemeinde Stadt Schirgiswalde-Kirschau,

- Gemeinde Stadt Wilthen,
- Gemeinde Stadt Wittichenau, sofern nicht bereits Teil des gefährdeten Gebietes,
- Gemeinde Steinigtwolmsdorf.
- Landkreis Görlitz:
 - Gemeinde Beiersdorf,
 - Gemeinde Bertsdorf-Hörnitz,
 - Gemeinde Dürrehennersdorf,
 - Gemeinde Großschönau,
 - Gemeinde Großschweidnitz,
 - Gemeinde Hainewalde,
 - Gemeinde Kurort Jonsdorf,
 - Gemeinde Kottmar,
 - Gemeinde Lawalde,
 - Gemeinde Leutersdorf,
 - Gemeinde Mittelherwigsdorf,
 - Gemeinde Oderwitz,
 - Gemeinde Olbersdorf,
 - Gemeinde Oppach,
 - Gemeinde Oybin,
 - Gemeinde Rosenbach, sofern nicht Teil des gefährdeten Gebietes,
 - Gemeinde Schönau-Berzdorf a. d. Eigen, sofern nicht Teil des gefährdeten Gebietes,
 - Gemeinde Schönbach,
 - Gemeinde Stadt Bernstadt a. d. Eigen, sofern nicht Teil des gefährdeten Gebietes,
 - Gemeinde Stadt Ebersbach-Neugersdorf,
 - Gemeinde Stadt Herrnhut,
 - Gemeinde Stadt Löbau, sofern nicht Teil des gefährdeten Gebietes,
 - Gemeinde Stadt Neusalza-Spremberg,
 - Gemeinde Stadt Ostritz, sofern nicht Teil des gefährdeten Gebietes,
 - Gemeinde Stadt Seifhennersdorf,
 - Gemeinde Stadt Zittau.

2. Estonia

The following restricted zones I in Estonia:

- Hiiu maakond.

3. Greece

The following restricted zones I in Greece:

- in the regional unit of Drama:
 - the community departments of Sidironero and Skaloti and the municipal departments of Livadero and Ksiropotamo (in Drama municipality),
 - the municipal department of Paranesti (in Paranesti municipality),
 - the municipal departments of Kokkinogeia, Mikropoli, Panorama, Pyrgoi (in Prosotsani municipality),
 - the municipal departments of Kato Nevrokopi, Chrysokefalo, Achladea, Vathytopos, Volakas, Granitis, Dasotos, Eksohi, Katafyto, Lefkogeia, Mikrokleisoura, Mikromilea, Ochyro, Pagoneri, Perithorio, Kato Vrontou and Potamoi (in Kato Nevrokopi municipality),

- in the regional unit of Xanthi:
 - the municipal departments of Kimmerion, Stavroupoli, Gerakas, Dafnonas, Komnina, Kariofyto and Neochori (in Xanthi municipality),
 - the community departments of Satres, Thermes, Kotyli, and the municipal departments of Myki, Echinios and Oraio and (in Myki municipality),
 - the community department of Selero and the municipal department of Sounio (in Avdira municipality),
- in the regional unit of Rodopi:
 - the municipal departments of Komotini, Anthochorio, Gratini, Thrylorio, Kalhas, Karydia, Kikidio, Kosmio, Pandrosos, Aigeiros, Kallisti, Meleti, Neo Sidirochori and Mega Doukato (in Komotini municipality),
 - the municipal departments of Ipio, Arriana, Darmeni, Archontika, Fillyra, Ano Drosini, Aratos and the Community Departments Kehros and Organi (in Arriana municipality),
 - the municipal departments of Iasmos, Sostis, Asomatoi, Polyanthos and Amvrosia and the community department of Amaxades (in Iasmos municipality),
 - the municipal department of Amaranta (in Maroneia Sapon municipality),
- in the regional unit of Evros:
 - the municipal departments of Kyriaki, Mandra, Mavroklisi, Mikro Dereio, Protokklisi, Roussa, Goniko, Geriko, Sidirochori, Megalo Derio, Sidiro, Giannouli, Agriani and Petroloufos (in Soufli municipality),
 - the municipal departments of Dikaia, Arzos, Elaia, Therapio, Komara, Marasia, Ormenio, Pentaloufos, Petrola, Plati, Ptelea, Kyprinos, Zoni, Fulakio, Spilaio, Nea Vyssa, Kavili, Kastanies, Rizia, Sterna, Ampelakia, Valtos, Megali Doxipara, Neochori and Chandras (in Orestiada municipality),
 - the municipal departments of Asvestades, Ellinochori, Karoti, Koufovouno, Kiani, Mani, Sitochori, Alepochori, Asproneri, Metaxades, Vrysika, Doksa, Elafoxori, Ladi, Paliouri and Poimeniko (in Didymoteicho municipality),
- in the regional unit of Serres:
 - the municipal departments of Kerkini, Livadia, Makrynitsa, Neochori, Platanakia, Petritsi, Akritochori, Vyroneia, Gonimo, Mandraki, Megalochori, Rodopoli, Ano Poroia, Katw Poroia, Sidirokastro, Vamvakophyto, Promahonas, Kamaroto, Strymonochori, Charopo, Kastanousi and Chortero and the community departments of Achladochori, Agkistro and Kapnophyto (in Sintiki municipality),
 - the municipal departments of Serres, Elaionas and Oinoussa and the community departments of Orini and Ano Vrontou (in Serres municipality),
 - the municipal departments of Dasochoriou, Irakleia, Valtero, Karperi, Koimisi, Lithotopos, Limnochori, Podismeno and Chrysochorafa (in Irakleia municipality).

4. Latvia

The following restricted zones I in Latvia:

- Pāvilostas novada Vērgales pagasts,
- Stopiņu novada daļa, kas atrodas uz rietumiem no autoceļa V36, P4 un P5, Acones ielas, Dauguļupes ielas un Dauguļupītes,
- Grobiņas novada Medzes, Grobiņas un Gaviezes pagasts. Grobiņas pilsēta,
- Rucavas novada Rucavas pagasts,
- Nīcas novads.

5. Lithuania

The following restricted zones I in Lithuania:

- Klaipėdos rajono savivaldybė: Agluonėnų, Dovilų, Gargždų, Priekulės, Vėžaičių, Kretingalės ir Dauparų-Kvietinių seniūnijos,
- Palangos miesto savivaldybė.

6. Hungary

The following restricted zones I in Hungary:

- Békés megye 950950, 950960, 950970, 951950, 952050, 952750, 952850, 952950, 953050, 953150, 953650, 953660, 953750, 953850, 953960, 954250, 954260, 954350, 954450, 954550, 954650, 954750, 954850, 954860, 954950, 955050, 955150, 955250, 955260, 955270, 955350, 955450, 955510, 955650, 955750, 955760, 955850, 955950, 956050, 956060, 956150 és 956160 kódszámú vadgazdálkodási egységeinek teljes területe,
- Bács-Kiskun megye 600150, 600850, 601550, 601650, 601660, 601750, 601850, 601950, 602050, 603250, 603750 és 603850 kódszámú vadgazdálkodási egységeinek teljes területe,
- Budapest 1 kódszámú, vadgazdálkodási tevékenységre nem alkalmas területe,
- Csongrád-Csanád megye 800150, 800160, 800250, 802220, 802260, 802310 és 802450 kódszámú vadgazdálkodási egységeinek teljes területe,
- Fejér megye 400150, 400250, 400351, 400352, 400450, 400550, 401150, 401250, 401350, 402050, 402350, 402360, 402850, 402950, 403050, 403250, 403350, 403450, 403550, 403650, 403750, 403950, 403960, 403970, 404570, 404650, 404750, 404850, 404950, 404960, 405050, 405750, 405850, 405950,
- 406050, 406150, 406550, 406650 és 406750 kódszámú vadgazdálkodási egységeinek teljes területe,
- Győr-Moson-Sopron megye 100550, 100650, 100950, 101050, 101350, 101450, 101550, 101560 és 102150 kódszámú vadgazdálkodási egységeinek teljes területe,
- Jász-Nagykun-Szolnok megye 750150, 750160, 750260, 750350, 750450, 750460, 754450, 754550, 754560, 754570, 754650, 754750, 754950, 755050, 755150, 755250, 755350 és 755450 kódszámú vadgazdálkodási egységeinek teljes területe,
- Komárom-Esztergom megye 250150, 250250, 250450, 250460, 250550, 250650, 250750, 251050, 251150, 251250, 251350, 251360, 251650, 251750, 251850, 252250, kódszámú vadgazdálkodási egységeinek teljes területe,
- Pest megye 571550, 572150, 572250, 572350, 572550, 572650, 572750, 572850, 572950, 573150, 573250, 573260, 573350, 573360, 573450, 573850, 573950, 573960, 574050, 574150, 574350, 574360, 574550, 574650, 574750, 574850, 574860, 574950, 575050, 575150, 575250, 575350, 575550, 575650, 575750, 575850, 575950, 576050, 576150, 576250, 576350, 576450, 576650, 576750, 576850, 576950, 577050, 577150, 577350, 577450, 577650, 577850, 577950, 578050, 578150, 578250, 578350, 578360, 578450, 578550, 578560, 578650, 578850, 578950, 579050, 579150, 579250, 579350, 579450, 579460, 579550, 579650, 579750, 580250 és 580450 kódszámú vadgazdálkodási egységeinek teljes területe.

7. Poland

The following restricted zones I in Poland:

- w województwie kujawsko - pomorskim:
- powiat rypiński,
- powiat brodnicki,
- powiat grudziądzki,
- powiat miejski Grudziądz,
- powiat wąbrzeski,

w województwie warmińsko-mazurskim:

- gminy Wielbark i Rozogi w powiecie szczycieńskim,

w województwie podlaskim:

- gminy Wysokie Mazowieckie z miastem Wysokie Mazowieckie, Czyżew i część gminy Kulesze Kościelne położona na południe od linii wyznaczonej przez linię kolejową w powiecie wysokomazowieckim,
- gminy Miastkowo, Nowogród, Śniadowo i Zbójna w powiecie łomżyńskim,
- gminy Szumowo, Zambrów z miastem Zambrów i część gminy Kołaki Kościelne położona na południe od linii wyznaczonej przez linię kolejową w powiecie zambrowskim,
- gminy Grabowo, Kolno i miasto Kolno, Turośl w powiecie kolneńskim,

w województwie mazowieckim:

- powiat ostrołęcki,
- powiat miejski Ostrołęka,
- gminy Bielsk, Brudzeń Duży, Bulkowo, Drobin, Gąbin, Łąck, Nowy Duninów, Radzanowo, Słupno, Staroźreby i Stara Biała w powiecie płońskim,
- powiat miejski Płock,
- powiat ciechanowski,
- gminy Baboszewo, Dzierżążnia, Joniec, Nowe Miasto, Płońsk i miasto Płońsk, Raciąż i miasto Raciąż, Sochocin w powiecie płońskim,
- powiat sierpecki,
- gmina Siemiatkowo w powiecie żuromińskim,
- gminy Andrzejewo, Brok, Stary Lubotyń, Szulborze Wielkie, Wąsewo, Ostrów Mazowiecka z miastem Ostrów Mazowiecka, część gminy Małkinia Górna położona na północ od rzeki Brok w powiecie ostrowskim,
- gminy Radzanów, Strzegowo, Stupsk w powiecie mławskim,
- powiat przasnyski,
- powiat makowski,
- powiat pułtuski,
- powiat wyszkowski,
- powiat węgrowski,
- gminy Dąbrówka, Jadów, Klembów, Poświętne, Radzymin, Strachówka Wołomin i Tłuszcz w powiecie wołomińskim,
- gminy Mokobody i Suchożebry w powiecie siedleckim,
- gminy Dobrze, Jakubów, Kałuszyn, Stanisławów w powiecie mińskim,
- gminy Bielany i gmina wiejska Sokołów Podlaski w powiecie sokołowskim,
- gminy Kowala, Wierzbica, część gminy Wołanów położona na południe od linii wyznaczonej przez drogę nr 12 w powiecie radomskim,
- powiat miejski Radom,
- gminy Jastrząb, Mirów, Orońsko w powiecie szydłowieckim,
- powiat gostyniński,

w województwie podkarpackim:

- powiat jasielski,
- powiat strzyżowski,
- część powiatu ropczycko – sędziszowskiego niewymieniona w części II załącznika I,
- gminy Pruchnik, Rokietnica, Rożwienica, w powiecie jarosławskim,
- gminy Fredropol, Krasiczyn, Krzywczka, Medyka, Orły, Żurawica, Przemyśl w powiecie przemyskim,
- powiat miejski Przemyśl,
- gminy Gać, Jawornik Polski, Kańczuga, część gminy Zarzecze położona na południe od linii wyznaczonej przez rzekę Mlecza w powiecie przeworskim,
- powiat łańcucki,
- gminy Trzebownisko, Głogów Małopolski, część gminy Świlcza położona na północ od linii wyznaczonej przez drogę nr 94 i część gminy Sokołów Małopolski położona na południe od linii wyznaczonej przez drogę nr 875 w powiecie rzeszowskim,
- gminy Dzikowiec, Kolbuszowa i Raniżów w powiecie kolbuszowskim,
- gminy Brzostek, Jodłowa, miasto Dębica, część gminy wiejskiej Dębica położona na południe od linii wyznaczonej przez drogę nr A4 w powiecie dębickim,

w województwie świętokrzyskim:

- powiat buski,
- powiat kazimierski,
- część powiatu opatowskiego nie wymieniona w części II załącznika I,
- powiat sandomierski,
- gminy Bogoria, Łubnice, Oleśnica, Osiek, Połaniec, Rytwiany i Staszów w powiecie staszowskim,
- gminy Bliżyn, Skarżysko – Kamienna, Suchedniów i Skarżysko Kościelne w powiecie skarżyskim,
- gmina Wąchock, część gminy Brody położona na zachód od linii wyznaczonej przez drogę nr 9 oraz na południowy - zachód od linii wyznaczonej przez drogi: nr 0618T biegnącą od północnej granicy gminy do skrzyżowania w miejscowości Lipie, drogę biegnącą od miejscowości Lipie do wschodniej granicy gminy oraz na północ od drogi nr 42 i część gminy Mirzec położona na zachód od linii wyznaczonej przez drogę nr 744 biegnącą od południowej granicy gminy do miejscowości Tychów Stary a następnie przez drogę nr 0566T biegnącą od miejscowości Tychów Stary w kierunku północno - wschodnim do granicy gminy w powiecie starachowickim,
- powiat ostrowiecki,
- gminy Fałków, Ruda Maleniecka, Radoszyce, Smyków, część gminy Końskie położona na zachód od linii kolejowej, część gminy Stąporków położona na południe od linii kolejowej w powiecie koneckim,
- gminy Mniów i Zagnańsk w powiecie kieleckim,

w województwie łódzkim:

