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⁽¹⁾ Text with EEA relevance.

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

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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1294**of 15 September 2020****on the Union renewable energy financing mechanism****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council ⁽¹⁾, and in particular Article 33 thereof,

Whereas:

- (1) Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action sets out the necessary legislative foundation for a cost-efficient, transparent and predictable governance of the Energy Union and Climate Action. The aim is to ensure the achievement of the objectives of the Energy Union and the long-term Union greenhouse gas emissions commitments consistent with the Paris Agreement, and, in particular, of the targets and objectives in the field of greenhouse gas ('GHG') emission reduction, energy from renewable sources and energy efficiency.
- (2) Directive (EU) 2018/2001 of the European Parliament and of the Council ⁽²⁾ introduced a new, binding, renewable energy target for the Union for 2030 of at least 32 % of gross final energy consumption.
- (3) With a view to achieving the Union's binding target of at least 32 % renewable energy in 2030, Member States need to contribute with a share of energy from renewable sources in gross final consumption of energy. The overall Union's binding target is underpinned by obligations for the Member States to deploy renewable energy also in the heating and cooling and transport sectors pursuant to Articles 23 and 25 of Directive (EU) 2018/2001. Moreover, Regulation (EU) 2018/1999 sets out an indicative trajectory from 2021 to 2030 for each Member State's contribution of renewable energy sources and for the Union's target, with three reference points to be reached in 2022, 2025 and 2027.
- (4) In order to enable adequate monitoring and early corrective action by Member States and the Commission, the Commission should assess the achievement of the reference points in 2022, 2025 and 2027 on the basis of the Member States' integrated national energy and climate progress reports, among other things.

⁽¹⁾ OJ L 328, 21.12.2018, p. 1.

⁽²⁾ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

- (5) Where the Commission concludes, in that context, that one or more of the Union reference points were not met, Member States which have fallen below their national reference point should ensure that additional measures are implemented in order to fill the gap towards the EU 2030 renewables target. One of those measures could consist of a voluntary financial payment to the Union renewable energy financing mechanism with the aim of closing the gap, in part or entirely, as regards the national reference points in as much as renewable energy generated by installations financed by the financing mechanism would be statistically attributed to the participating Member States, reflecting their relative payments. That mechanism should facilitate the Member States with the opportunity to increase the sectoral share of renewable energy in the electricity, heating and cooling, and transport sector.
- (6) Directive (EU) 2018/2001 requires the Commission to support the ambition of Member States in the field of renewable energy through an enabling framework, including through enhanced use of Union funds. In particular, that support should aim at reducing the cost of capital for renewable energy projects and enhancing regional cooperation between Member States and between Member States and third countries, through joint projects, joint support schemes and the opening of support schemes for renewable electricity to producers located in other Member States. In that respect and subject to the requirements in Article 5 of Directive (EU) 2018/2001, the participation of a Member State in the mechanism can be considered as an opening of support schemes for electricity from renewable sources.
- (7) With the aim of supporting the renewable energy deployment across the Union, the mechanism should contribute to the enabling framework, in particular by providing support in the form of loans and grants.
- (8) In order to support that dual objective, that is to say the gap filling function established by Regulation (EU) 2018/1999 and the enabling framework provided for in Directive (EU) 2018/2001, Regulation (EU) 2018/1999 empowers the Commission to adopt implementing acts to set out the necessary provisions for the establishment and functioning of a Union renewable energy financing mechanism.
- (9) Regulation (EU) 2018/1999 provides for the mechanism to obtain resources from payments by Member States, Union funds or private sector contributions. Such resources should be accounted for separately and under specific fund sources within the budget line of the mechanism.
- (10) As envisaged by Article 33 of Regulation 2018/1999, the additional payments by Member States, which would finance specific items of expenditure, such as support for new renewable energy projects in the Union, should be treated as external assigned revenue pursuant to Article 21(5) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽³⁾ on the financial rules applicable to the general budget of the Union. The Commission should provide transparency as regards the implementation of the external assigned revenue by means of regular reporting to the Member States.
- (11) Union funding under the mechanism may be combined with funding from other Union programmes where this is provided for in, and under the conditions set out in, the relevant basic act.
- (12) The coordination with Union investment support instruments and funds or programmes as well as blending operations under the Union investment support instrument could be used to facilitate the achievement of the objectives of the mechanism, in particular by enabling the reduction of the cost of capital in host Member States, thereby incentivising the investment in renewable energy projects.
- (13) The coordination of Union and national support to new renewable energy projects may rely on the long-term schedule published pursuant to Article 6(3) of Directive (EU) 2018/2001.

⁽³⁾ 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).