- gminy Łyszkowice, Kocierzew Południowy, Kiernoza, Chąsno, Nieborów, część gminy wiejskiej Łowicz położona na północ od linii wyznaczonej przez drogę nr 92 biegnącej od granicy miasta Łowicz do zachodniej granicy gminy oraz część gminy wiejskiej Łowicz położona na wschód od granicy miasta Łowicz i na północ od granicy gminy Nieborów w powiecie łowickim,
- gminy Cielądz, Rawa Mazowiecka z miastem Rawa Mazowiecka w powiecie rawskim,
- gminy Bolimów, Głuchów, Godzianów, Lipce Reymontowskie, Maków, Nowy Kawęczyn, Skierniewice, Słupia w powiecie skierniewickim,
- powiat miejski Skierniewice,
- gminy Mniszków, Paradyż, Sławno i Żarnów w powiecie opoczyńskim,
- powiat tomaszowski,
- powiat brzeziński,
- powiat łaski,
- powiat miejski Łódź,
- gminy Andrespol, Koluszki, Nowosolna w powiecie łódzkim wschodnim,
- gminy Dobroń, Ksawerów, Lutomiersk, miasto Konstantynów Łódzki, miasto Pabianice, część gminy wiejskiej Pabianice położona na zachód od linii wyznaczonej przez drogę nr S8, część gminy Dłutów położona na zachód od linii wyznaczonej przez drogę nr 485 w powiecie pabianickim,
- gmina Wieruszów, część gminy Sokolniki położona na zachód od linii wyznaczonej przez drogę nr 4715E, część gminy Galewice położona na zachód od linii wyznaczonej przez drogę łączącą miejscowości Przybyłów – Ostrówek – Dąbrówka – Zmyślona w powiecie wieruszowskim, gminy Aleksandrów Łódzki, Stryków, miasto Zgierz w powiecie zgierskim,
- gminy Bełchatów z miastem Bełchatów, Drużbice, Kluki, Rusiec, Szczerców, Zelów w powiecie bełchatowskim,

- gminy Osjaków, Konopnica, Pątnów, Wierzchlas, część gminy Mokrsko położona na wschód od linii wyznaczonej przez drogę łączącą miejscowości Krzyworzeka – Mokrsko - Zmysłona – Komorniki – Orzechowiec – Poręby, część gminy Wieluń położona na wschód od zachodniej granicy miejscowości Wieluń oraz na południe od linii wyznaczonej przez drogę łączącą miejscowości Wieluń – Turów – Chotów biegnącą do zachodniej granicy gminy, część gminy Ostrówek położona na wschód od linii wyznaczonej przez rzekę Pyszną w powiecie wieluńskim,
- część powiatu sieradzkiego nie wymieniona w części III załącznika I,
- powiat zduńskowski,
- gminy Aleksandrów, Sulejów, Wola Krzysztoporska, Wolbórz, część gminy Moszczenica położona na wschód od linii wyznaczonej przez linię kolejową biegnącą od północnej granicy gminy do miejscowości Moszczenica – Osiedle, a następnie na południe od linii wyznaczonej przez drogę łączącą miejscowości Moszczenica – Osiedle – Kosów do skrzyżowania z drogą nr 12 i dalej na wschód od drogi nr 12 biegnącej od tego skrzyżowania do południowej granicy gminy, część gminy Grabica położona na południe od linii wyznaczonej przez drogę nr 473 biegnącej od zachodniej granicy gminy do miejscowości Wola Kamocka, a następnie na południe od linii wyznaczonej przez drogę biegnącą od skrzyżowania z drogą nr 473 i łączącą miejscowości Wola Kamocka – Papieże Kolonia – Papieże do wschodniej granicy gminy w powiecie piotrkowskim,
- powiat miejski Piotrków Trybunalski,

w województwie pomorskim:

- gminy Ostaszewo, miasto Krynica Morska oraz część gminy Nowy Dwór Gdański położona na południowy - zachód od linii wyznaczonej przez drogę nr 55 biegnącą od południowej granicy gminy do skrzyżowania z drogą nr 7, następnie przez drogę nr 7 i S7 biegnącą do zachodniej granicy gminy w powiecie nowodworskim,
- gminy Lichnowy, Miłoradz, Nowy Staw, Malbork z miastem Malbork w powiecie malborskim,
- gminy Mikołajki Pomorskie, Stary Targ i Sztum w powiecie sztumskim,
- powiat gdański,
- Miasto Gdańsk,
- powiat tczewski,
- powiat kwidzyński,

w województwie lubuskim:

- część powiatu gorzowskiego nie wymieniona w części II załącznika I,
- gmina Dobiegniew w powiecie strzelecko – drezdeneckim,

w województwie dolnośląskim:

- powiat oleśnicki,
- powiat wrocławski,
- powiat średzki,
- powiat legnicki,
- powiat lubański,
- powiat wołowski,
- powiat milicki,
- powiat miejski Wrocław,
- powiat miejski Legnica,
- powiat lubański,
- powiat złotoryjski,
- powiat lwówecki,

- gmina Chocianów w powiecie polkowickim,
 - gminy Ścinawa i Lubin z miastem Lubin w powiecie lubińskim,
 - część powiatu trzebnickiego niewymieniona w części III załącznika I,
- w województwie wielkopolskim:
- powiat krotoszyński,
 - gminy Borek Wielkopolski, Gostyń, Pępowo, Piaski, Pogorzela, w powiecie gostyńskim,
 - gmina Osieczna, część gminy Lipno położona na wschód od linii wyznaczonej przez drogę nr S5, część gminy Święciechowa położona na południe od linii wyznaczonej przez drogę nr 12 oraz na wschód od linii wyznaczonej przez drogę nr S5 w powiecie leszczyńskim,
 - powiat miejski Leszno,
 - gminy Granowo, Grodzisk Wielkopolski i część gminy Kamieniec położona na wschód od linii wyznaczonej przez drogę nr 308 w powiecie grodziskim,
 - gminy Czempin, Kościan i miasto Kościan, Krzywiń, część gminy Śmigiel położona na wschód od linii wyznaczonej przez drogę nr S5 w powiecie kościańskim,
 - powiat miejski Poznań,
 - gminy Buk, Dopiewo, Komorniki, Tarnowo Podgórne, Stęszew, Swarzędz, Pobiedziska, Czerwonak, Mosina, miasto Luboń, miasto Puszczykowo i część gminy Kórnik położona na zachód od linii wyznaczonych przez drogi: nr S11 biegnącą od północnej granicy gminy do skrzyżowania z drogą nr 434 i drogę nr 434 biegnącą od tego skrzyżowania do południowej granicy gminy, część gminy Rokietnica położona na południowy zachód od linii kolejowej biegnącej od północnej granicy gminy w miejscowości Krzyszkowo do południowej granicy gminy w miejscowości Kiekrz oraz część gminy wiejskiej Murowana Goślina położona na południe od linii kolejowej biegnącej od północnej granicy miasta Murowana Goślina do północno-wschodniej granicy gminy w powiecie poznańskim,
 - gmina Kiskowo i część gminy Klecko położona na zachód od rzeki Mała Węlna w powiecie gnieźnieńskim,
 - powiat czarnkowsko-trzcianecki,
 - gmina Kaźmierz część gminy Duszniki położona na południowy – wschód od linii wyznaczonej przez drogę nr 306 biegnącą od północnej granicy gminy do miejscowości Duszniki, a następnie na południe od linii wyznaczonej przez ul. Niewierską oraz drogę biegnącą przez miejscowość Niewierz do zachodniej granicy gminy, część gminy Ostroróg położona na wschód od linii wyznaczonej przez drogę nr 186 i 184 biegnące od granicy gminy do miejscowości Ostroróg, a następnie od miejscowości Ostroróg przez miejscowości Piaskowo – Rudki do południowej granicy gminy, część gminy Wronki położona na północ od linii wyznaczonej przez rzekę Wartę biegnącą od zachodniej granicy gminy do przecięcia z drogą nr 182, a następnie na wschód od linii wyznaczonej przez drogi nr 182 oraz 184 biegnącą od skrzyżowania z drogą nr 182 do południowej granicy gminy, miasto Szamotuły i część gminy Szamotuły położona na wschód od linii wyznaczonej przez drogę nr 306 i drogę łączącą miejscowości Lipnica - Ostroróg do linii wyznaczonej przez wschodnią granicę miasta Szamotuły i na południe od linii kolejowej biegnącej od południowej granicy miasta Szamotuły, do południowo-wschodniej granicy gminy oraz część gminy Obrzycko położona na zachód od drogi nr 185 łączącej miejscowości Gaj Mały, Słapanowo i Obrzycko do północnej granicy miasta Obrzycko, a następnie na zachód od drogi przebiegającej przez miejscowość Chraplewo w powiecie szamotulskim,
 - gminy Jutrosin, Pakosław w powiecie rawickim,
 - gmina Budzyń w powiecie chodzieskim,
 - gminy Mieścisko, Skoki i Wągrowiec z miastem Wągrowiec w powiecie wągrowieckim,
 - powiat pleszewski,
 - gmina Zagórów w powiecie śłupeckim,
 - gmina Pyzdry w powiecie wrzesińskim,
 - gminy Kotlin, Żerków i część gminy Jarocin położona na wschód od linii wyznaczonej przez drogi nr S11 i 15 w powiecie jarocińskim,

- powiat ostrowski,
- powiat miejski Kalisz,
- gminy Blizanów, Brzeziny, Żelazków, Godziesze Wielkie, Koźminek, Lisków, Opatówek, Szczytniki, część gminy Stawiszyn położona na zachód od linii wyznaczonej przez drogę nr 25 biegnącą od północnej granicy gminy do miejscowości Zbiersk, a następnie na zachód od linii wyznaczonej przez drogę łączącą miejscowości Zbiersk – Łyczyn – Petryki biegnącą od skrzyżowania z drogą nr 25 do południowej granicy gminy, część gminy Ceków-Kolonia położona na południe od linii wyznaczonej przez drogę łączącą miejscowości Młynisko – Morawin – Janków w powiecie kaliskim,
- gminy Brudzew, Dobra, Kawęczyn, Przykona, Władysławów, Turek z miastem Turek część gminy Tuliszków położona na północ od linii wyznaczonej przez drogę nr 72 biegnącej od wschodniej granicy gminy do miasta Turek a następnie na północ od linii wyznaczonej przez drogę nr 443 biegnącej od skrzyżowania z drogą nr 72 w mieście Turek do zachodniej granicy gminy w powiecie tureckim,
- gminy Rzgów, Grodziec, Krzymów, Stare Miasto, część gminy Rychwał położona na zachód od linii wyznaczonej przez drogę nr 25 biegnącą od południowej granicy gminy do miejscowości Rychwał, a następnie na północ od linii wyznaczonej przez drogę nr 443 biegnącą od skrzyżowania z drogą nr 25 w miejscowości Rychwał do wschodniej granicy gminy w powiecie konińskim,
- część gminy Kępno położona na północ od linii wyznaczonej przez drogę nr S8 w powiecie kępińskim,

— powiat ostrzeszowski,

w województwie opolskim:

- gminy Domaszowice, Wilków i część gminy Namysłów położona na zachód od linii wyznaczonej przez rzekę Głucha w powiecie namysłowskim,
- gminy Wołczyn, Kluczbork, część gminy Byczyna położona na zachód od linii wyznaczonej przez drogę nr 11 w powiecie kluczborskim,
- część gminy Gorzów Śląski położona na południe od północnej granicy miasta Gorzów Śląski oraz na południe od linii wyznaczonej przez drogę nr 45, część gminy Praszka położona na południe od linii wyznaczonej przez drogę nr 45 w miejscowości Praszka oraz na południe od drogi łączącej miejscowości Praszka – Kowale Kolonia – Kiczmachów, część gminy Rudniki położona na północ od linii wyznaczonej przez drogę nr 42 biegnącą od zachodniej granicy gminy do skrzyżowania z drogą nr 43 i na zachód od linii wyznaczonej przez drogę nr 43 biegnącą od północnej granicy gminy do skrzyżowania z drogą nr 42 w powiecie oleskim,

w województwie zachodniopomorskim:

- gminy Nowogródek Pomorski, Barlinek, część gminy Dębno położona na wschód od linii wyznaczonej przez drogę nr 126 biegnącą od zachodniej granicy gminy do skrzyżowania z drogą nr 23 w miejscowości Dębno, następnie na wschód od linii wyznaczonej przez drogę nr 23 do skrzyżowania z ul. Jana Pawła II w miejscowości Cychry, następnie na północ od ul. Jana Pawła II do skrzyżowania z ul. Ogrodową i dalej na północ od linii wyznaczonej przez ul. Ogrodową, której przedłużenie biegnie do wschodniej granicy gminy w powiecie myśliborskim,
- gminy Trzcińsko – Zdrój, Widuchowa, część gminy Chojna położona na wschód od linii wyznaczonej przez drogę nr 26 biegnącą od zachodniej granicy gminy do miejscowości Chojna, a następnie na wschód od linii wyznaczonej przez drogę nr 31 biegnącą od skrzyżowania z drogą nr 26 do południowej granicy gminy, w powiecie gryfińskim,
- gminy Bierzwnik, Krzęcin, Pełczyce w powiecie choszczeńskim,

w województwie małopolskim:

- powiat brzeski,
- powiat gorlicki,
- powiat proszowicki,
- powiat nowosądecki,
- powiat miejski Nowy Sącz,
- część powiatu dąbrowskiego niewymieniona w części III załącznika I,
- część powiatu tarnowskiego niewymieniona w części III załącznika I.

8. Slovakia

The following restricted zones I in Slovakia:

- the whole district of Snina,
- the whole district of Medzilaborce,
- the whole district of Stropkov,
- the whole district of Svidník, except municipalities included in part II,
- in the district of Veľký Krtíš, the municipalities of Ipeľské Predmostie, Veľká nad Ipľom, Hrušov, Kleňany, Sečianky,
- in the district of Levice, the municipalities of Ipeľské Úľany, Plášťovce, Dolné Túrovce, Stredné Túrovce, Šahy, Tešmak,
- the whole district of Krupina, except municipalities included in part II,
- the whole district of Banská Bystrica, except municipalities included in part II,
- in the district of Liptovský Mikuláš – municipalities of Pribylina, Jamník, Svätý Štefan, Kanská, Jakubovany, Liptovský Ondrej, Beňadiková, Vavrišovo, Liptovská Kokava, Liptovský Peter, Dovalovo, Hybe, Liptovský Hrádok, Liptovský Ján, Uhorská Ves, Podtureň, Závažná Poruba, Liptovský Mikuláš, Pavčina Lehota, Demänovská Dolina, Gôtovany, Galovany, Svätý Kríž, Lazisko, Dúbrava, Malatíny, Liptovské Vlchy, Liptovské Kľačany, Partizánska Ľupča, Kráľovská Ľubňa, Zemianska Ľubňa, Východná – a part of municipality north from the highway D1,
- in the district of Ružomberok, the municipalities of Liptovská Lužná, Liptovská Osada, Podsúchá, Ludrová, Štiavnička, Liptovská Štiavnica, Nižný Sliač, Liptovské Sliače,
- the whole district of Banská Štiavnica,
- the whole district of Žiar nad Hronom.

PART II

1. Bulgaria

The following restricted zones II in Bulgaria:

- the whole region of Haskovo,
- the whole region of Yambol,
- the whole region of Stara Zagora,
- the whole region of Pernik,
- the whole region of Kyustendil,
- the whole region of Plovdiv,
- the whole region of Pazardzhik,
- the whole region of Smolyan,
- the whole region of Dobrich,
- the whole region of Sofia city,
- the whole region of Sofia Province,
- the whole region of Blagoevgrad,
- the whole region of Razgrad,
- the whole region of Kardzhali,
- the whole region of Burgas excluding the areas in Part III,
- the whole region of Varna excluding the areas in Part III,
- the whole region of Silistra, excluding the areas in Part III,
- the whole region of Ruse, excluding the areas in Part III,
- the whole region of Veliko Tarnovo, excluding the areas in Part III,

- the whole region of Pleven, excluding the areas in Part III,
- the whole region of Targovishte, excluding the areas in Part III,
- the whole region of Shumen, excluding the areas in Part III,
- the whole region of Sliven, excluding the areas in Part III,
- the whole region of Vidin, excluding the areas in Part III.

2. Germany

The following restricted zones II in Germany:

Bundesland Brandenburg:

- Landkreis Oder-Spree:
 - Gemeinde Grunow-Dammendorf,
 - Gemeinde Mixdorf
 - Gemeinde Schlaubetal,
 - Gemeinde Neuzelle,
 - Gemeinde Neißemünde,
 - Gemeinde Lawitz,
 - Gemeinde Eisenhüttenstadt,
 - Gemeinde Vogelsang,
 - Gemeinde Ziltendorf,
 - Gemeinde Wiesenau,
 - Gemeinde Friedland,
 - Gemeinde Siehdichum,
 - Gemeinde Müllrose,
 - Gemeinde Briesen mit den Gemarkungen Biegen, Alt Madlitz, Briesen, Neubrück-Forst und Kersdorf,
 - Gemeinde Jacobsdorf
 - Gemeinde Groß Lindow,
 - Gemeinde Brieskow-Finkenheerd,
 - Gemeinde Ragow-Merz,
 - Gemeinde Beeskow,
 - Gemeinde Rietz-Neuendorf,
 - Gemeinde Tauche mit den Gemarkungen Stremmen, Ranzig, Trebatsch, Sabrodt, Sawall, Mitweide, Lindenberg, Falkenberg (T), Görsdorf (B), Wulfersdorf, Giesensdorf, Briescht, Kossenblatt und Tauche,
 - Gemeinde Langewahl südlich der A12,
 - Gemeinde Berkenbrück südlich der A12,
 - Gemeinde Diensdorf-Radlow,
 - Gemeinde Wendisch Rietz östlich des Scharmützelsees und nördlich der B 246,
 - Gemeinde Bad Saarow mit der Gemarkung Neu Golm und der Gemarkung Bad Saarow-Pieskow östlich des Scharmützelsees und ab nördlicher Spitze östlich der L35,
- Landkreis Dahme-Spreewald:
 - Gemeinde Jamlitz,
 - Gemeinde Lieberose,
 - Gemeinde Schwielochsee mit den Gemarkungen Goyatz, Jessern, Lamsfeld, Ressen, Speichrow und Zaue,

- Landkreis Spree-Neiße:
 - Gemeinde Schenkendöbern mit den Gemarkungen Stakow, Reicherskreuz, Groß Drewitz, Sembten, Lauschütz, Krayne, Lübbinchen, Grano, Pinnow, Bärenklau, Schenkendöbern und Atterwasch,
 - Gemeinde Guben mit den Gemarkungen Bresinchen, Guben und Deulowitz,
- Landkreis Märkisch-Oderland:
 - Gemeinde Bleyen-Genschmar mit der Gemarkung Bleyen,
 - Gemeinde Neuhardenberg mit den Gemarkungen Wulkow bei Trebnitz Altfriedland bis östlicher Teil ab Gemarkungsgrenze Neuhardenberg/Neufriedland, dem Feldweg folgend bis „Grubscher Graben“, Neuhardenberg östlicher Teil bis Gemarkungsgrenze Quappendorf entlang dem „Quappendorfer Kanal“ bis Gemarkungsgrenze Altfriedland,
 - Gemeinde Golzow,
 - Gemeinde Küstriner Vorland,
 - Gemeinde Alt Tucheband,
 - Gemeinde Reitwein,
 - Gemeinde Podelzig,
 - Gemeinde Gusow-Platkow mit den Gemarkungen BlankeHeide, Gusow bis nördlicher Teil ab Gemarkungsgrenze Langsow, den „Zielgraben“ folgend über „Tergelgraben“ bis „Alte Oder“, Platkow bis östlicher Teil, begrenzt durch „Alte Oder“,
 - Gemeinde Seelow mit den Gemarkungen Seelow, Werbig, Langsow bis nördlicher Teil ab Gemarkungsgrenze Buschdorf der „Buschdorfer Str.“/L37 folgend bis Feldweg, diesem folgend über Gehöft „Buschdorf 6“ über Acker bis Entwässerungsgraben, diesem südlich folgend bis „Feldweg“, diesem folgend Richtung „Eichwaldgraben“ bis Gemarkungsgrenze Gusow,
 - Gemeinde Vierlinden,
 - Gemeinde Lindendorf mit den Gemarkungen Sachsendorf, Libbenichen, Neu Mahlisch und Dolgelin – östlich der L 37,
 - Gemeinde Fichtenhöhe,
 - Gemeinde Lietzen östlich der L 37,
 - Gemeinde Falkenhagen (Mark) östlich der L 37,
 - Gemeinde Zeschdorf östlich der L 37,
 - Gemeinde Treplin,
 - Gemeinde Lebus,
 - Gemeinde Müncheberg mit den Gemarkungen Jahnsfelde, Trebnitz, Obersdorf, Münchehofe und Hermersdorf,
 - Gemeinde Märkische Höhe mit der Gemarkung Ringenwalde,
 - Gemeinde Bliesdorf mit der Gemarkung Metzdorf,
 - Gemeinde Bad Freienwalde mit den Gemarkungen Altglietzen – östlich des Feldweges zur „Stille Oder“, Altranft – östlich der B 167 und östlich der „Alte Oder“, Hohenwutzen – südlich des „Laufgraben“ und Schiffmühle – östlich von „Herrenwiese“,
 - Gemeinde Bliesdorf mit den Gemarkungen Bliesdorf – östlich der B167 bis östlicher Teil, begrenzt aus Richtung Gemarkungsgrenze Neutrebbin südlich der Bahnlinie bis Straße „Sophienhof“ dieser westlich folgend bis „Ruesterchegraben“, weiter entlang Feldweg an den Windrädern Richtung „Herrnhof“, weiter entlang „Letschiner Hauptgraben“ nord-östlich bis Gemarkungsgrenze Alttrebbin, Metzdorf - östlich der B 167 und Kunersdorf – östlich der B 167,
 - Gemeinde Oderaue,
 - Gemeinde Wriezen mit den Gemarkungen Altwriezen – östlicher Teil begrenzt durch Feldweg von Straße Altwriezen in Richtung „Wallgraben“, Jäckelsbruch, Neugaul, Neuküstrinchen, Rathsdorf – östlich der B 167 und Wriezen – östlich der B 167,
 - kreisfreie Stadt Frankfurt (Oder),

Bundesland Sachsen:

— Landkreis Bautzen:

- Gemeinde Großdubrau,
- Gemeinde Hochkirch nördlich der B 6,
- Gemeinde Königswartha östlich der B 96,
- Gemeinde Kubschütz nördlich der B 6,
- Gemeinde Lohsa östlich der B 96,
- Gemeinde Malschwitz,
- Gemeinde Neschwitz östlich der B 96,
- Gemeinde Radibor östlich der B 96,
- Gemeinde Spreetal östlich der B 97,
- Gemeinde Stadt Bautzen östlich des Verlaufs der B 96 bis Abzweig S 156 und nördlich des Verlaufs S 156 bis Abzweig B 6 und nördlich des Verlaufs der B 6 bis zur östlichen Gemeindegrenze,
- Gemeinde Stadt Hoyerswerda südlich des Verlaufs der B 97 bis Abzweig B 96 und östlich des Verlaufs der B 96 bis zur südlichen Gemeindegrenze,
- Gemeinde Stadt Weißenberg,
- Gemeinde Stadt Wittichenau östlich der B 96.

— Landkreis Görlitz:

- Gemeinde Boxberg/O.L.,
- Gemeinde Gablenz,
- Gemeinde Groß Düben, sofern nicht bereits Teil des Beobachtungsgebietes,
- Gemeinde Hähnichen,
- Gemeinde Hohendubrau,
- Gemeinde Horka,
- Gemeinde Kodersdorf,
- Gemeinde Königshain,
- Gemeinde Krauschwitz i.d. O.L.,
- Gemeinde Kreba-Neudorf,
- Gemeinde Markersdorf,
- Gemeinde Mücka,
- Gemeinde Neißeau,
- Gemeinde Quitzdorf am See,
- Gemeinde Rietschen,
- Gemeinde Rosenbach nördlich der S 129,
- Gemeinde Schleife,
- Gemeinde Schönau-Berzdorf a. d. Eigen nördlich der S 129,
- Gemeinde Schöpstal,
- Gemeinde Stadt Bad Muskau, sofern nicht bereits Teil des Beobachtungsgebietes,
- Gemeinde Stadt Bernstadt a. d. Eigen nördlich der S 129,
- Gemeinde Stadt Görlitz,
- Gemeinde Stadt Löbau nördlich der B 6 von der Kreisgrenze Bautzen bis zum Abzweig der S 129, auf der S 129 bis Gemeindegrenze,

- Gemeinde Stadt Niesky,
- Gemeinde Stadt Ostritz nördlich der S 129 und K 8616,
- Gemeinde Stadt Reichenbach/O.L.,
- Gemeinde Stadt Rothenburg/O.L.,
- Gemeinde Stadt Weißwasser/O.L.
- Gemeinde Trebendorf,
- Gemeinde Vierkirchen,
- Gemeinde Waldhufen,
- Gemeinde Weißkeißel.

3. Estonia

The following restricted zones II in Estonia:

- Eesti Vabariik (välja arvatud Hiiu maakond).

4. Latvia

The following restricted zones II in Latvia:

- Ādažu novads,
- Aizputes novads Aizputes, Cīravas un Lažas pagasts, Kalvenes pagasta daļa uz rietumiem no ceļa pie Vārtājas upes līdz autoceļam A9, uz dienvidiem no autoceļa A9, uz rietumiem no autoceļa V1200, Kazdangas pagasta daļa uz rietumiem no ceļa V1200, P115, P117, V1296, Aizputes pilsēta,
- Aglonas novads,
- Aizkraukles novads,
- Aknīstes novads,
- Alojas novads,
- Alsungas novads,
- Alūksnes novads,
- Amatas novads,
- Apes novads,
- Auces novads,
- Babītes novads,
- Baldones novads,
- Baltnavas novads,
- Balvu novads,
- Bauskas novads,
- Beverīnas novads,
- Brocēnu novads,
- Burtnieku novads,
- Carnikavas novads,
- Cēsu novads
- Cesvaines novads,
- Ciblas novads,
- Dagdas novads,
- Daugavpils novads,

- Dobeles novads,
- Dundagas novads,
- Durbes novads,
- Engures novads,
- Ērgļu novads,
- Garkalnes novads,
- Grobiņas novada Bārtas pagasts,
- Gulbenes novads,
- Iecavas novads,
- Ikšķiles novads,
- Ilūkstes novads,
- Inčukalna novads,
- Jaunjelgavas novads,
- Jaunpiebalgas novads,
- Jaunpils novads,
- Jēkabpils novads,
- Jelgavas novads,
- Kandavas novads,
- Kārsavas novads,
- Ķeguma novads,
- Ķekavas novads,
- Kocēnu novads,
- Kokneses novads,
- Krāslavas novads,
- Krimuldas novads,
- Krustpils novads,
- Kuldīgas novada, Laidu pagasta daļa uz ziemeļiem no autoceļa V1296, Padures, Rumbas, Rendas, Kabiles, Vārmes, Pelču, Ēdoles, Īvandes, Kurmāles, Turlavas, Gudenieku un Snēpeles pagasts, Kuldīgas pilsēta,
- Lielvārdes novads,
- Līgatnes novads,
- Limbažu novads,
- Līvānu novads,
- Lubānas novads,
- Ludzas novads,
- Madonas novads,
- Mālpils novads,
- Mārupes novads,
- Mazsalacas novads,
- Mērsraga novads,
- Naukšēnu novads,
- Neretas novads,
- Ogres novads,

- Olaines novads,
- Ozolnieku novads,
- Pārgaujas novads,
- Pāvilostas novada Sakas pagasts, Pāvilostas pilsēta,
- Pļaviņu novads,
- Preiļu novads,
- Priekules novads,
- Priekuļu novads,
- Raunas novads,
- republikas pilsēta Daugavpils,
- republikas pilsēta Jelgava,
- republikas pilsēta Jēkabpils,
- republikas pilsēta Jūrmala,
- republikas pilsēta Rēzekne,
- republikas pilsēta Valmiera,
- Rēzeknes novads,
- Riebiņu novads,
- Rojas novads,
- Ropažu novads,
- Rucavas novada Dunikas pagasts,
- Rugāju novads,
- Rundāles novads,
- Rūjienas novads,
- Salacgrīvas novads,
- Salas novads,
- Salaspils novads,
- Saldus novads,
- Saulkrastu novads,
- Sējas novads,
- Siguldas novads,
- Skrīveru novads,
- Skrundas novada Raņķu pagasta daļa uz ziemeļiem no autoceļa V1272 līdz robežai ar Ventas upi, Skrundas pagasta daļa no Skrundas uz ziemeļiem no autoceļa A9 un austrumiem no Ventas upes,
- Smiltenes novads,
- Stopiņu novada daļa, kas atrodas uz austrumiem no autoceļa V36, P4 un P5, Acones ielas, Dauguļupes ielas un Dauguļupītes,
- Strenču novads,
- Talsu novads,
- Tērvetes novads,
- Tukuma novads,
- Vaiņodes novada Vaiņodes pagasts un Embūtes pagasta daļa uz dienvidiem autoceļa P116, P106,

- Valkas novads,
- Varakļānu novads,
- Vārkavas novads,
- Vecpiebalgas novads,
- Vecumnieku novads,
- Ventspils novads,
- Viesītes novads,
- Viļakas novads,
- Viļānu novads,
- Zilupes novads.