- (14) Contributions from the private sector can play an important role in funding the mechanism and fostering the uptake of renewable energy projects under that mechanism. Those contributions should count as an addition to the Union binding target of at least 32 %. Thus, private sector contributions can bring added value and ensure additionality of projects. Therefore, to increase the transparency of such additionality, the renewable energy generated by projects receiving support from private sector contributions may be linked to the Union-wide green label referred to in Article 19(13) of Directive (EU) 2018/2001, consistent with the Sustainable Finance taxonomy. To incentivise private sector contributions, the private entity that contributes to the mechanism may request to receive the guarantees of origins for the energy production that corresponds to its contribution and that could be issued for the renewable energy production in accordance with Article 19 of Directive (EU) 2018/2001 and subject to the national legislation.
- (15) Regulation (EU) 2018/1999 provides for support from the mechanism in the form of premiums additional to market prices, among others. The tendering and bidding referred to in Article 33 of that Regulation will be implemented through a financial support from the mechanism in the form of grants.
- (16) The mechanism should make adequate financial resources available to the awarded projects in a timely manner, which may include disbursing investment support up-front or on the basis of the achievement of milestones.
- (17) In addition, pursuant to Regulation (EU) 2018/1999 the mechanism may provide support in the form of financial instruments, such as low-interest loans. In order to implement those financial instruments and at the same time ensure consistency with the efforts to streamline the Union financial instruments under the 2021-2027 Multiannual Financial Framework, it is appropriate to provide such support through other Union instruments or programmes. Cost effectiveness of support may be enhanced by combining repayable forms of support and non-repayable forms of support, for instance through contributions to blending operations under the Union investment support instrument.
- (18) The mechanism should allocate the support through competitive calls for proposals to new renewable energy projects, whereby all technologies defined as renewable energy technologies under Directive (EU) 2018/2001 should be eligible for support under the financing mechanism. Energy storage could be eligible for support by the mechanism only when deployed in combination with a new renewable energy capacity. The renewable energy projects supported by the mechanism should comply with the relevant Union and national environmental legislation and should fully respect international law.
- (19) The Commission, on the basis of the preferences expressed by the host and contributing Member States should be able to, in line with the criteria laid down in Article 4(5) of Directive (EU) 2018/2001, limit the grant award procedures to specific technologies where opening support to all producers of energy from renewable sources would lead to a suboptimal result, in particular as regards electricity.
- (20) The Commission can, pursuant to Article 3(5) of Directive (EU) 2018/2001 and on the basis of the expressed preferences by the host and contributing Member States, organise specific grant award procedures which aim to support small-scale projects or innovative projects, including projects in outermost regions and isolated or small islands, as part of the contribution of the mechanism to the enabling framework.
- (21) The mechanism's award procedure should ensure sufficient competition in order to allow applicants to reveal their true costs and to avoid collusive behaviour, to minimise transaction costs for the Commission and for applicants and to increase the likelihood of the successful applicant to set up new renewable energy projects.
- (22) In line with Regulation (EU) 2018/1999, support for projects financed by Member States' voluntary payments designated by the Member State to fill a gap in its national indicative trajectory, should be allocated to projects bidding at lowest cost or premium. Other award criteria, as well as eligibility or selection criteria, may be established for projects under the enabling function of the mechanism, including with respect to the environmental impact of the projects.

- (23) The disbursement of the mechanism's support should also be linked to verified increases of renewable energy capacities or renewable energy production in electricity, heating and cooling, or transport sectors delivered by the projects that are awarded with grants by the mechanism. Such outputs should be specified in the grant agreement and substantial underperformance compared to planned increases of capacities (kW) or energy delivered, as set out in the grant agreement, may lead to the use of the relevant provisions governing suspension, termination and reduction in Regulation (EU, Euratom) 2018/1046 by the granting authority.
- (24) The mechanism should be implemented in accordance with the principles of sound financial management and performance laid down in Regulation (EU, Euratom) 2018/1046. In particular, the Commission should take appropriate measures to ensure that, where activities financed under this Regulation are implemented, the financial interests of the Union are protected, for instance, through preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities, fraud or breach of obligations are detected, by the recovery of the amounts unduly paid.
- (25) Where a grant award procedure fails it is appropriate for the Commission to offer the contributing Member State the possibility to either recuperate the amount that it contributed or to wait for the Commission to organise a new call, given that the funds of the mechanism qualifying as external assigned revenues can be automatically carried over. For that purpose, a proper accounting system should be set up. In case the Member State waits for the Commission to organise a new call, it should be considered to have taken additional measures in accordance with Article 32(3) of Regulation (EU) 2018/1999 until the new call is organised.
- (26) In case of failure of the applicant to implement the project and in order to safeguard the legitimate expectations of Member States, it is appropriate that the Member States participating in a project which failed to be implemented by the applicant should be considered to have taken additional measures in accordance with Article 32(3) of Regulation (EU) 2018/1999 for an amount of energy calculated and accounted for separately by the Commission on the basis of the expected generation capacity, the financial contribution paid by that Member State, and the ceiling prices applicable to the call in which that Member State committed to participate, for the period during which the project would have given rise to statistical benefits according to Article 27(2). This should be without prejudice to the renewable energy target for the Union for 2030 of at least 32 % pursuant to Directive (EU) 2018/2001.
- (27) With respect to grant award procedures, the Commission should implement the financing mechanism directly or through an executive agency. In accordance with Article 69 of Regulation (EU, Euratom) 2018/1046, the Commission should be able to delegate, as appropriate, specific implementation tasks to an executive agency, such as the preparation of the calls for proposals, the evaluation procedure, the contractual management of grants, and the monitoring of project implementation. With respect to support in any form laid down in Regulation (EU, Euratom) 2018/1046 other than grants, it will be implemented through other Union instruments or programmes by entrusting budget implementation tasks.
- (28) Pursuant to Article 33(3) of Regulation (EU) 2018/1999, host Member States retain the right to decide whether, and if so, under which conditions they allow installations located on their territory to receive support from the mechanism. In accordance with that provision, host Member States should be allowed to express preferences regarding the calls for proposals to be conducted by the mechanism in as much as they relate to the implementation of the project within their territory, including as regards the environmental impact of the projects.
- (29) Considering the double objective of the mechanism, on the one hand as a gap filler in the context of Article 33(1) of Regulation (EU) 2018/1999 and, on the other hand, supporting the enabling framework pursuant to Article 33(2) of Regulation (EU) 2018/1999, Member States should play an important role in implementing the mechanism.
- (30) The renewable energy generated each year by installations that received non-repayable financial support by the financing mechanism should be statistically attributed to the participating Member States in a way that reflects the relative financial contributions as well as the distribution of statistical benefits between contributing and host Member States established in the particular call for proposals. The statistically attributed renewable energy should be included in the calculation of the share of renewable energy sources of the participating Member States pursuant to Article 7 of Directive (EU) 2018/2001. For the period between the signature of the grant agreement for a project and the start of renewable energy generation of that project, the participating Member States should be considered to

have taken additional measures in accordance with Article 32(3) of Regulation (EU) 2018/1999 for an amount of energy calculated on the basis of the expected generation capacity of that project, the respective financial contribution and the ceiling prices applicable to the call for proposals. After this period, the Member States should be considered to have taken additional measures in accordance with Article 32(3) of Regulation (EU) 2018/1999 for the actual energy generated. Renewable energy produced by installations that were financed exclusively by sources other than Member States payments should not count statistically towards Member States' national contributions but to the Union target of at least 32 % in final energy consumption by 2030.