5. Lithuania

The following restricted zones II in Lithuania:

- Alytaus miesto savivaldybė,
- Alytaus rajono savivaldybė,
- Anykščių rajono savivaldybė,
- Akmenės rajono savivaldybė,
- Birštono savivaldybė,
- Biržų miesto savivaldybė,
- Biržų rajono savivaldybė,
- Druskininkų savivaldybė,
- Elektrėnų savivaldybė,
- Ignalinos rajono savivaldybė,
- Jonavos rajono savivaldybė,
- Joniškio rajono savivaldybė,
- Jurbarko rajono savivaldybė: Eržvilko, Girdžių, Jurbarko miesto, Jurbarkų, Raudonės, Šimkaičių, Skirsnemunės, Smalininkų, Veliuonos ir Viešvilės seniūnijos,
- Kaišiadorių rajono savivaldybė,
- Kalvarijos savivaldybė,
- Kauno miesto savivaldybė,
- Kauno rajono savivaldybė: Akademijos, Alšėnų, Batniavos, Ežerėlio, Domeikavos, Garliavos, Garliavos apylinkių, Karmėlavos, Kulautuvos, Lapių, Linksmakalnio, Neveronių, Raudondvario, Ringaudų, Rokų, Samylų, Taurakiemio, Vandžiogalos, Užliedžių, Vilkijos, ir Zapyškio seniūnijos, Babtų seniūnijos dalis į rytus nuo kelio A1, ir Vilkijos apylinkių seniūnijos dalis į vakarus nuo kelio Nr. 1907,
- Kazlų rūdų savivaldybė,
- Kelmės rajono savivaldybė,
- Kėdainių rajono savivaldybė: Dotnuvos, Gudžiūnų, Kėdainių miesto, Krakių, Pelėdnagių, Surviliškio, Šėtos, Truskavos, Vilainių ir Josvainių seniūnijos dalis į šiaurę ir rytus nuo kelio Nr. 229 ir Nr. 2032,
- Klaipėdos rajono savivaldybė: Judrėnų, Endriejavo ir Veiviržėnų seniūnijos,
- Kupiškio rajono savivaldybė,
- Kretingos rajono savivaldybė,
- Lazdijų rajono savivaldybė,
- Marijampolės savivaldybė,

- Mažeikių rajono savivaldybė,
- Molėtų rajono savivaldybė,
- Pagėgių savivaldybė,
- Pakruojo rajono savivaldybė,
- Panevėžio rajono savivaldybė,
- Panevėžio miesto savivaldybė,
- Pasvalio rajono savivaldybė,
- Radviliškio rajono savivaldybė,
- Rietavo savivaldybė,
- Prienų rajono savivaldybė,
- Plungės rajono savivaldybė: Žlibinų, Stalgėnų, Nausodžio, Plungės miesto, Šateikių ir Kulių seniūnijos,
- Raseinių rajono savivaldybė: Betygalos, Girkalnio, Kalnujų, Nemaščių, Pagojukų, Paliepių, Raseinių miesto, Raseinių, Šiluvos, Viduklės seniūnijos,
- Rokiškio rajono savivaldybė,
- Skuodo rajono savivaldybės: Aleksandrijos, Ylakių, Lenkimų, Mosėdžio, Skuodo ir Skuodo miesto seniūnijos,
- Šakių rajono savivaldybė,
- Šalčininkų rajono savivaldybė,
- Šiaulių miesto savivaldybė,
- Šiaulių rajono savivaldybė,
- Šilutės rajono savivaldybė,
- Širvintų rajono savivaldybė,
- Šilalės rajono savivaldybė,
- Švenčionių rajono savivaldybė,
- Tauragės rajono savivaldybė,
- Telšių rajono savivaldybė,
- Trakų rajono savivaldybė,
- Ukmergės rajono savivaldybė,
- Utenos rajono savivaldybė,
- Varėnos rajono savivaldybė,
- Vilniaus miesto savivaldybė,
- Vilniaus rajono savivaldybė,
- Vilkaviškio rajono savivaldybė,
- Visagino savivaldybė,
- Zarasų rajono savivaldybė.

6. Hungary

The following restricted zones II in Hungary:

- Békés megye 950150, 950250, 950350, 950450, 950550, 950650, 950660, 950750, 950850, 950860, 951050, 951150, 951250, 951260, 951350, 951450, 951460, 951550, 951650, 951750, 952150, 952250, 952350, 952450, 952550, 952650, 953250, 953260, 953270, 953350, 953450, 953550, 953560, 953950, 954050, 954060, 954150, 956250, 956350, 956450, 956550, 956650 és 956750 kódszámú vadgazdálkodási egységeinek teljes területe,
- Borsod-Abaúj-Zemplén megye valamennyi vadgazdálkodási egységének teljes területe,

- Fejér megye 403150, 403160, 403260, 404250, 404550, 404560, 405450, 405550, 405650, 406450 és 407050 kódszámú vadgazdálkodási egységeinek teljes területe,
- Hajdú-Bihar megye valamennyi vadgazdálkodási egységének teljes területe,
- Heves megye valamennyi vadgazdálkodási egységének teljes területe,
- Jász-Nagykun-Szolnok megye 750250, 750550, 750650, 750750, 750850, 750970, 750980, 751050, 751150, 751160, 751250, 751260, 751350, 751360, 751450, 751460, 751470, 751550, 751650, 751750, 751850, 751950, 752150, 752250, 752350, 752450, 752460, 752550, 752560, 752650, 752750, 752850, 752950, 753060, 753070, 753150, 753250, 753310, 753450, 753550, 753650, 753660, 753750, 753850, 753950, 753960, 754050, 754150, 754250, 754360, 754370, 754850, 755550, 755650 és 755750 kódszámú vadgazdálkodási egységeinek teljes területe,
- Komárom-Esztergom megye: 250350, 250850, 250950, 251450, 251550, 251950, 252050, 252150, 252350, 252450, 252460, 252550, 252650, 252750, 252850, 252860, 252950, 252960, 253050, 253150, 253250, 253350, 253450 és 253550 kódszámú vadgazdálkodási egységeinek teljes területe,
- Nógrád megye valamennyi vadgazdálkodási egységeinek teljes területe,
- Pest megye 570150, 570250, 570350, 570450, 570550, 570650, 570750, 570850, 570950, 571050, 571150, 571250, 571350, 571650, 571750, 571760, 571850, 571950, 572050, 573550, 573650, 574250, 577250, 580050 és 580150 kódszámú vadgazdálkodási egységeinek teljes területe,
- Szabolcs-Szatmár-Bereg megye valamennyi vadgazdálkodási egységének teljes területe.

7. Poland

The following restricted zones II in Poland:

w województwie warmińsko-mazurskim:

- gminy Kalinowo, Stare Juchy, Prostki oraz gmina wiejska Elk w powiecie elckim,
- powiat elbląski,
- powiat miejski Elbląg,
- powiat gołdapski,
- powiat piski,
- powiat bartoszycki,
- powiat olecki,
- powiat giżycki,
- powiat braniewski,
- powiat kętrzyński,
- gminy Lubomino i Orneta w powiecie lidzbarskim,
- gminy Jedwabno, Szczytno i miasto Szczytno i Świętajno w powiecie szczycieńskim,
- powiat mrągowski,
- powiat węgorzewski,
- gminy Jeziorany, Kolno, część gminy Biskupiec położona na wschód od linii wyznaczonej przez drogę nr 57 w powiecie olsztyńskim,
- część powiatu ostródzkiego nie wymieniona w części III załącznika I,

w województwie podlaskim:

- powiat bielski,
- powiat grajewski,
- powiat moniecki,
- powiat sejneński,
- gminy Łomża, Piątnica, Jedwabne, Przytuły i Wizna w powiecie łomżyńskim,
- powiat miejski Łomża,

- część powiatu siemiatyckiego nie wymieniona w części III załącznika I,
 - powiat hajnowski,
 - gminy Ciechanowiec, Klukowo, Szepietowo, Kobylin-Borzymy, Nowe Piekuty, Sokoły i część gminy Kulesze Kościelne położona na północ od linii wyznaczonej przez linię kolejową w powiecie wysokomazowieckim,
 - gmina Rutki i część gminy Kołaki Kościelne położona na północ od linii wyznaczonej przez linię kolejową w powiecie zambrowskim,
 - gminy Mały Płock i Stawiski w powiecie kolneńskim,
 - powiat białostocki,
 - powiat suwalski,
 - powiat miejski Suwałki,
 - powiat augustowski,
 - powiat sokółski,
 - powiat miejski Białystok,
- w województwie mazowieckim:
- gminy Domanice, Korczew, Kotuń, Mordy, Paprotnia, Przesmyki, Siedlce, Skórzec, Wiśniew, Wodynie, Zbuczyn w powiecie siedleckim,
 - powiat miejski Siedlce,
 - gminy Ceranów, Jabłonna Lacka, Kosów Lacki, Repki, Sabnie, Sterdyń w powiecie sokołowskim,
 - powiat łosicki,
 - powiat sochaczewski,
 - gminy Policzna, Przyłęk, Tczów i Zwoleń w powiecie zwoleńskim,
 - powiat kozienicki,
 - gminy Chotcza i Solec nad Wisłą w powiecie lipskim,
 - gminy Gózd, Jastrzębia, Jedlnia Letnisko, Pionki z miastem Pionki, Skaryszew, Jedlińsk, Przytyk, Zakrzew, część gminy Iłża położona na zachód od linii wyznaczonej przez drogę nr 9, część gminy Wolanów położona na północ od drogi nr 12 w powiecie radomskim,
 - gminy Bodzanów, Słubice, Wyszogród i Mała Wieś w powiecie płockim,
 - powiat nowodworski,
 - gminy Czerwińsk nad Wisłą, Naruszewo, Załuski w powiecie płońskim,
 - gminy: miasto Kobyłka, miasto Marki, miasto Ząbki, miasto Zielonka w powiecie wołomińskim,
 - gminy Borowie, Garwolin z miastem Garwolin, Miastków Kościelny, Parysów, Pilawa, część gminy Wilga położona na północ od linii wyznaczonej przez rzekę Wilga biegnącą od wschodniej granicy gminy do ujścia do rzeki Wisły, część gminy Górzno położona na północ od linii wyznaczonej przez drogę łączącą miejscowości Łąki i Górzno biegnącą od wschodniej granicy gminy, następnie od miejscowości Górzno na północ od drogi nr 1328W biegnącej do drogi nr 17, a następnie na północ od linii wyznaczonej przez drogę biegnącą od drogi nr 17 do zachodniej granicy gminy przez miejscowości Józefów i Kobyła Wola w powiecie garwolińskim,
 - gminy Boguty – Pianki, Zaręby Kościelne, Nur i część gminy Małkinia Górna położona na południe od rzeki Brok w powiecie ostrowskim,
 - gminy Chlewiska i Szydłowiec w powiecie szydłowieckim,
 - gminy Cegłów, Dębe Wielkie, Halinów, Latowicz, Mińsk Mazowiecki i miasto Mińsk Mazowiecki, Mrozy, Siennica, miasto Sulejówek w powiecie mińskim,
 - powiat otwocki,

- powiat warszawski zachodni,
- powiat legionowski,
- powiat piaseczyński,
- powiat pruszkowski,
- powiat grójecki,
- powiat grodziski,
- powiat żyrardowski,
- powiat białobrzegi,
- powiat przysuski,
- powiat miejski Warszawa,

w województwie lubelskim:

- powiat bialski,
 - powiat miejski Biała Podlaska,
 - gminy Batorz, Godziszów, Janów Lubelski, Modliborzyce i Potok Wielki w powiecie janowskim,
 - gminy Janowiec, Kazimierz Dolny, Końskowola, Kurów, Markuszów, Nałęczów, Puławy z miastem Puławy, Wąwolnica i Żyrzyn w powiecie puławskim,
 - gminy Nowodwór, miasto Dęblin i część gminy Ryki położona na południe od linii wyznaczonej przez linię kolejową powiecie rycim,
 - gminy Adamów, Krzywda, Stoczek Łukowski z miastem Stoczek Łukowski, Wola Mysłowska, Trzebieszów, Stanin, Wojcieszków, gmina wiejska Łuków i miasto Łuków w powiecie łukowskim,
 - powiat lubelski,
 - powiat miejski Lublin,
 - gminy Niedźwiada, Ostrówek, Ostrów Lubelski, Serniki, Uścimów i Lubartów z miastem Lubartów w powiecie lubartowskim,
 - powiat łęczyński,
 - powiat świdnicki,
 - gminy Fajslawice, Gorzków, Izbica, Krasnystaw z miastem Krasnystaw, Kraśniczyn, Łopiennik Górny, Siennica Różana i część gminy Żółkiewka położona na północ od linii wyznaczonej przez drogę nr 842 w powiecie krasnostawskim,
 - gminy Chełm, Ruda – Huta, Sawin, Rejowiec, Rejowiec Fabryczny z miastem Rejowiec Fabryczny, Siedliszcze, Wierzbica, Żmudź, Dorohusk, Dubienka, Kamień, Leśniowice, Wojsławice w powiecie chełmskim,
 - powiat miejski Chełm,
 - powiat kraśnicki,
 - powiat opolski,
 - powiat parczewski,
 - powiat włodawski,
 - powiat radzyński,
 - powiat miejski Zamość,
 - gminy Sitno, Skierbieszów, Stary Zamość, Zamość w powiecie zamojskim,
- w województwie podkarpackim:
- powiat stalowowolski,
 - gminy Oleszyce, Lubaczów z miastem Lubaczów, Wielkie Oczy w powiecie lubaczowskim,

- część gminy Kamień położona na zachód od linii wyznaczonej przez drogę nr 19, część gminy Sokółów Małopolski położona na północ od linii wyznaczonej przez drogę nr 875 w powiecie rzeszowskim,
 - gminy Cmolas, Majdan Królewski i Niwiska powiecie kolbuszowskim,
 - część gminy Ostrów położona na północ od drogi linii wyznaczonej przez drogę nr A4 biegnącą od zachodniej granicy gminy do skrzyżowania z drogą nr 986, a następnie na zachód od linii wyznaczonej przez drogę nr 986 biegnącą od tego skrzyżowania do miejscowości Osieka i dalej na zachód od linii wyznaczonej przez drogę łączącą miejscowości Osieka – Blizna w powiecie ropczycko – sędziszowskim,
 - gminy Grodzisko Dolne, część gminy wiejskiej Leżajsk położona na południe od miasta Leżajsk oraz na zachód od linii wyznaczonej przez rzekę San, w powiecie leżańskim,
 - gmina Jarocin, część gminy Harasiuki położona na północ od linii wyznaczonej przez drogę nr 1048 R, część gminy Ulanów położona na północ od linii wyznaczonej przez rzekę Tanew, część gminy Nisko położona na zachód od linii wyznaczonej przez drogę nr 19 oraz na północ od linii wyznaczonej przez linię kolejową biegnącą od wschodniej granicy gminy do skrzyżowania z drogą nr 19, część gminy Jeżowe położona na zachód od linii wyznaczonej przez drogę nr 19 w powiecie niżańskim,
 - powiat tarnobrzeski,
 - część gminy wiejskiej Przeworsk położona na zachód od miasta Przeworsk i na zachód od linii wyznaczonej przez autostradę A4 biegnącą od granicy z gminą Tryńcza do granicy miasta Przeworsk, część gminy Zarzecze położona na zachód od linii wyznaczonej przez drogę nr 1594R biegnącą od północnej granicy gminy do miejscowości Zarzecze oraz na południe od linii wyznaczonej przez drogi nr 1617R oraz 1619R biegnącą do południowej granicy gminy oraz na północ od linii wyznaczonej przez rzekę Mleczka w powiecie przeworskim,
 - część gminy wiejskiej Dębica położona na północ od linii wyznaczonej przez drogę nr A4 w powiecie dębickim,
- w województwie pomorskim:
- gminy Dzierżgoń i Stary Dzierżgoń w powiecie sztumskim,
 - gmina Stare Pole w powiecie malborskim,
 - gminy Stegny, Sztutowo i część gminy Nowy Dwór Gdański położona na północny - wschód od linii wyznaczonej przez drogę nr 55 biegnącą od południowej granicy gminy do skrzyżowania z drogą nr 7, następnie przez drogę nr 7 i S7 biegnącą do zachodniej granicy gminy w powiecie nowodworskim,
- w województwie świętokrzyskim:
- gmina Tarłów i część gminy Ożarów położona na północ od linii wyznaczonej przez drogę nr 74 w powiecie opatowskim,
 - część gminy Brody położona na zachód od linii kolejowej biegnącej od miejscowości Marcule i od północnej granicy gminy przez miejscowości Klepacze i Karczma Kunowska do południowej granicy gminy oraz na wschód od linii wyznaczonej przez drogę nr 9 i na północny - wschód od linii wyznaczonej przez drogę nr 0618T biegnącą od północnej granicy gminy do skrzyżowania w miejscowości Lipie oraz przez drogę biegnącą od miejscowości Lipie do wschodniej granicy gminy i część gminy Mirzec położona na wschód od linii wyznaczonej przez drogę nr 744 biegnącą od południowej granicy gminy do miejscowości Tychów Stary a następnie przez drogę nr 0566T biegnącą od miejscowości Tychów Stary w kierunku północno – wschodnim do granicy gminy w powiecie starachowickim,
 - gmina Gowarczów, część gminy Końskie położona na wschód od linii kolejowej, część gminy Stąporków położona na północ od linii kolejowej w powiecie koneckim,
- w województwie lubuskim:
- gminy Deszczno, Kłodawa, Kostrzyn nad Odrą, Santok i część gminy Witnica położona na południowy zachód od drogi biegnącej od zachodniej granicy gminy od miejscowości Krześnica, przez miejscowości Kamień Wielki – Mościce – Witnica – Kłopotowo do południowej granicy gminy, w powiecie gorzowskim,