- (31) Both contributing and host Member States have, therefore, wide incentives to participate in the mechanism, and hence, should benefit from the allocation of statistical benefits. As regards the contributing Member States, the mechanism should offer them the possibility to receive renewable energy attribution for each euro paid, benefit from cost savings and cheap renewable energy potential across sectors as compared to purely national deployment of renewable energy sources and benefit from low transaction costs. Moreover, the mechanism should facilitate compliance with their 2020 baseline target for renewable energy sources.
- (32) The mechanism should allow host Member States to obtain a number of advantages potentially free of costs, benefit from local investment and job creation, benefit from greenhouse gas reductions and improved air quality, modernise their national energy systems and reduce import dependency. Moreover, host Member States should receive statistical benefits relating to the cost that the actual project generates, for instance network costs. In order to cover these costs, it is justified that these statistical benefits should be received by host Member States also in case the installation was financed by sources other than Member States payments.
- (33) The measures provided for in this Regulation are in accordance with the opinion of the Energy Union Committee set up under Article 44 of Regulation (EU) 2018/1999,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation sets out provisions necessary for the implementation and functioning of the Union renewable energy financing mechanism (the 'mechanism').

Article 2

Objectives

1. The mechanism supports renewable energy deployment across the Union.
2. To that end, the mechanism shall fulfil the following two functions:
 - (a) provide support for new renewable energy projects in the Union with the aim of covering a gap in the indicative Union trajectory pursuant to Article 33 (1) of Regulation (EU) 2018/1999 (the 'gap filling function');
 - (b) contribute to the enabling framework pursuant to Article 33(2) of Regulation (EU) 2018/1999 thereby supporting renewable energy deployment across the Union irrespective of a gap to the indicative Union trajectory (the 'enabling function').
3. Unless otherwise provided for in this Regulation, the mechanism shall allocate its resources to support renewable energy deployment across the Union in accordance with the rules set out in this Regulation without distinction between the two functions referred to in paragraph 2 of this Article.

*Article 3***Definitions**

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

- (1) 'mechanism' means the Union renewable energy financing mechanism referred to in Article 33 of Regulation (EU) 2018/1999;
- (2) 'functions of the mechanism' means both the gap filling function and the enabling function of the Union renewable energy financing mechanism;
- (3) 'contributing Member State' means a Member State that makes a direct payment into the mechanism pursuant to Article 33(1) or (2) of Regulation (EU) 2018/1999;
- (4) 'host Member State' means a Member State that allows physical installations for the production of renewable energy financed by the mechanism to be installed on its territory;
- (5) 'participating Member States' means both contributing Member States and host Member States;
- (6) 'project promoter' means person or entity which develops a renewable energy project;
- (7) 'Union funds' means any form of Union financial support, including Union investment support instruments and funds or programmes providing for financial instruments, whether or not it is part of the budget of the European Union;
- (8) 'voluntary financial payment' means a payment made by Member States to the gap filling function in accordance with Article 33(1) of Regulation (EU) 2018/1999;
- (9) 'additional payments' means payments made directly by Member States to the enabling function in accordance with point (a) of Article 33(2) of Regulation (EU) 2018/1999;
- (10) 'payment' means both additional payment and voluntary financial payment;
- (11) 'coordination' means coordination between the financing mechanism and any other Union or national funding instrument in accordance with Article 24;
- (12) 'blending operation' means operation supported by the Union budget combining either non-repayable and repayable forms of support or repayable forms of support from the Union budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;
- (13) 'ceiling price' means the maximum price per kWh or kW that can be awarded within a specific call and above which applications are excluded from the grant award procedure;
- (14) 'energy from renewable sources' or 'renewable energy' has the same meaning attributed to by Article 2(1) of Directive (EU) 2018/2001;
- (15) 'additional unit' means a defined amount of generating capacity (kW) or energy generated (kWh) in accordance with Article 7 of Directive (EU) 2018/2001 that can be attributed to the sole implementation of support provided by the mechanism;
- (16) 'pay-as-bid' means a grant award procedure where applicants are awarded grant support corresponding to the price per additional unit offered in their application;
- (17) 'pay-as-clear' means a grant award procedure where applicants are awarded grant support corresponding to the price per additional unit determined at the point of clearing of the award procedure;
- (18) 'floating premium' means an operating support in the form of a premium per kWh calculated as the difference between an average wholesale price in the price zone where the installation is located and the price determined by the grant award procedure;
- (19) 'fixed premium' means an operating support in the form of a premium per kWh additional to the market price, the amount of which is determined by the grant award procedure;
- (20) 'investment support' means payments by the mechanism relating to the installation of capacity for additional units per kW;
- (21) 'operating support' means contributions by the mechanism which relate to the continuous operation of an undertaking and which are disbursed per additional unit of kWh generated.

*Article 4***Sources of funding**

1. Pursuant to Article 33 of Regulation (EU) 2018/1999, the actions under the mechanism may be financed from payments by Member States, Union funds, or private sector contributions.
2. The mechanism may receive voluntary payments from Member States pursuant to Article 32(3)(d) of Regulation (EU) 2018/1999 or additional payments by Member States pursuant to Article 33(2)(a) of Regulation (EU) 2018/1999.
3. The mechanism may receive budget contributions from other Union programmes in accordance with the applicable basic acts. Where these applicable basic acts so provide, these contributions shall be used in accordance with the provisions of this Regulation, notably in order to contribute to the enabling framework pursuant to Article 3(5) of Directive (EU) 2018/2001. The Commission shall decide for which calls these contributions are used.
4. The mechanism may receive private sector contributions from any private entity, whether a natural or a legal person. Before making its contribution to the mechanism, the private entity may indicate a preference for the call for proposals to which its payment is intended, or a type of technology or end-use that it is willing to support, without distorting market competition, and may request to receive the guarantees of origin that could be issued for the renewable energy production. The Commission may take that preference into account, which is not binding on the Commission. Within three months from receiving information on the final elements of the call for proposals, the private entity shall make its contribution to the mechanism.