- powiat miejski Gorzów Wielkopolski,
 - gminy Drezdenko, Strzelce Krajeńskie, Stare Kurowo, Zwierzyn w powiecie strzelecko – drezdeneckim,
 - powiat żarski,
- w województwie dolnośląskim:
- powiat zgorzelecki,
 - gminy Grębocice, Polkowice, część gminy Przemków położona na południe od linii wyznaczonej przez drogę nr 12 w powiecie polkowickim,
 - gmina Rudna w powiecie lubińskim,
- w województwie wielkopolskim:
- gminy Przemęt i Wolsztyn w powiecie wolsztyńskim,
 - gmina Wielichowo część gminy Kamieniec położona na zachód od linii wyznaczonej przez drogę nr 308 i część gminy Rakoniewice położona na zachód od linii wyznaczonej przez drogę nr 305 w powiecie grodziskim,
 - gminy Wijewo, Włoszakowice, część gminy Lipno położona na zachód od linii wyznaczonej przez drogę nr S5 i część gminy Święciechowa położona na północ od linii wyznaczonej przez drogę nr 12 oraz na zachód od linii wyznaczonej przez drogę nr S5 w powiecie leszczyńskim,
 - część gminy Śmigiel położona na zachód od linii wyznaczonej przez drogę nr S5 w powiecie kościańskim,
 - powiat obornicki,
 - część gminy Połajewo na południe od drogi łączącej miejscowości Chraplewo, Tarnówko-Boruszyn, Krosin, Jakubowo, Połajewo - ul. Ryczywolska do północno-wschodniej granicy gminy w powiecie czarnkowsko-trzcianeckim,
 - gmina Suchy Las, część gminy wiejskiej Murowana Goślina położona na północ od linii kolejowej biegnącej od północnej granicy miasta Murowana Goślina do północno-wschodniej granicy gminy oraz część gminy Rokietnica położona na północ i na wschód od linii kolejowej biegnącej od północnej granicy gminy w miejscowości Krzyszkowo do południowej granicy gminy w miejscowości Kiekrz w powiecie poznańskim,
 - część gminy Szamotuły położona na wschód od wschodniej granicy miasta Szamotuły i na północ od linii kolejowej biegnącej od południowej granicy miasta Szamotuły do południowo-wschodniej granicy gminy oraz część gminy Obrzycko położona na wschód od drogi nr 185 łączącej miejscowości Gaj Mały, Słapanowo i Obrzycko do północnej granicy miasta Obrzycko, a następnie na wschód od drogi przebiegającej przez miejscowość Chraplewo w powiecie szamotulskim,
 - gmina Malanów, część gminy Tuliszków położona na południe od linii wyznaczonej przez drogę nr 72 biegnącej od wschodniej granicy gminy do miasta Turek, a następnie na południe od linii wyznaczonej przez drogę nr 443 biegnącą od skrzyżowania z drogą nr 72 w mieście Turek do zachodniej granicy gminy w powiecie tureckim,
 - część gminy Rychwał położona na wschód od linii wyznaczonej przez drogę nr 25 biegnącą od południowej granicy gminy do miejscowości Rychwał, a następnie na południe od linii wyznaczonej przez drogę nr 443 biegnącą od skrzyżowania z drogą nr 25 w miejscowości Rychwał do wschodniej granicy gminy w powiecie konińskim,
 - gmina Mycielin, część gminy Stawiszyn położona na wschód od linii wyznaczonej przez drogę nr 25 biegnącą od północnej granicy gminy do miejscowości Zbiersk, a następnie na wschód od linii wyznaczonej przez drogę łączącą miejscowości Zbiersk – Łyczyn – Petryki biegnącą od skrzyżowania z drogą nr 25 do południowej granicy gminy, część gminy Ceków- Kolonia położona na północ od linii wyznaczonej przez drogę łączącą miejscowości Młynisko – Morawin - Janków w powiecie kaliskim,
- w województwie łódzkim:
- gminy Białaczów, Drzewica, Opoczno i Poświętne w powiecie opoczyńskim,
 - gminy Biała Rawska, Regnów i Sadkowice w powiecie rawskim,
 - gmina Kowiesy w powiecie skierniewickim,

w województwie zachodniopomorskim:

- gmina Boleszkowice i część gminy Dębno położona na zachód od linii wyznaczonej przez drogę nr 126 biegnącą od zachodniej granicy gminy do skrzyżowania z drogą nr 23 w miejscowości Dębno, następnie na zachód od linii wyznaczonej przez drogę nr 23 do skrzyżowania z ul. Jana Pawła II w miejscowości Cychry, następnie na południe od ul. Jana Pawła II do skrzyżowania z ul. Ogrodową i dalej na południe od linii wyznaczonej przez ul. Ogrodową, której przedłużenie biegnie do wschodniej granicy gminy w powiecie myśliborskim,
- gminy Cedynia, Mieszkowice, Moryń, część gminy Chojna położona na zachód od linii wyznaczonej przez drogę nr 26 biegnącą od zachodniej granicy gminy do miejscowości Chojna, a następnie na zachód od linii wyznaczonej przez drogę nr 31 biegnącą od skrzyżowania z drogą nr 26 do południowej granicy gminy w powiecie gryfińskim.

8. Slovakia

The following restricted zones II in Slovakia:

- the whole district of Gelnica,
- the whole district of Poprad
- the whole district of Spišská Nová Ves,
- the whole district of Levoča,
- the whole district of Kežmarok
- in the whole district of Michalovce,
- the whole district of Košice-okolie,
- the whole district of Rožnava,
- the whole city of Košice,
- the whole district of Sobrance,
- the whole district of Vranov nad Topľou,
- the whole district of Humenné,
- the whole district of Prešov,
- in the whole district of Sabinov,
- in the district of Svidník, the whole municipalities of Dukovce, Želmanovce, Kuková, Kalnište, Lužany pri Ondave, Lúčka, Giraltovce, Kračúnovce, Železník, Kobylnice, Mičakovce,
- the whole district of Bardejov,
- the whole district of Stará Ľubovňa,
- the whole district of Revúca,
- the whole district of Rimavská Sobota,
- in the district of Veľký Krtíš, the whole municipalities not included in part I,
- the whole district of Lučenec,
- the whole district of Poltár
- the whole district of Zvolen,
- the whole district of Detva,
- in the district of Krupina the whole municipalities of Senohrad, Horné Mladonice, Dolné Mladonice, Čekovce, Lackov,
- In the district of Banská Bystrica, the whole municipalities of Kremnička, Malachov, Badín, Vlkanová, Hronsek, Horná Mičiná, Dolná Mičiná, Môlča Oravce, Čačín, Čerín, Bečov, Sebedín, Dúbravica, Hrochoť, Poniky, Strelníky, Povrazník, Ľubietová, Brusno, Banská Bystrica,

- the whole district of Brezno,
- in the district of Liptovský Mikuláš, the municipalities of Važec, Malužiná, Kráľova lehotá, Liptovská Porúbka, Nižná Boca, Vyšná Boca a Východná – a part of municipality south of the highway D1.

PART III

1. Bulgaria

The following restricted zones III in Bulgaria:

- the whole region of Gabrovo,
- the whole region of Lovech,
- the whole region of Montana,
- the Pleven region:
 - the whole municipality of Belene,
 - the whole municipality of Gulyantzi,
 - the whole municipality of Dolna Mitropolia,
 - the whole municipality of Dolni Dabnik,
 - the whole municipality of Iskar,
 - the whole municipality of Knezha,
 - the whole municipality of Nikopol,
 - the whole municipality of Pordim,
 - the whole municipality of Cherven bryag,
- the Ruse region:
 - the whole municipality of Dve mogili,
- the Shumen region:
 - the whole municipality of Veliki Preslav,
 - the whole municipality of Venetz,
 - the whole municipality of Varbitza,
 - the whole municipality of Kaolinovo,
 - the whole municipality of Novi pazar,
 - the whole municipality of Smyadovo,
 - the whole municipality of Hitrino,
- the Silistra region:
 - the whole municipality of Alfatar,
 - the whole municipality of Glavinitsa,
 - the whole municipality of Dulovo
 - the whole municipality of Kaynardzha,
 - the whole municipality of Tutrakan,
- the Sliven region:
 - the whole municipality of Kotel,
 - the whole municipality of Nova Zagora,
 - the whole municipality of Tvarditza,
- the Targovishte region:
 - the whole municipality of Antonovo,
 - the whole municipality of Omurtag,
 - the whole municipality of Opaka,

- the Vidin region,
 - the whole municipality of Belogradchik,
 - the whole municipality of Boynitza,
 - the whole municipality of Bregovo,
 - the whole municipality of Gramada,
 - the whole municipality of Dimovo,
 - the whole municipality of Kula,
 - the whole municipality of Makresh,
 - the whole municipality of Novo selo,
 - the whole municipality of Ruzhintzi,
 - the whole municipality of Chuprene,
- the Veliko Tarnovo region:
 - the whole municipality of Veliko Tarnovo,
 - the whole municipality of Gorna Oryahovitza,
 - the whole municipality of Elena,
 - the whole municipality of Zlataritza,
 - the whole municipality of Lyaskovetz,
 - the whole municipality of Pavlikeni,
 - the whole municipality of Polski Trambesh,
 - the whole municipality of Strazhitza,
 - the whole municipality of Suhindol,
- the whole region of Vratza,
- in Varna region:
 - the whole municipality of Avren,
 - the whole municipality of Beloslav,
 - the whole municipality of Byala,
 - the whole municipality of Dolni Chiflik,
 - the whole municipality of Devnya,
 - the whole municipality of Dalgopol,
 - the whole municipality of Provadia,
 - the whole municipality of Suvorovo,
 - the whole municipality of Varna,
 - the whole municipality of Vetrino,
- in Burgas region:
 - the whole municipality of Burgas,
 - the whole municipality of Kameno,
 - the whole municipality of Malko Tarnovo,
 - the whole municipality of Primorsko,
 - the whole municipality of Sozopol,
 - the whole municipality of Sredets,
 - the whole municipality of Tsarevo,
 - the whole municipality of Sungurlare,
 - the whole municipality of Ruen,

- the whole municipality of Aytos.

2. Germany

The following restricted zones III in Germany:

Bundesland Brandenburg:

— Landkreis Spree Neiße:

- Gemeinde Forst (Lausitz) mit den Gemarkungen Forst (Lausitz), Klein Jamno, Groß Jamno, Groß Bademeusel und Klein Bademeusel,
- Gemeinde Wiesengrund mit den Gemarkungen Gosda, Jethe, Gahry, Trebendorf und Mattendorf,
- Gemeinde Neuhausen/ Spree mit den Gemarkungen Sergen, Komptendorf, Laubsdorf, Gablenz, Drieschnitz, Kahsel und Bagenz,
- Gemeinde Spremberg mit den Gemarkungen Groß Luja, Türkendorf, Schönheide, Lieskau, Hornow und Wadelsdorf,
- Gemeinde Neiße-Malxetal,
- Gemeinde Döbern,
- Gemeinde Tschernitz,
- Gemeinde Felixsee,
- Gemeinde Groß Schacksdorf-Simmersdorf,
- Gemeinde Jämlitz-Klein Düben,

— Landkreis Märkisch-Oderland:

- Gemeinde Bleyen-Genschmar mit der Gemarkung Genschmar,
- Gemeinde Bliesdorf nur Bliesdorf östlicher Teil, begrenzt aus Richtung Gemarkungsgrenze Neutrebbin entlang der Bahnlinie bis Straße „Sophienhof“ dieser östlich folgend bis „Rueterchengraben“, weiter entlang Feldweg an den Windrädern Richtung „Herrnhof“, weiter entlang „Letschiner Hauptgraben“ bis Gemarkungsgrenze Alttrebbin,
- Gemeinde Letschin,
- Gemeinde Gusow-Platkow mit den Gemarkungen Gusow nördlicher Teil ab Gemarkungsgrenze Langsow, den „Zielgraben“ folgend über „Tergelgraben“ bis „Alte Oder“, Platkow östlicher Teil, begrenzt durch „Alte Oder“,
- Gemeinde Neulewin mit den Gemarkungen Güstebieser Loose, Heinrichsdorf, Karlshof, Kerstenbruch, Neulewin, Neulietzegörcke und Rüsterwerder,
- Gemeinde Neutrebbin mit den Gemarkungen Altbarnim, Altlewin, Alttrebbin, Neutrebbin und Wuschewier,
- Gemeinde Seelow mit der Gemarkung nur Langsow nördlicher Teil ab Gemarkungsgrenze Buschdorf der „Buschdorfer Str.“/L37 folgend bis Feldweg, diesem folgend über Gehöft „Buschdorf 6“ über Acker bis Entwässerungsgraben, diesem südlich folgend bis „Feldweg“, diesem folgend Richtung „Eichwaldgraben“ bis Gemarkungsgrenze Gusow,
- Gemeinde Wriezen mit den Gemarkungen Altwriezen östlicher Teil begrenzt durch Feldweg von Straße Altwriezen Richtung „Wallgraben“, Beauregard und Eichwerder,
- Gemeinde Zechin,
- Gemeinde Neuhardenberg mit den Gemarkungen Altfriedland östlicher Teil ab Gemarkungsgrenze Neuhardenberg/Neufriedland, dem Feldweg folgend bis „Grubscher Graben“, Neuhardenberg östlicher Teil ab Gemarkungsgrenze Quappendorf entlang dem „Quappendorfer Kanal“ bis Gemarkungsgrenze Altfriedland und Quappendorf,

Bundesland Sachsen:

— Landkreis Görlitz:

- Gemeinde Groß Düben nördlich S126 und K8478,
- Gemeinde Stadt Bad Muskau mit dem Gemeindeteil Kleine Mühle,
- Gemeinde Stadt Bad Muskau mit dem Gemeindeteil Köbeln nördlich des Föhrenfließ.