*Article 5***Implementation and forms of funding**

1. The mechanism shall be implemented in direct management in accordance with the Financial Regulation or in indirect management with bodies referred to in Article 62(1)(c) of the Financial Regulation.
2. In line with Article 33 of Regulation (EU) 2018/1999, the mechanism shall fulfil the objectives set out in Article 2 by providing funding in any of the forms laid down in Regulation (EU, Euratom) 2018/1046, including grants. It may also provide financing in the form of financial instruments within blending operations.
3. The mechanism may fulfil its objectives set out in Article 2 also by allocating the financial support in coordination with other instruments and Union programmes as provided for under Chapter III.

*Article 6***Contribution of the mechanism to the enabling framework**

1. The mechanism shall contribute to the enabling framework pursuant to Article 33(2) of Regulation (EU) 2018/1999, inter alia for the purpose of reducing the cost of capital for renewable energy projects and enhancing regional cooperation between Member States and between Member States and third countries. To this end:
 - (a) the Commission may allocate Union funds received according to Article 4(3);
 - (b) the support allocated by the mechanism may be coordinated with funding from other national or Union programmes and/or instruments according to the provisions of this Regulation.
2. When the mechanism provides support as part of the contribution to the enabling framework, the principles of the grant award procedure pursuant to Article 15(4) and any other relevant provisions of this Regulation shall be applied accordingly.

CHAPTER II

NON-REPAYABLE SUPPORT IN THE FORM OF GRANTS

SECTION I

Expression of interest by Member States and grant award procedure

Article 7

Expression of interest by Member States

1. Every year, the Commission shall call on Member States to express their interest in participating as contributing and/or host Member State in grant award procedures organised by the mechanism and shall share with the Member States an indicative calendar covering the procedural steps from the expression of interest to the calls for proposal, as well as an indication of when the Commission intends to organise the next call for expression of interest.
2. Member States interested in participating as host Member State, and, where relevant, third countries in line with the requirements of Article 11 of Directive (EU) 2018/2001, shall provide the Commission at least with the following information:
 - (a) maximum total capacity or renewable energy generated on the host Member State's territory available to projects supported by the mechanism, including per technology and year, where applicable;
 - (b) preferred technologies or end-use sectors;
 - (c) maximum capacity or renewable energy generated by projects, per technology, where applicable;
 - (d) any site or geographical restrictions, where applicable;
 - (e) the requested minimum share of statistical benefits to be distributed to a host Member State in accordance with Article 27, per technology where applicable, including an estimation of the system integration cost;
 - (f) indication per technology of the national regulatory regime applicable to project promoters with respect to distribution of grid costs;
 - (g) any other preferences or restrictions, including environmental criteria, supported by an explanation.
3. Member States interested in participating as contributing Member State shall provide the Commission at least with the following information:
 - (a) volumes of renewable energy generated, expressed in terms of kWh, that they intend to support through the mechanism and to benefit from in terms of statistical allocation;
 - (b) an indicative maximum budget per kWh/kW that they are available to disburse for their statistical benefit;
 - (c) maximum intended financial contribution in EUR to the financing mechanism per grant award procedure;
 - (d) preference for technology-neutral, multi-technology, technology-specific, project-specific or end-use specific grant award procedures, in accordance with the criteria laid down in Article 4(5) of Directive (EU) 2018/2001;
 - (e) the requested minimum share of statistical benefits to be distributed to them in accordance with Article 27, per technology if applicable;
 - (f) other preferences relevant to their financial contribution, including environmental criteria.
4. Without prejudice to Regulation (EC) 1049/2001 of the European Parliament and of the Council (*), the Commission shall not make public any of the information provided by a Member State as part of the expression of interest, except where expressly authorised by the Member State concerned.

(*) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

5. The Commission shall take into account the information provided by the host and contributing Member States under this Article in view of designing the calls for proposals and in particular:

- (a) the objectives of the call;
- (b) the form of grants (investment or operating support);
- (c) the renewable energy generated during the support period or the capacity (kWh or kW) on which the award will be based;
- (d) the eligible technologies;
- (e) the ceiling price;
- (f) the site, geographical and regulatory restrictions and the environmental criteria;
- (g) the realisation period of the projects;
- (h) the distribution of statistical benefits between contributing and host Member States;
- (i) the award criteria for the financial support.

6. The Commission shall calculate the ceiling price referred to in paragraph 5 of this Article on the basis of, inter alia, the information provided by Member States during the expression of interest, relevant comparators such as results of past calls, cost studies, as well as results from modelling exercises where appropriate. The calculation will take into account the levelised cost of energy of the renewable energy technology, adjusted on a regular basis.

7. The Commission shall communicate to the Member States its intention to launch a call for proposals and the envisaged elements referred to in the previous two paragraphs before the launching of the call.

8. Member States may express views on the information notified by the Commission pursuant to the previous paragraph. Following review of these comments against the objectives of the mechanism, the Commission shall communicate to the Member States the final elements referred to in paragraphs 5 and 6.

Article 8

Binding commitments by host Member States

1. Host Member States shall confirm to the Commission their irrevocable and unconditional commitment to participate in the mechanism in view of allowing installations located on their territory to receive support under the mechanism in line with the national regulatory regime within three months from receiving the information referred to in Article 7(8). That commitment shall be binding.

2. As regards the requirements that must be fulfilled by projects in their territory in order to receive support under the mechanism, host Member States shall provide the following information:

- (a) maximum capacity on the host Member States' territory available to projects supported by the mechanism, including per technology and year, where applicable;
- (b) maximum renewable energy generated by the projects and site restrictions, where applicable;
- (c) the national regime applicable to project promoters with respect to supported grid costs;
- (d) other relevant elements.

3. The Commission shall take into account the information received pursuant to paragraph 2 of this Article when designing the grant award procedure.

4. The host Member State confirming its commitment shall provide the Commission with the necessary administrative assistance for the implementation of the mechanism, in particular for the purposes of reporting the quantity of energy from renewable sources produced by projects receiving non-repayable support from the mechanism, located in the host Member State.

5. The provisions of this Article apply to third countries participating in the mechanism and hosting projects accordingly.

*Article 9***Communication of ceiling prices by the Commission**

Based on the binding commitments of host Member States and using the approach referred to in Article 7(6), the Commission shall determine and communicate to participating Member States a ceiling price and maximum budget available in EUR for each call for proposal, as well as indication on the options for the Member State in case the result of the call for proposals is below the ceiling price.