3. Italy

The following restricted zones III in Italy:

- tutto il territorio della Sardegna.

4. Latvia

The following restricted zones III in Latvia:

- Aizputes novada Kalvenes pagasta daļa uz austrumiem no ceļa pie Vārtājas upes līdz autoceļam A9, uz ziemeļiem no autoceļa A9, uz austrumiem no autoceļa V1200, Kazdangas pagasta daļa uz austrumiem no ceļa V1200, P115, P117, V1296,
- Kuldīgas novada, Laidu pagasta daļa uz dienvidiem no autoceļa V1296,
- Skrundas novada Rudbāržu, Nīkrāces pagasts, Raņķu pagasta daļa uz dienvidiem no autoceļa V1272 līdz robežai ar Ventas upi, Skrundas pagasts (izņemot pagasta daļa no Skrundas uz ziemeļiem no autoceļa A9 un austrumiem no Ventas upes), Skrundas pilsēta,
- Vaiņodes novada Embūtes pagasta daļa uz ziemeļiem autoceļa P116, P106.

5. Lithuania

The following restricted zones III in Lithuania:

- Jurbarko rajono savivaldybė: Seredžiaus ir Juodaičių seniūnijos,
- Kauno rajono savivaldybė: Čekiškės seniūnija, Babtų seniūnijos dalis į vakarus nuo kelio A1 ir Vilkijos apylinkių seniūnijos dalis į rytus nuo kelio Nr. 1907,
- Kėdainių rajono savivaldybė: Pernaravos seniūnija ir Josvainių seniūnijos pietvakarinė dalis tarp kelio Nr. 229 ir Nr. 2032,
- Plungės rajono savivaldybė: Alsėdžių, Babrungo, Paukštakių, Platelių ir Žemaičių Kalvarijos seniūnijos,
- Raseinių rajono savivaldybė: Ariogalos ir Ariogalos miesto seniūnijos,
- Skuodo rajono savivaldybės: Barstyčių, Notėnų ir Šačių seniūnijos.

6. Poland

The following restricted zones III in Poland:

w województwie warmińsko-mazurskim:

- powiat działdowski,
- powiat nidzicki,
- powiat iławski,
- powiat nowomiejski,
- gminy Dąbrówno, Grunwald i Ostróda z miastem Ostróda w powiecie ostródzkim,
- część powiatu olsztyńskiego nie wymieniona w części II załącznika I,
- gminy Kiwity i Lidzbark Warmiński z miastem Lidzbark Warmiński w powiecie lidzbarskim,
- powiat miejski Olsztyn,
- gminy Dźwierzuty, Pasym w powiecie szczycieńskim,

w województwie mazowieckim:

- gminy Łaskarzew z miastem Łaskarzew, Maciejowice, Sobolew, Trojanów, Żelechów, część gminy Wilga położona na południe od linii wyznaczonej przez rzekę Wilga biegnącą od wschodniej granicy gminy do ujścia do rzeki Wisły, część gminy Górzno położona na południe od linii wyznaczonej przez drogę łączącą miejscowości Łąki i Górzno biegnącą od wschodniej granicy gminy, następnie od miejscowości Górzno na południe od drogi nr 1328W biegnącej do drogi nr 17, a następnie na południe od linii wyznaczonej przez drogę biegnącą od drogi nr 17 do zachodniej granicy gminy przez miejscowości Józefów i Kobyła Wola w powiecie garwolińskim,
- część gminy Iłża położona na wschód od linii wyznaczonej przez drogę nr 9 w powiecie radomskim,
- gmina Kazanów w powiecie zwoleńskim,
- gminy Ciepiałów, Lipsko, Rzecznów i Sienno w powiecie lipskim,
- część powiatu żuromińskiego nie wymieniona w części I załącznika I,
- część powiatu mławskiego nie wymieniona w części I załącznika I,

w województwie lubelskim:

- powiat tomaszowski,
- gmina Białopole w powiecie chełmskim,
- gmina Rudnik i część gminy Żółkiewka położona na południe od linii wyznaczonej przez drogę nr 842 w powiecie krasnostawskim,
- gminy Adamów, Grabowiec, Komarów – Osada, Krasnobród, Łabunie, Miączyn, Nielisz, Radecznica, Sulów, Szczepreszyn, Zwierzyniec w powiecie zamojskim,
- powiat biłgorajski,
- powiat hrubieszowski,
- gminy Dzwola i Chrzanów w powiecie janowskim,
- gmina Serokomla w powiecie łukowskim,
- gminy Abramów, Kamionka, Michów, Firlej, Jeziorzany, Kock w powiecie lubartowskim,
- gminy Kłoczew, Stężycza, Ułęż i część gminy Ryki położona na północ od linii wyznaczonej przez linię kolejową w powiecie ryckim,
- gmina Baranów w powiecie puławskim,

w województwie podkarpackim:

- powiat mielecki,
- gminy Czarna, Pilzno, Żyraków w powiecie dębickim,
- gminy Cieszanów, Horyniec – Zdrój, Narol i Stary Dzików w powiecie lubaczowskim,
- gminy Kuryłówka, Nowa Sarzyna, miasto Leżajsk, część gminy wiejskiej Leżajsk położona na północ od miasta Leżajsk oraz część gminy wiejskiej Leżajsk położona na wschód od linii wyznaczonej przez rzekę San, w powiecie leżańskim,
- gminy Krzeszów, Rudnik nad Sanem, część gminy Harasiuki położona na południe od linii wyznaczonej przez drogę nr 1048 R, część gminy Ulanów położona na południe od linii wyznaczonej przez rzekę Tanew, część gminy Nisko położona na wschód od linii wyznaczonej przez drogę nr 19 oraz na południe od linii wyznaczonej przez linię kolejową biegnącą od wschodniej granicy gminy do skrzyżowania z drogą nr 19, część gminy Jeżowe położona na wschód od linii wyznaczonej przez drogę nr 19 w powiecie niżańskim,
- gminy Chłopice, Jarosław z miastem Jarosław, Laszki, Wiązownica, Pawłosiów, Radymno z miastem Radymno, w powiecie jarosławskim,
- gmina Stubno w powiecie przemyskim,
- część gminy Kamień położona na wschód od linii wyznaczonej przez drogę nr 19 w powiecie rzeszowskim,

- gminy Adamówka, Sieniawa, Tryńcza, miasto Przeworsk, część gminy wiejskiej Przeworsk położona na wschód od miasta Przeworsk i na wschód od linii wyznaczonej przez autostradę A4 biegnącą od granicy z gminą Tryńcza do granicy miasta Przeworsk, część gminy Zarzecze położona na wschód od linii wyznaczonej przez drogę nr 1594R biegnącą od północnej granicy gminy do miejscowości Zarzecze oraz na północ od linii wyznaczonej przez drogi nr 1617R oraz 1619R biegnącą do południowej granicy gminy w powiecie przeworskim,

w województwie lubuskim:

- powiat słubicki,
- powiat krośnieński,
- powiat sulęciński,
- powiat międzyrzecki,
- powiat nowosolski,
- powiat wschowski,
- powiat świebodziński,
- powiat zielonogórski
- powiat żagański
- powiat miejski Zielona Góra,

w województwie wielkopolskim:

- gminy Krzemieniewo, Rydzyna w powiecie leszczyńskim,
- gminy Krobia i Poniec w powiecie gostyńskim,
- gminy Bojanowo, Miejska Górka, Rawicz w powiecie rawickim,
- powiat nowotomyski,
- gmina Siedlec w powiecie wolsztyńskim,
- część gminy Rakoniewice położona na wschód od linii wyznaczonej przez drogę nr 305 w powiecie grodziskim,
- powiat międzychodzki,
- gmina Pniewy, część gminy Duszniki położona na północny – zachód od linii wyznaczonej przez drogę nr 306 biegnącą od północnej granicy gminy do miejscowości Duszniki, a następnie na północ od linii wyznaczonej przez ul. Niewierską oraz drogę biegnącą przez miejscowość Niewierz do zachodniej granicy gminy, część gminy Ostroróg położona na zachód od linii wyznaczonej przez drogę nr 186 i 184 biegnące od granicy gminy do miejscowości Ostroróg, a następnie od miejscowości Ostroróg przez miejscowości Piaskowo – Rudki do południowej granicy gminy, część gminy Wronki położona na południe od linii wyznaczonej przez rzekę Wartę biegnącą od zachodniej granicy gminy do przecięcia z drogą nr 182, a następnie na zachód od linii wyznaczonej przez drogi nr 182 oraz 184 biegnącą od skrzyżowania z drogą nr 182 do południowej granicy gminy, część gminy Szamotuły położona na zachód od linii wyznaczonej przez drogę nr 306 i drogę łączącą miejscowości Lipnica - Ostroróg w powiecie szamotulskim,
- gminy Baranów, Bralin, Perzów, Łęka Opatowska, Rychtal, Trzcinica, część gminy Kępno położona na południe od linii wyznaczonej przez drogę nr S8 w powiecie kępińskim,

w województwie dolnośląskim:

- powiat górowski,
- gminy Prusice i Żmigród w powiecie trzebnickim,
- powiat głogowski,
- powiat bolesławiecki,
- gminy Gaworzyce, Radwanice i część gminy Przemków położona na północ od linii wyznaczonej przez drogę nr 12 w powiecie polkowickim,

w województwie świętokrzyskim:

- część gminy Brody położona na wschód od linii kolejowej biegnącej od miejscowości Marcule i od północnej granicy gminy przez miejscowości Klepacz i Karczma Kunowska do południowej granicy gminy w powiecie starachowickim,

w województwie łódzkim:

- gmina Czarnocin, część gminy Moszczenica położona na zachód od linii wyznaczonej przez linię kolejową biegnącą od północnej granicy gminy do miejscowości Moszczenica – Osiedle, a następnie na północ od linii wyznaczonej przez drogę łączącą miejscowości Moszczenica – Osiedle – Kosów do skrzyżowania z drogą nr 12 i dalej na zachód od drogi nr 12 biegnącej od tego skrzyżowania do południowej granicy gminy, część gminy Grabica położona na północ od linii wyznaczonej przez drogę nr 473 biegnącej od zachodniej granicy gminy do miejscowości Wola Kamocka, a następnie na północ od linii wyznaczonej przez drogę biegnącą od skrzyżowania z drogą nr 473 i łączącą miejscowości Wola Kamocka – Papieże Kolonia – Papieże do wschodniej granicy gminy w powiecie piotrkowskim,
- gmina Brójce, Tuszyn, Rzgów w powiecie łódzkim wschodnim,
- część gminy wiejskiej Pabianice położona na wschód od linii wyznaczonej przez drogę nr S8, część gminy Dłutów położona na wschód od linii wyznaczonej przez drogę nr 485 w powiecie pabianickim,
- gminy Bolesławiec, Czastary, Lututów, Łubnice, część gminy Sokolniki położona na wschód od linii wyznaczonej przez drogę nr 482, część gminy Galewice położona na wschód od linii wyznaczonej przez drogę łączącą miejscowości Przybyłów – Ostrówek – Dąbrówka – Zmyślona w powiecie wieruszowskim,
- gminy Biała, Czarnożyły, Skomlin, część gminy Mokrsko położona na zachód od linii wyznaczonej przez drogę łączącą miejscowości Krzyworzeka – Mokrsko – Zmyślona – Komorniki – Orzechowiec – Poręby, część gminy Wieluń położona na zachód od miejscowości Wieluń oraz na północ od linii wyznaczonej przez drogę łączącą miejscowości Wieluń – Turów – Chotów biegnącą do zachodniej granicy gminy, część gminy Ostrówek położona na zachód od linii wyznaczonej przez rzekę Pyszna w powiecie wieluńskim,
- część gminy Złoczew położona na południe od linii wyznaczonej przez drogę nr 482 biegnącą od zachodniej granicy gminy w miejscowości Uników do miejscowości Złoczew, a następnie na zachód od linii wyznaczonej przez drogę nr 477 biegnącą od miejscowości Złoczew do południowej granicy gminy, część gminy Klonowa położona na południe od linii wyznaczonej przez drogę biegnącą od wschodniej granicy gminy, łączącą miejscowości Owieczki – Klonowa – Górka Klonowska – Przybyłów w powiecie sieradzkim,

w województwie opolskim:

- część gminy Gorzów Śląski położona na północ od miasta Gorzów Śląski oraz na północ od linii wyznaczonej przez drogę nr 4715E, część gminy Praszka położona na północ od linii wyznaczonej przez drogę nr 45 w miejscowości Praszka oraz na północ od drogi łączącej miejscowości Praszka – Kowale w powiecie oleskim,
- część gminy Byczyna położona na wschód od linii wyznaczonej przez drogę nr 11 w powiecie kluczborskim,
- część gminy Namysłów położona na wschód od linii wyznaczonej przez rzekę Głucha w powiecie namysłowskim,

w województwie podlaskim:

- gmina Siemiatycze, część gminy Mielnik położona na zachód od linii wyznaczonej przez drogę biegnącą od północnej granicy gminy łączącą miejscowości Borysowszczyzna – Radziwiłówka – Mielnik, część gminy Nurzec-Stacja położona na zachód od linii wyznaczonej przez drogę 693 biegnącej od północnej granicy gminy do miejscowości Żerczyce, następnie na zachód od linii wyznaczonej przez drogi łączące miejscowości Żerczyce – Nurzec-Stacja – Borysowszczyzna do południowej granicy gminy, część gminy Milejczyce położona na południe od linii wyznaczonej przez drogę biegnącą od zachodniej granicy gminy łączącą miejscowości Choroszczewo – Pokaniewo – Grabarka – Milejczyce do miejscowości Milejczyce, a następnie na zachód od drogi nr 693 biegnącej od miejscowości Milejczyce do południowej granicy gminy, część gminy Dziadkowice położona na południe od linii wyznaczonej przez drogę biegnącą od zachodniej granicy gminy, łączącej miejscowości Zaręby – Dziadkowice – Malewice – Hornowo do wschodniej granicy gminy w powiecie siemiatyckim,

w województwie małopolskim:

- gminy Dąbrowa Tarnowska, Radgoszcz, Szczucin w powiecie dąbrowskim,,
- gminy Lisia Góra, Pleśna, Ryglice, Skrzyszów, Tarnów, Tuchów w powiecie tarnowskim,
- powiat miejski Tarnów.