*Article 10***Binding commitments by contributing Member States**

Contributing Member States shall confirm to the Commission their irrevocable and unconditional commitment to provide payments to the mechanism in relation to one or several call or calls for proposals within three months from receiving the communication of the ceiling prices referred to in Article 9. The commitment by the contributing Member State shall be binding and shall, at least, cover the following elements in relation to the contributions made to the mechanism:

- (a) the volume of the financial contribution by the Member State (EUR) per grant award procedure, or the renewable energy generation that the Member State will support and benefit from in terms of statistical allocation, expressed in kW or kWh, according to the final ceiling price, combined with a maximum budget available in EUR;
- (b) the timing of the payments;
- (c) an indication whether the payment is made pursuant to paragraph (1) or (2) of Article 33 of Regulation (EU) 2018/1999;
- (d) the distribution of statistical benefits between contributing and host Member States.

*Article 11***Call for proposals**

1. On the basis of the binding commitments by host Member States and, where relevant, third countries, and the binding commitments by contributing Member States, the Commission shall launch the call or calls for proposals in due time. The Commission may launch several calls at the same time, or conduct several grant award procedures under the same call. The Commission may also decide not to launch a call for proposals where the interest expressed by contributing Member States and/or host Member States results in volumes which are too low to successfully implement a call or where the related transaction costs would be excessive, which shall be assessed for each particular call for proposals.
2. The call for proposals shall be published after the payments by Member States are transferred to the Union budget.

*Article 12***Evaluation procedure**

1. Following verification of the eligibility criteria, the Commission shall evaluate the submitted proposals in accordance with the procedure set out in Article 200 of Regulation (EU, Euratom) 2018/1046.
2. Awards are granted first to the application offering the lowest price and thereafter in the order of the lowest to the highest price, except where other award criteria are applied pursuant to Article 21.

*Article 13***Failure of the grant award procedure**

Where, following payment by a contributing Member State into the mechanism, the award procedure is not concluded, among other things, as a result of no suitable applicants responding to the call for proposals, the Commission shall offer the contributing Member State the opportunity to either recover the amount it contributed or to keep the contribution in the mechanism to be used in a new call for proposals, for which the Member State will have to confirm its commitment pursuant to Article 10.

*Article 14***Failure by the project promoter to implement the project**

1. Where the project promoter fails to deliver in accordance with the call for proposals and with the relevant grant agreement, the relevant provisions governing suspension, termination and reduction in Regulation (EU, Euratom) 2018/1046 shall apply.
2. Where pursuant to paragraph 1, the project does not deliver the expected generation capacity or the volume of renewable energy generated, statistical benefits to Member States shall be attributed on the basis of the actual capacity provided or renewable energy generated. In that event, the participating Member States shall be deemed to have taken additional measures in accordance with Article 32(3) of Regulation (EU) 2018/1999 for an amount of energy calculated by the Commission on the basis of the expected generation capacity, the financial contribution paid by the Member State, and the ceiling prices applicable to the tender in which the Member State committed to participate, for the period during which the project would have given rise to statistical benefits as per the first sentence of Article 27(2).

*SECTION II****Design of the grant award procedure****Article 15***Principles of the grant award procedure**

1. Grants shall be allocated by means of calls for proposals and a subsequent grant award procedure.
2. Where a Member State contributes to the mechanism by making a voluntary financial payment pursuant to Article 32(3) of Regulation (EU) 2018/1999, such contribution may only be allocated to projects selected in the context of an award procedure having lowest price as the sole award criterion.
3. Where a Member State contributes to the mechanism by making an additional payment in accordance with Article 33(2) of Regulation (EU) 2018/1999, such contribution may be allocated to joint projects, joint projects with third countries, joint support schemes, small-scale or innovative technology projects, projects in outermost regions and isolated or small islands, developing projects for integrating renewable sources into the energy system or other projects that contribute to the enabling framework pursuant to Article 3(5) of Directive (EU) 2018/2001.
4. The design of the award procedure shall comply with the following principles:
 - (a) ensure a competitive process among grant applications to achieve cost-effective renewable energy deployment;
 - (b) mitigate financial risk for applicants in the different grant award procedures;
 - (c) limit transaction costs for applicants and the contributing Member States.

*Article 16***Scope of the grant award procedure**

1. The allocation of support in the form of grants shall be carried out through grant award procedures which may be of different scope, in line with the criteria laid down in Article 4(5) of Directive (EU) 2018/2001, as follows:
 - (a) assessing the feasibility of technology-neutral grant award procedures, in which all technologies pursuant to Directive (EU) 2018/2001 shall be eligible;
 - (b) alternatively, consider the use of multi-technology grant award procedures, in which only specific technologies pursuant to Directive (EU) 2018/2001 shall be eligible to compete against each other;
 - (c) technology-specific grant award procedures, in which one specific technology defined in Directive (EU) 2018/2001 shall be eligible;
 - (d) project-specific grant award procedures, in which project developers compete to develop a pre-identified project, which may include restrictions to a specific technology and/or to a specific site pre-identified by the host Member State;
 - (e) end-use specific grant award procedures, in which only projects aimed at a specific end-use, such as heating and cooling or transport, shall be eligible.
2. The Commission shall decide on the scope of the grant award procedure, taking into account the preferences expressed by the contributing and host Member States, the renewable energy market development in the Union and other relevant circumstances.
3. The grant award procedures referred to in paragraph 1 of this Article may be open to renewable energy projects across the electricity, heating and cooling and transport sectors in order to explore the cost-effective potential and to foster convergence and cooperation.

*Article 17***Form and allocation of grants**

1. The mechanism shall allocate grants for:
 - (a) investment support granted to increase the capacity for renewable energy production;
 - (b) operating support granted to incentivise the operation of renewable energy installations by providing premiums in addition to market revenues, both fixed and floating.
2. The Commission shall decide on the form of support for the awarded projects, taking into account the preferences expressed by the contributing and host Member States, the renewable energy market development in the Union and other relevant circumstances.

*Article 18***Investment support**

Where the mechanism provides investment support, the form of support, its disbursement and other specific rules will be set out in the relevant call or calls for proposals.

*Article 19***Operating support**

Where the mechanism provides operational support, it may take the form of a fixed premium or a floating premium. Its disbursement and other specific rules will be set out in the relevant call or calls for proposals.

*Article 20***Eligibility and selection criteria**

The eligibility criteria and selection criteria shall be established in the call for proposals with due regard to the objectives of the action and in accordance with Article 197 and 198 of Regulation (EU, Euratom) 2018/1046.

*Article 21***Award criteria**

1. The award criteria for the proposals shall be established in the call for proposals and shall comply with Article 15(2) as regards the gap-filling function and with Article 3(5) of Directive (EU) 2018/2001 as regards the enabling function.
2. As regards the enabling function, the award criteria for the proposals shall to the extent possible reflect the expressed preferences by Member States, notably on environmental criteria.
3. For demonstration projects representing a significant innovation, the call for proposals may establish specific award criteria, in particular with respect to applications in a technology-specific award procedure or a project-specific award procedure.

*Article 22***Awarded good and volume**

1. The good and volume that is awarded in the grant award procedure may be defined in terms of installed capacity, in kW or energy production, in kWh. Alternatively, the volume may be defined in terms of budget, in EUR, and production capacity or energy generated may be awarded until the budget is depleted.
2. Where the grant award procedure is defined in terms of capacity or renewable energy generated, it shall set out a target volume and the support shall be awarded to projects having the highest grade according to the relevant award criteria until the target volume is reached.
3. Where the grant award procedure is defined in terms of budget, it shall set out a maximum amount of budget which is awarded to projects having the highest grade according to the relevant award criteria until that budget is depleted.
4. The volumes of the competitive grant award procedure shall be defined in advance of the procedure and shall not be adapted during the implementation of the procedure.

*Article 23***Implementation periods**

1. Implementation periods shall be technology-specific and shall reflect realistic project delivery periods for each technology, while at the same time aiming for a significant level of pre-development required from bidders.
2. By way of derogation from paragraph 1, in technology-neutral award procedures or multi-technology award procedures, implementation periods may be uniform across technologies in order to select projects and technologies with the lowest delivery times without discriminating certain technologies that require longer implementation periods.
3. Implementation periods shall be uniform across Member States, unless the Commission concludes, on the basis of justified exemptions such as to mitigate systematic disadvantages for projects located in a specific country, that country-specific implementation periods are appropriate.

CHAPTER III

COORDINATION OF SUPPORT*Article 24***Combined funding and coordination of support between the financing mechanism and other Union or national instruments**

1. Projects may be financed through combined funding from the mechanism and from other Union or national, public or private, programmes and/or instruments insofar as those national public mechanisms are in compliance with State Aid legislation, and the same costs are not financed twice by the Union budget.
2. For the purposes of paragraph 1:
 - (a) the mechanism may coordinate its work programmes and award procedure, including the schedule and the application process and monitoring, with the work programmes for other Union or national funds;
 - (b) combination of support from the mechanism and from other Union instruments or programmes shall not exceed the total project cost;
 - (c) a project shall not combine funding from the mechanism with funding from support schemes provided by Member States which would finance the same additional units;
 - (d) the sum of repayable and non-repayable support for a given project pursuant to Article 5(2), whether Union or national, and whether public or private, shall not exceed the project's total cost;
 - (e) repayable support from Union instruments or programmes for a given project shall not be used to pre-finance a grant from the mechanism for the same project;
 - (f) a grant from the mechanism for a given project shall not be used to reimburse repayable support from Union instruments or programmes for the same project.

CHAPTER IV

PAYMENTS BY MEMBER STATES TO THE MECHANISM AND ALLOCATION OF STATISTICAL BENEFITS*Article 25***Payments by contributing Member States**

On the basis of the binding commitment of the contributing Member States pursuant to Article 10, the Commission shall issue debit notes to the contributing Member State. The Member State shall transfer the payment to the account indicated by the debit note within the time limit indicated therein.

*Article 26***Allocation of statistical benefits to Member States**

1. The renewable energy generated by projects receiving support from grants financed exclusively by Member States payments through the mechanism shall give rise to the allocation of statistical benefits to participating Member States, in line with Article 7 of Directive (EU) 2018/2001, and in accordance with the terms laid down in the call for proposals.
2. The renewable energy generated by projects receiving support from grants financed through the mechanism exclusively with funds arising from Union funds or private contributions shall not be statistically allocated to individual Member States, but shall count towards the Union binding target pursuant to Article 3(1) of Directive (EU) 2018/2001.

3. Host Member States shall receive a share of the statistical benefits from renewable energy generated by projects that are located on their territory and receive support from grants financed by other sources than Member State contributions under the enabling function of the mechanism. The distribution of the statistical benefits to the host Member State shall be defined in accordance with Article 27.

4. Union funds or private contributions resulting in generated energy that counts towards the Union binding target pursuant to Article 3(1) of Directive (EU) 2018/2001 shall be accounted separately from the collective contribution by the Member States.

5. The renewable energy generated by projects receiving support through grants by the mechanism financed with funds arising from Member States payments, on the one hand, and Union funds or private contributions, on the other hand, shall generate statistical benefits for the contributing Member States up to the proportion financed by Member States' payments and in the terms laid down in the call for proposals as regards distribution of statistical benefits between contributing and host Member States. As regards the statistical benefits for the host Member States, paragraph 3 shall apply.

Article 27

Distribution of statistical benefits between contributing and host Member States

1. The renewable energy allocated to contributing Member States and host Member States shall be the renewable energy generated by the installations supported under a specific call for proposals in which the Member States participated.

2. The renewable energy generated by installations supported by the mechanism shall generate statistical benefits for contributing Member States for an implementation period defined in the calls for proposals and communicated to Member States according to Article 7(7) and 7(8), calculated on the basis of the expected depreciable or economic lifetime of the technology supported. Following that period, all statistical benefits shall remain with the host Member States.