7. Romania

The following restricted zones III in Romania:

- Zona oraşului Bucureşti,
- Judeţul Constanţa,
- Judeţul Satu Mare,
- Judeţul Tulcea,
- Judeţul Bacău,
- Judeţul Bihor,
- Judeţul Bistriţa Năsăud,
- Judeţul Brăila,
- Judeţul Buzău,
- Judeţul Călăraşi,
- Judeţul Dâmboviţa,
- Judeţul Galaţi,
- Judeţul Giurgiu,
- Judeţul Ialomiţa,
- Judeţul Ilfov,
- Judeţul Prahova,
- Judeţul Sălaj,
- Judeţul Suceava
- Judeţul Vaslui,
- Judeţul Vrancea,
- Judeţul Teleorman,
- Judeţul Mehedinţi,
- Judeţul Gorj,
- Judeţul Argeş,
- Judeţul Olt,
- Judeţul Dolj,
- Judeţul Arad,
- Judeţul Timiş,
- Judeţul Covasna,
- Judeţul Braşov,
- Judeţul Botoşani,
- Judeţul Vâlcea,
- Judeţul Iaşi,
- Judeţul Hunedoara,
- Judeţul Alba,
- Judeţul Sibiu,

- Județul Caraș-Severin,
- Județul Neamț,
- Județul Harghita,
- Județul Mureș,
- Județul Cluj,
- Județul Maramureș.

8. Slovakia

The following restricted zones III in Slovakia:

- In the district of Lučenec: Lučenec a jeho časti, Panické Dravce, Mikušovce, Pinciná, Holiša, Vidiná, Boľkovce, Trebeľovce, Halič, Stará Halič, Tomášovce, Trenč, Veľká nad Ipľom, Buzitka (without settlement Dóra), Prša, Nitra nad Ipľom, Mašková, Lehôtka, Kalonda, Jelšovec, Ľuboreč, Filákovské Kováče, Lipovany, Mučín, Rapovce, Lupoč, Gregorova Vieska, Praha,
 - In the district of Poltár: Kalinovo, Veľká Ves,
 - the whole district of Trebišov'.
-

DIRECTIVES

COMMISSION DELEGATED DIRECTIVE (EU) 2021/1269

of 21 April 2021

amending Delegated Directive (EU) 2017/593 as regards the integration of sustainability factors into the product governance obligations

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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 ⁽¹⁾, and in particular Article 16(12) and Article 24(13) thereof,

Whereas:

- (1) The transition to a low-carbon, more sustainable, resource-efficient and circular economy in line with the Sustainable Development Goals is key to ensuring the long-term competitiveness of the economy of the Union. In 2016, the Union concluded the Paris Agreement ⁽²⁾. Article 2(1), point (c), of the Paris Agreement sets out the objective of strengthening the response to climate change by, among others means, making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.
- (2) Recognising that challenge, the Commission presented the European Green Deal ⁽³⁾ in December 2019. The Green Deal represents a new growth strategy that aims to transform the Union into a fair and prosperous society with a modern, resource-efficient and competitive economy where there are no net greenhouse gas emissions from 2050 onwards and where economic growth is decoupled from resource use. That objective requires that clear signals are given to investors with regard to their investments to avoid stranded assets and to raise sustainable finance.
- (3) In March 2018, the Commission published its Action Plan 'Financing Sustainable Growth' ⁽⁴⁾, setting up an ambitious and comprehensive strategy on sustainable finance. One of the objectives set out in the Action Plan is to reorient capital flows towards sustainable investments to achieve sustainable and inclusive growth.
- (4) Proper implementation of the Action plan encourages investors' demand for sustainable investments. It is therefore necessary to clarify that sustainability factors, and sustainability-related objectives should be considered within the product governance requirements set out in Commission Delegated Directive (EU) 2017/593 ⁽⁵⁾.
- (5) Investment firms manufacturing and distributing financial instruments should consider sustainability factors in the product approval process of each financial instrument and in the other product governance and oversight arrangements for each financial instrument that is intended to be distributed to clients seeking financial instruments with a sustainability-related profile.

⁽¹⁾ OJ L 173, 12.6.2014, p. 349.

⁽²⁾ Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

⁽³⁾ COM(2019) 640 final.

⁽⁴⁾ COM(2018) 97 final.

⁽⁵⁾ Commission Delegated Directive (EU) 2017/593 of 7 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits (OJ L 87, 31.3.2017, p. 500).

- (6) Considering that the target market should be set at a sufficient granular level, a general statement that a financial instrument has a sustainability-related profile should not be sufficient. Investment firms manufacturing and distributing financial instruments should rather specify to which group of clients with sustainability related objectives the financial instrument is supposed to be distributed.
- (7) To ensure that financial instruments with sustainability factors remain easily available also for clients that do not have sustainability preferences, investment firms should not be required to identify groups of clients with whose needs, characteristics and objectives the financial instrument with sustainability factors is not compatible.
- (8) The sustainability factors of a financial instrument should be presented in a transparent manner to enable the distributor to provide the relevant information to its clients or potential clients.
- (9) Delegated Directive (EU) 2017/593 should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Delegated Directive (EU) 2017/593

Delegated Directive (EU) 2017/593 is amended as follows:

- (1) in Article 1, the following paragraph 5 is added:

‘5. “sustainability factors” means sustainability factors as defined in Article 2, point (24), of Regulation (EU) 2019/2088 of the European Parliament and of the Council (*).

(*) Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).’;

- (2) Article 9 is amended as follows:

- (a) in paragraph 9, the first subparagraph is replaced by the following:

‘9. Member States shall require investment firms to identify at a sufficiently granular level the potential target market for each financial instrument and specify the type(s) of client with whose needs, characteristics and objectives, including any sustainability related objectives, the financial instrument is compatible. As part of this process, the firm shall identify any group(s) of clients with whose needs, characteristics and objectives the financial instrument is not compatible, except where financial instruments consider sustainability factors. Where investment firms collaborate to manufacture a financial instrument, only one target market needs to be identified.’;

- (b) paragraph 11 is replaced by the following:

‘11. Member States shall require investment firms to determine whether a financial instrument meets the identified needs, characteristics and objectives of the target market, including by examining the following elements:

- (a) the financial instrument’s risk/reward profile is consistent with the target market;
- (b) the financial instrument’s sustainability factors, where relevant, are consistent with the target market;
- (c) the financial instrument design is driven by features that benefit the client and not by a business model that relies on poor client outcomes to be profitable.’;

- (c) in paragraph 13, the following second subparagraph is added:

‘The sustainability factors of the financial instrument shall be presented in a transparent manner and provide distributors with the relevant information to duly consider any sustainability related objectives of the client or potential client.’;

(d) paragraph 14 is replaced by the following:

‘14. Member States shall require investment firms to review the financial instruments they manufacture on a regular basis, taking into account any event that could materially affect the potential risk to the identified target market. Investment firms shall consider whether the financial instrument remains consistent with the needs, characteristics and objectives, including any sustainability related objectives, of the target market and if it is distributed to the target market, or reaches clients with whose needs, characteristics and objectives the financial instrument is not compatible.’;

(3) Article 10 is amended as follows:

(a) in paragraph 2, the first subparagraph is replaced by the following:

‘2. Member States shall require investment firms to have in place adequate product governance arrangements to ensure that products and services they intend to offer or recommend are compatible with the needs, characteristics, and objectives, including any sustainability related objectives, of an identified target market and that the intended distribution strategy is consistent with the identified target market. Investment firms shall appropriately identify and assess the circumstances and needs of the clients they intend to focus on, so as to ensure that clients’ interests are not compromised as a result of commercial or funding pressures. As part of this process, investment firms shall identify any group of clients with whose needs, characteristics and objectives the product or service is not compatible except where financial instruments consider sustainability factors.’;

(b) paragraph 5 is replaced by the following:

‘5. Member States shall require investment firms to review the investment products they offer or recommend and the services they provide on a regular basis, taking into account any event that could materially affect the potential risk to the identified target market. Firms shall assess at least whether the product or service remains consistent with the needs, characteristics and objectives, including any sustainability related objectives, of the identified target market and whether the intended distribution strategy remains appropriate. Firms shall reconsider the target market and/or update the product governance arrangements if they become aware that they have wrongly identified the target market for a specific product or service or that the product or service no longer meets the circumstances of the identified target market, such as where the product becomes illiquid or very volatile due to market changes.’.

Article 2

Transposition

1. Member States shall adopt and publish, by 21 August 2022 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 22 November 2022.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

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

*Article 4***Addressees**

This Directive is addressed to the Member States.

Done at Brussels, 21 April 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED DIRECTIVE (EU) 2021/1270**of 21 April 2021****amending Directive 2010/43/EU as regards the sustainability risks and sustainability factors to be taken into account for Undertakings for Collective Investment in Transferable Securities (UCITS)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) ⁽¹⁾, and in particular Article 12(3), Article 14(2), and Article 51(4) thereof,

Whereas:

- (1) The transition to a low-carbon, more sustainable, resource-efficient and circular economy in line with the Sustainable Development Goals is key to ensuring the long-term competitiveness of the economy of the Union. In 2016, the Union concluded the Paris Agreement ⁽²⁾. Article 2(1), point (c) of the Paris Agreement sets out the objective of strengthening the response to climate change by, among other means making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.
- (2) Recognising that challenge, the Commission presented the European Green Deal ⁽³⁾ in December 2019. That Green Deal represents a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net greenhouse gas emissions from 2050 onwards and where economic growth is decoupled from resource use. That objective requires that clear signals are given to investors with regard to their investments to avoid stranded assets and to raise sustainable finance.
- (3) In March 2018, the Commission published its Action Plan 'Financing Sustainable Growth' ⁽⁴⁾, setting up an ambitious and comprehensive strategy on sustainable finance. One of the objectives set out in the Action Plan is to reorient capital flows towards sustainable investments to achieve sustainable and inclusive growth. The impact assessment underpinning subsequent legislative initiatives published in May 2018 ⁽⁵⁾ demonstrated the need to clarify that sustainability factors should be taken into account by management companies as part of their duties towards investors. Management companies should therefore assess not only all relevant financial risks on an ongoing basis, but also all relevant sustainability risks as referred to in Regulation (EU) 2019/2088 of the European Parliament and of the Council ⁽⁶⁾ that, where they occur, could cause an actual or potential material negative impact on the value of an investment. Commission Directive 2010/43/EU ⁽⁷⁾ does not explicitly refer to sustainability risks. For that reason and to ensure that internal procedures and organisational arrangements are properly implemented and adhered to, it is necessary to clarify that processes, systems and internal controls of management companies reflect sustainability risks, and that technical capacity and knowledge is necessary to analyse those risks.

⁽¹⁾ OJ L 302, 17.11.2009, p. 32.

⁽²⁾ Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

⁽³⁾ COM(2019) 640 final.

⁽⁴⁾ COM(2018) 97 final.

⁽⁵⁾ SWD(2018) 264 final.

⁽⁶⁾ Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).

⁽⁷⁾ Commission Directive 2010/43/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company (OJ L 176, 10.7.2010, p. 42).

- (4) To avoid an uneven playing field for management companies, and investment companies that have not designated a management company, and to avoid related fragmentation, inconsistency and unpredictability in the functioning of the internal market, the rules regarding the integration of sustainability risks should also apply to investment companies, taking into account the principle of proportionality.
- (5) To maintain a high standard of investor protection, management companies should, when identifying the types of conflicts of interest the existence of which may damage the interests of a UCITS, include conflicts of interest that may arise as a result of the integration of sustainability risks in their processes, systems and internal controls. Those conflicts may include conflicts arising from remuneration or personal transactions of relevant staff, conflicts of interest that could give rise to greenwashing, mis-selling or misrepresentation of investment strategies and conflicts of interests between different UCITS managed by the same management company.
- (6) Pursuant to Regulation (EU) 2019/2088 management or investment companies that are obliged to consider principal adverse impacts of investment decisions on sustainability factors, or consider those principal adverse impacts voluntarily, are obliged to disclose how their due diligence policies take those principal adverse impacts into account. To ensure consistency between Regulation (EU) 2019/2088 and Directive 2010/43/EU, that obligation should be reflected in Directive 2010/43/EU.
- (7) Directive 2010/43/EU should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2010/43/EU

Directive 2010/43/EU is amended as follows:

- (1) in Article 3, the following points 11 and 12 are added:

- ‘11. “sustainability risk” means sustainability risk as defined in Article 2, point (22), of Regulation (EU) 2019/2088 of the European Parliament and of the Council (*);
12. “sustainability factors” means sustainability factors as defined in Article 2, point (24), of Regulation (EU) 2019/2088.

(*) Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).;

- (2) in Article 4(1), the following subparagraph is added:

‘Member States shall ensure that management companies take into account sustainability risks when complying with the requirements laid down in the first subparagraph.’;

- (3) in Article 5, the following paragraph 5 is added:

‘5. Member States shall ensure that for the purposes laid down in paragraphs 1, 2 and 3, management companies retain the necessary resources and expertise for the effective integration of sustainability risks.’;

- (4) the following Article 5a is inserted:

‘Article 5a

Obligation for investment companies to integrate sustainability risks in the management of UCITS

Member States shall ensure that investment companies integrate sustainability risks in the management of UCITS, taking into account the nature, scale and complexity of the business of the investment companies.’;

(5) in Article 9(2), the following point (g) is added:

‘(g) is responsible for the integration of sustainability risks in the activities referred to in points (a) to (f).’;

(6) in Article 17, the following paragraph 3 is added:

‘3. Member States shall ensure that, when management companies identify the types of conflicts of interest the existence of which may damage the interests of a UCITS, those management companies include those types of conflicts of interest that may arise as a result of the integration of sustainability risks in their processes, systems and internal controls.’;

(7) in Article 23, the following paragraphs 5 and 6 are added:

‘5. Member States shall require that management companies take into account sustainability risks when complying with the requirements set out in paragraphs 1 to 4.

6. Member States shall ensure that where management companies, or, where applicable, investment companies, consider principal adverse impacts of investment decisions on sustainability factors as described in Article 4(1), point (a), of Regulation (EU) 2019/2088, or as required by paragraphs 3 or 4 of Article 4 of that Regulation, those management companies or investment companies take into account such principal adverse impacts when complying with the requirements set out in paragraphs 1 to 4 of this Article.’;

(8) in Article 38(1), the second subparagraph is replaced by the following:

‘The risk management policy shall comprise such procedures as are necessary to enable the management company to assess for each UCITS it manages the exposure of that UCITS to market, liquidity, sustainability and counterparty risks, and the exposure of the UCITS to all other risks, including operational risks, which may be material for each UCITS it manages.’.

Article 2

Transposition

1. Member States shall adopt and publish, by 31 July 2022 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those measures from 1 August 2022.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

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

Article 4

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 21 April 2021.