3. Subject to paragraph 2, the renewable energy generated by installations supported by the mechanism shall be statistically allocated pursuant to Directive (EU) 2018/2001 and shall be distributed as follows:

- (a) 80 % to contributing Member States;
- (b) 20 % to host Member States.

4. The Commission may propose to deviate from the distribution set out in paragraph 2 of this Article and to allocate the energy to contributing and host Member States within a range going from 50 % to 100 % for the contributing Member State, and from 0 % to 50 % for the host Member State, where the total allocation for both contributing and host Member States amounts to 100 %. The proposed distribution shall be applicable for a given call for proposals and shall be based on the following criteria:

- (a) the likelihood of the call to attract a balanced interest from contributing Member States and host Member States to ensure effective competition in the call for proposal;
- (b) the likelihood of the call to result in no or little support being disbursed by the mechanism;
- (c) the potential costs, including system integration costs, which the host Member States may incur.

5. The Commission shall inform the Member States on the allocation which it intends to include in the call for proposals according to Article 7(7) and Article 7(8).

6. In case of renewable energy generated by installation supported by the mechanism which are located in third countries participating in the mechanism, 100 % of the statistical benefits shall be distributed to the contributing Member States, in line with Article 11 of Directive (EU) 2018/2001.

*Article 28***Reporting of energy production and calculation of statistical benefits by the Commission**

1. The host Member States and the third countries participating in the mechanism and hosting projects shall report to the Commission the available data on the energy production in a particular year from projects financed by the mechanism twice – by 1 January and by 1 July of the year following the year of production.
2. The actual statistical benefits to be allocated to the participating Member States shall be calculated yearly by the Commission and communicated to the participating Member States by 1 October of the year following the year of production and shall be reported by the participating Member States in accordance with the provisions of Directive (EU) 2018/2001. The total statistical benefits attributed shall correspond to the actual generated energy, in line with data and market values communicated by the Member States.

CHAPTER V

FINAL PROVISIONS

*Article 29***Evaluation**

1. The Commission shall carry out an evaluation on the operation of the mechanism as part of the review pursuant to Article 45 of Regulation (EU) 2018/1999.
2. The evaluation shall focus on the assessment of synergies between the mechanism and other relevant Union programmes, on the effectiveness of the mechanism in contributing to the objectives set out in Article 3(5) of Directive (EU) 2018/2001, in point (d) of Article 32(3), in Article 32(4) and in Article 33 of Regulation (EU) 2018/1999, on the effectiveness of providing repayable forms of support from the mechanism to projects, and on the effectiveness of combining repayable forms of support with non-repayable forms of support through blending operations under the Union investment support instrument.
3. On the basis of the results of the evaluations referred to in paragraph 1, the Commission shall, where appropriate, make proposals to ensure that the mechanism progresses towards the achievement of the objectives referred to in paragraph 2.
4. The Commission shall submit the results of the evaluations carried out pursuant to paragraphs 1 and 2 to the Energy Union Committee and shall make them publicly available.

*Article 30***Reporting**

1. By 31 October of every year, the Commission shall submit to the Energy Union Committee a report on the operation of the mechanism, its contribution to the Union's binding target for renewable energy in 2030 and to the objectives of the European Green Deal. The report shall be made public.
2. By 31 October of every year, the Commission shall report to the Energy Union Committee and to the European Parliament on the use of the external assigned revenues from Member States and of the Union funds received by the mechanism, the amount of support that was allocated in the previous year and the remaining uncommitted funds in the mechanism.

Article 31

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, 15 September 2020.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1295**of 16 September 2020****amending Implementing Regulation (EU) 2015/408 as regards the inclusion of the active substances carbetamide, emamectin, flurochloridone, gamma-cyhalothrin, halosulfuron-methyl, ipconazole and tembotrione in the list of candidates for substitution****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular Articles 78(2) and 80(7) thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2015/408 ⁽²⁾ established a list of active substances which satisfy the criteria set out in point 4 of Annex II to Regulation (EC) No 1107/2009 for being considered as candidates for substitution.
- (2) Implementing Regulation (EU) 2015/408 was based on a study taking stock of information for active substances approved before 31 January 2013. For the sake of consistency and equal treatment it is appropriate to update the list of substances candidates for substitution by including in it other substances, approved pursuant to the transitional rules under Article 80(1) of Regulation (EC) No 1107/2009, that meet the criteria set out by point 4 of Annex II to that Regulation.
- (3) Carbetamide, flurochloridone, halosulfuron-methyl and ipconazole were approved pursuant to Article 80(1) of Regulation (EC) No 1107/2009 but were not included in the list of candidates for substitution, because at that time they did not meet the criteria of point 4 of Annex II of that Regulation. In its recent opinions, the Committee for Risk Assessment of the European Chemicals Agency has concluded that these active substances should be classified as toxic for reproduction, Category 1B in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council ⁽³⁾. In light of this assessment, carbetamide, flurochloridone, halosulfuron-methyl and ipconazole ⁽⁴⁾ are considered to meet the criterion set out in the sixth indent of point 4 of Annex II to Regulation (EC) No 1107/2009.
- (4) Emamectin, gamma-cyhalothrin and tembotrione were not taken into consideration for the establishment of the list of candidates for substitution because they were not yet approved on 31 January 2013 which was the final date for the approval of substances considered in the study that was at the basis of Implementing Regulation (EU) 2015/408, and therefore omitted from the list established by that Implementing Regulation.

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) 2015/408 of 11 March 2015 on implementing Article 80(7) of Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and establishing a list of candidates for substitution (OJ L 67, 12.3.2015, p. 18).

⁽³⁾ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

⁽⁴⁾ Opinion proposing harmonised classification and labelling at EU level of: carbetamide (12 March 2015) <https://echa.europa.eu/documents/10162/b72929b7-77cc-148b-532c-4d5aab8661d4>, flurochloridone (3 November 2018) <https://echa.europa.eu/documents/10162/f186167a-b346-82dc-f237-fc8f580416b2>; halosulfuron-methyl (22 September 2017) <https://echa.europa.eu/documents/10162/4f58f826-4c3d-9388-7c59-a2b101f0d2c4> and of ipconazole (9 March 2018) <https://echa.europa.eu/documents/10162/bebd7903-5dc4-864a-da7a-7c3967da6e4d>.