For the Commission
The President
Ursula VON DER LEYEN

DECISIONS

DECISION (EU, Euratom) 2021/1271 OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION

of 26 July 2021

appointing the Director of the Authority for European political parties and European political foundations

THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND 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) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations ⁽¹⁾, and in particular Article 6(3) thereof,

Having regard to the list of candidates proposed on 15 July 2021 by a selection committee composed of the Secretaries-General of the European Parliament, the Council and the Commission following an open call for candidates with a view to the appointment of the Director of the Authority for European political parties and European political foundations,

Whereas:

- (1) Article 6(1) of Regulation (EU, Euratom) No 1141/2014 establishes an Authority for European political parties and European political foundations.
- (2) Article 6(3) of Regulation (EU, Euratom) No 1141/2014 provides for the Director of the Authority for European political parties and European political foundations to be appointed for a non-renewable term of five years by common accord of the European Parliament, the Council and the Commission, on the basis of proposals made by a selection committee composed of the Secretaries-General of those institutions following an open call for candidates,

HAVE ADOPTED THIS DECISION:

Article 1

1. Mr Pascal SCHONARD is hereby appointed as Director of the Authority on European political parties and European political foundations for the period from 1 September 2021 to 31 August 2026.
2. The Director shall be appointed as a temporary agent at grade AD 12, step 1.
3. The appointment is subject to the signing, by the Director designate, of the declaration of independence and absence of conflict of interests that is annexed 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⁾ OJ L 317, 4.11.2014, p. 1.

Done at Brussels, 26 July 2021.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
J. PODGORŠEK

For the Commission
Vice-President
M. ŠEFČOVIČ

ANNEX

DECLARATION OF INDEPENDENCE AND ABSENCE OF CONFLICT OF INTERESTS

I, the undersigned,, declare that I have taken note of Article 6(3) of Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations and will exercise my functions as Director of the Authority on European political parties and European political foundations ('the Authority') fully independently and in full compliance with the rules of that Regulation. When acting on behalf of the Authority, I will neither seek nor take instructions from any institution or government, or from any other body, office or agency. I will refrain from any act which is incompatible with the nature of my duties.

I declare that, to the best of my knowledge, I am not in a situation of conflict of interests. A conflict of interests exists where the impartial and objective exercise of the functions of Director of the Authority is compromised for reasons involving family, personal life, political, national, philosophical or religious affinity, economic interest or any other shared interest with a recipient of funding under Regulation (EU, Euratom) No 1141/2014. In particular, I declare that I am not a member of the European Parliament, I do not hold any electoral mandate and I am not, and never have been, an employee of a European political party or of a European political foundation.

Done at [...],

[DATE + SIGNATURE of the Director designate]

COMMISSION IMPLEMENTING DECISION (EU) 2021/1272**of 30 July 2021****establishing the equivalence, for the purpose of facilitating the right of free movement within the Union, of COVID-19 certificates issued by the Vatican City State to the certificates issued in accordance with Regulation (EU) 2021/953 of the European Parliament and of the Council****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2021/953 of the European Parliament and of the Council of 14 June 2021 on a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates (EU Digital COVID Certificate) to facilitate free movement during the COVID-19 pandemic ⁽¹⁾, and in particular Article 8(2) thereof,

Whereas:

- (1) Regulation (EU) 2021/953 lays down a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates ('EU Digital COVID Certificate') for the purpose of facilitating the holders' exercise of their right to free movement during the COVID-19 pandemic. It is also to contribute to facilitating the gradual lifting of restrictions to free movement put in place by Member States, in accordance with Union law, to limit the spread of SARS-CoV-2, in a coordinated manner.
- (2) Regulation (EU) 2021/953 allows for the acceptance of COVID-19 certificates issued by third countries to Union citizens and their family members where the Commission finds that those COVID-19 certificates are issued in accordance with standards that are to be considered as equivalent to those established pursuant to this Regulation. Furthermore, in accordance with Regulation (EU) 2021/954 of the European Parliament and of the Council ⁽²⁾, Member States have to apply the rules laid down in Regulation (EU) 2021/953 to third-country nationals who do not fall within the scope of that Regulation, but who are legally staying or residing in their territory and who are entitled to travel to other Member States in accordance with Union law. Therefore, any equivalence findings laid down in this Decision should apply to COVID-19 vaccination certificates issued by the Vatican City State to Union citizens and their family members. Similarly, on the basis of Regulation (EU) 2021/954, such equivalence findings also apply to COVID-19 vaccination certificates issued by the Vatican City State to third-country nationals legally staying or residing in the territory of the Member States under the conditions laid down in that Regulation.
- (3) Following a request by the Vatican City State, the Commission carried out, on 29 June 2021, technical tests that demonstrated that the COVID-19 vaccination certificates issued by the Vatican City State in accordance with its 'VA-EUDCC-GW' system are interoperable with the trust framework established by Regulation (EU) 2021/953, allowing for the verification of their authenticity, validity and integrity. The Commission also confirmed that the COVID-19 vaccination certificates issued by the Vatican City State in accordance with the 'VA-EUDCC-GW' system contain the necessary data.
- (4) On 9 July 2021, the Vatican City State provided the Commission with detailed information on the issuance of interoperable COVID-19 vaccination certificates pursuant to the system entitled 'VA-EUDCC-GW'. The Vatican City State informed the Commission that it considered that its COVID-19 vaccination certificates are being issued in accordance with a standard and technological system that are interoperable with the trust framework established by Regulation (EU) 2021/953 and that allow for the verification of the authenticity, validity and integrity of the certificates. In this regard, the Vatican City State informed the Commission that COVID-19 vaccination certificates issued by the Vatican City State in accordance with the 'VA-EUDCC-GW' system contain the data referred to in the Annex to Regulation (EU) 2021/953.

⁽¹⁾ OJ L 211, 15.6.2021, p. 1.

⁽²⁾ Regulation (EU) 2021/954 of the European Parliament and of the Council of 14 June 2021 on a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates (EU Digital COVID Certificate) with regard to third country nationals legally staying or residing in the territories of Member States during the COVID-19 pandemic (OJ L 211, 15.6.2021, p. 24).

- (5) In addition, the Vatican City State informed the Commission that it will issue interoperable vaccination certificates for COVID-19 vaccine Comirnaty.
- (6) The Vatican City State also informed the Commission that it will accept vaccination, test and recovery certificates issued by the Member States in accordance with Regulation (EU) 2021/953. The Vatican City State informed the Commission that it will accept proof of vaccination for vaccines with an EU wide authorization (following an opinion by the European Medicines Agency), vaccines that have been granted a temporary marketing authorisation by the competent authority of an EU Member State, and vaccines that have completed the WHO Emergency Use listing procedure. The Vatican City State further informed the Commission that it will accept test certificates based on NAAT (e.g. RT-PCR) and Rapid Antigen Tests on the list of Health Security Committee. The Vatican City State also informed the Commission that it will accept recovery certificates based on NAAT (e.g. RT-PCR).
- (7) On 22 July 2021, the Vatican City State also informed the Commission that, when verifying vaccination, test and recovery certificates issued by the Member States in accordance with Regulation (EU) 2021/953, the personal data included in the certificates shall be processed only to verify and confirm the holder's vaccination, test result or recovery and will not be retained afterwards.
- (8) The necessary elements for establishing that COVID-19 vaccination certificates issued by the Vatican City State in accordance with the 'VA-EUDCC-GW' system are to be considered as equivalent to those issued in accordance with Regulation (EU) 2021/953 are thus fulfilled.
- (9) Therefore, COVID-19 vaccination certificates issued by the Vatican City State in accordance with the 'VA-EUDCC-GW' system should be accepted under the conditions referred to in Article 5(5) of Regulation (EU) 2021/953.
- (10) In order for this Decision to be operational, the Vatican City State should be connected to the EU Digital COVID Certificate trust framework established by Regulation (EU) 2021/953.
- (11) In order to protect the Union's interests, in particular in the area of public health, the Commission may use its powers to suspend or terminate this Decision if the conditions of Article 8(2) of Regulation (EU) 2021/953 are no longer met.
- (12) In the light of the need to connect the Vatican City State to the EU Digital COVID Certificate trust framework established by Regulation (EU) 2021/953 as rapidly as possible, this Decision should enter into force on the day of its publication in the *Official Journal of the European Union*.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 14 of Regulation (EU) 2021/953,

HAS ADOPTED THIS DECISION:

Article 1

COVID-19 vaccination certificates issued by the Vatican City State in accordance with the 'VA-EUDCC-GW' system shall, for the purpose of facilitating the right of free movement within the Union, be treated as equivalent to those issued in accordance with Regulation (EU) 2021/953.

Article 2

The Vatican City State shall be connected to the EU Digital COVID Certificate trust framework established by Regulation (EU) 2021/953.

Article 3

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

Done at Brussels, 30 July 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING DECISION (EU) 2021/1273**of 30 July 2021****establishing the equivalence, for the purpose of facilitating the right of free movement within the Union, of COVID-19 certificates issued by San Marino to the certificates issued in accordance with Regulation (EU) 2021/953 of the European Parliament and of the Council****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2021/953 of the European Parliament and of the Council of 14 June 2021 on a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates (EU Digital COVID Certificate) to facilitate free movement during the COVID-19 pandemic ⁽¹⁾, and in particular Article 8(2) thereof,

Whereas:

- (1) Regulation (EU) 2021/953 lays down a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates ('EU Digital COVID Certificate') for the purpose of facilitating the holders' exercise of their right to free movement during the COVID-19 pandemic. It is also to contribute to facilitating the gradual lifting of restrictions to free movement put in place by Member States, in accordance with Union law, to limit the spread of SARS-CoV-2, in a coordinated manner.
- (2) Regulation (EU) 2021/953 allows for the acceptance of COVID-19 certificates issued by third countries to Union citizens and their family members where the Commission finds that those COVID-19 certificates are issued in accordance with standards that are to be considered as equivalent to those established pursuant to this Regulation. Furthermore, in accordance with Regulation (EU) 2021/954 of the European Parliament and of the Council ⁽²⁾, Member States have to apply the rules laid down in Regulation (EU) 2021/953 to third-country nationals who do not fall within the scope of that Regulation, but who are legally staying or residing in their territory and who are entitled to travel to other Member States in accordance with Union law. Therefore, any equivalence findings laid down in this Decision should apply to COVID-19 vaccination certificates issued by San Marino to Union citizens and their family members. Similarly, on the basis of Regulation (EU) 2021/954, such equivalence findings also apply to COVID-19 certificates issued by San Marino to third-country nationals legally staying or residing in the territory of the Member States under the conditions laid down in that Regulation.
- (3) Following a request by San Marino, the Commission carried out, on 30 June 2021, technical tests that demonstrated that the COVID-19 vaccination, test and recovery certificates issued by San Marino in accordance with its San Marino Digital Covid Certificate ('smdcc') system are interoperable with the trust framework established by Regulation (EU) 2021/953, allowing for the verification of their authenticity, validity and integrity. The Commission also confirmed that the COVID-19 certificates issued by San Marino in accordance with the 'smdcc' system contain the necessary data.
- (4) On 14 July 2021, San Marino provided the Commission with information on the issuance of interoperable COVID-19 vaccination, test and recovery certificates pursuant to the system entitled 'smdcc'. San Marino informed the Commission that it considered that its COVID-19 certificates are being issued in accordance with a standard and technological system that are interoperable with the trust framework established by Regulation (EU) 2021/953 and that allow for the verification of the authenticity, validity and integrity of the certificates. In this regard, San Marino informed the Commission that COVID-19 certificates issued by San Marino in accordance with the 'smdcc' system contain the data referred to in the Annex to Regulation (EU) 2021/953.

⁽¹⁾ OJ L 211, 15.6.2021, p. 1.

⁽²⁾ Regulation (EU) 2021/954 of the European Parliament and of the Council of 14 June 2021 on a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates (EU Digital COVID Certificate) with regard to third country nationals legally staying or residing in the territories of Member States during the COVID-19 pandemic (OJ L 211, 15.6.2021, p. 24).

- (5) In addition, San Marino informed the Commission that it will issue interoperable vaccination certificates for COVID-19 vaccines. These currently include Comirnaty, Moderna, Vaxzevria, Janssen and Sputnik V.
- (6) Furthermore, San Marino informed the Commission that it will issue interoperable test certificates only for nucleic acid amplification tests or for rapid antigen tests listed in the common and updated list of COVID-19 rapid antigen tests agreed by the Health Security Committee, established by Article 17 of Decision No 1082/2013/EU of the European Parliament and of the Council ⁽³⁾, on the basis of the Council Recommendation of 21 January 2021 ⁽⁴⁾.
- (7) San Marino also informed the Commission that it will accept vaccination, test and recovery certificates issued by the Member States in accordance with Regulation (EU) 2021/953. San Marino informed the Commission that it will accept proof of vaccination for vaccines with an EU wide authorization (following an opinion by the European Medicines Agency), vaccines that have been granted a temporary marketing authorisation by the competent authority of an EU Member State, and vaccines that have completed the WHO Emergency Use listing procedure. San Marino further informed the Commission that it will accept test certificates based on NAAT (eg RT-PCR) and Rapid Antigen Tests on the list of Health Security Committee. San Marino will accept recovery certificates based on NAAT (eg RT-PCR).
- (8) On 22 July 2021, San Marino also informed the Commission that, when verifying vaccination, test and recovery certificates issued by the Member States in accordance with Regulation (EU) 2021/953, the personal data included in the certificates shall be processed only to verify and confirm the holder's vaccination, test result or recovery and will not be retained afterwards.
- (9) The necessary elements for establishing that COVID-19 certificates issued by San Marino in accordance with the 'smdcc' system are to be considered as equivalent to those issued in accordance with Regulation (EU) 2021/953 are thus fulfilled.
- (10) Therefore, COVID-19 certificates issued by San Marino in accordance with the 'smdcc' system should be accepted under the conditions referred to in Article 5(5), Article 6(5), and Article 7(8) of Regulation (EU) 2021/953.
- (11) In order for this Decision to be operational, San Marino should be connected to the EU Digital COVID Certificate trust framework established by Regulation (EU) 2021/953.
- (12) In order to protect the Union's interests, in particular in the area of public health, the Commission may use its powers to suspend or terminate this Decision if the conditions of Article 8(2) of Regulation (EU) 2021/953 are no longer met.
- (13) In the light of the need to connect San Marino to the EU Digital COVID Certificate trust framework established by Regulation (EU) 2021/953 as rapidly as possible, this Decision should enter into force on the day of its publication in the *Official Journal of the European Union*.
- (14) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 14 of Regulation (EU) 2021/953,

HAS ADOPTED THIS DECISION:

Article 1

COVID-19 vaccination, test and recovery certificates issued by San Marino in accordance with the 'smdcc' system shall, for the purpose of facilitating the right of free movement within the Union, be treated as equivalent to those issued in accordance with Regulation (EU) 2021/953.

⁽³⁾ 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 (OJ L 293, 5.11.2013, p. 1).

⁽⁴⁾ Council Recommendation of 21 January 2021 on a common framework for the use and validation of rapid antigen tests and the mutual recognition of COVID-19 test results in the EU (OJ C 24, 22.1.2021, p. 1).

Article 2

San Marino shall be connected to the EU Digital COVID Certificate trust framework established by Regulation (EU) 2021/953.

Article 3

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

Done at Brussels, 30 July 2021.

For the Commission
The President
Ursula VON DER LEYEN

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