- (5) Nevertheless, the European Food Safety Authority ('the Authority') had concluded, prior to the approval of the active substances emamectin ⁽⁵⁾ and tembotrione ⁽⁶⁾ that these substances satisfy the criterion set out in the first indent of point 4 of Annex II to Regulation (EC) No 1107/2009 because their respective acceptable daily intake and acceptable operator exposure level are significantly lower than the reference values of the majority of approved active substances.
- (6) The Authority has also concluded that gamma-cyhalothrin ⁽⁷⁾ satisfies the criterion set out in the first indent of point 4 of Annex II to Regulation (EC) No 1107/2009 because the acceptable operator exposure level and the acute reference dose for this substance are significantly lower than the reference values of the majority of approved active substances.
- (7) Implementing Regulation (EU) 2015/408 should therefore be amended accordingly to take due account of these assessments.
- (8) 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

The Annex to Implementing Regulation (EU) 2015/408 is amended as follows:

- (1) the name 'carbetamide' is inserted between the entry 'carbendazim' and the entry 'chlorotoluron';
- (2) the name 'emamectin' is inserted between the entry 'diquat' and the entry 'epoxiconazole';
- (3) the name 'flurochloridone' is inserted between the entry 'fluquinconazole' and the entry 'glufosinate';
- (4) the name 'gamma-cyhalothrin' is inserted between the entry 'fluquinconazole' and the entry 'glufosinate';
- (5) the name 'halosulfuron-methyl' is inserted between the entry 'glufosinate' and the entry 'haloxyfop-P';
- (6) the name 'ipconazole' is inserted between the entry 'imazosulfuron' and the entry 'isoproturon';
- (7) the name 'tembotrione' is inserted between the entry 'tebufenpyrad' and the entry 'tepraloxymid'.

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, 16 September 2020.

For the Commission
The President
Ursula VON DER LEYEN

⁽⁵⁾ EFSA (European Food Safety Authority), 2012. Conclusion on the peer review of the pesticide risk assessment of the active substance emamectin, *EFSA Journal* 2012;10(11):2955.

⁽⁶⁾ EFSA (European Food Safety Authority), 2013. Conclusion on the peer review of the pesticide risk assessment of the active substance tembotrione, *EFSA Journal* 2013;11(3):3131.

⁽⁷⁾ EFSA (European Food Safety Authority), 2014. Conclusion on the peer review of the pesticide risk assessment of the active substance gamma-cyhalothrin, *EFSA Journal* 2014;12(2):3560.

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1296**of 16 September 2020****amending Regulation (EC) No 88/97 on the authorization of the exemption of imports of certain bicycle parts originating in the People's Republic of China from the extension by Council Regulation (EC) No 71/97 of the anti-dumping duty imposed by Council Regulation (EEC) No 2474/93**

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 13(4) thereof,

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

Whereas:

- (1) An anti-dumping duty ('the extended duty') currently applies on imports into the Union of essential bicycle parts originating in the People's Republic of China ('the PRC') as a result of the extension by Regulation (EC) No 71/97.
- (2) Pursuant to Article 3 of Regulation (EC) No 71/97 an exemption scheme should be established in order to authorize the exemption of imports of essential bicycle parts which do not circumvent the anti-dumping duty. That exemption was set out in Article 13(4) ('the Exemption Scheme') of the basic Regulation. The Exemption Scheme exempts assemblers that are not circumventing the anti-dumping measure on bicycles to import Chinese bicycle parts free of anti-dumping duty.
- (3) The legal framework for operating the Exemption Scheme was provided for in Commission Regulation (EC) No 88/97 ⁽³⁾ ('the Exemption Regulation'). The Exemption Regulation was amended by Commission Regulation (EU) No 512/2013 ⁽⁴⁾, *inter alia* to introduce 'end-use-control' provisions intended for the assembly of electrical bicycles.
- (4) Following a review of the extension of the anti-dumping duty imposed on imports of bicycles originating in the PRC to imports of certain bicycle parts from the PRC pursuant to Article 11(2) of the basic Regulation, the Commission, by Implementing Regulation (EU) 2019/1379 ⁽⁵⁾, decided to maintain the anti-circumvention measures for another five years.
- (5) As provided in recital (44) of Regulation (EC) No 71/97, the Commission keeps the exemption system constantly under review so that it can be adapted where necessary to take account of experience gained with the operation of that system.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ L 16, 18.1.1997, p. 55.

⁽³⁾ Commission Regulation (EC) No 88/97 of 20 January 1997 on the authorization of the exemption of imports of certain bicycle parts originating in the People's Republic of China from the extension by Council Regulation (EC) No 71/97 of the anti-dumping duty imposed by Council Regulation (EEC) No 2474/93 (OJ L 17, 21.1.1997, p. 17).

⁽⁴⁾ Commission Regulation (EU) No 512/2013 of 4 June 2013 amending Regulation (EC) No 88/97 on the authorisation of the exemption of imports of certain bicycle parts originating in the People's Republic of China from the extension by Council Regulation (EC) No 71/97 of the anti-dumping duty imposed by Council Regulation (EEC) No 2474/93 (OJ L 152, 5.6.2013, p. 1).

⁽⁵⁾ Commission Implementing Regulation (EU) 2019/1379 of 28 August 2019 imposing a definitive anti-dumping duty on imports of bicycles originating in the People's Republic of China as extended to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka, Tunisia, Cambodia, Pakistan and the Philippines, whether declared as originating in these countries or not, following an expiry review pursuant to Article 11(2) of Regulation (EU) No 2016/1036 (OJ L 225, 29.8.2019, p. 1).

- (6) Under the Exemption Scheme, as set out in Article 14 of the Exemption Regulation, imported bicycle parts could be used for the assembly of electrical cycles under an 'end-use control' authorisation. However, that Article applies only to non-exempted bicycle assemblers. There should also be a procedure enabling exempted Union bicycle assemblers to import essential bicycle parts for the assembly of electric bicycles.
- (7) In this respect, the Commission notes that the bicycle market in the Union is very dynamic, and the exempted bicycle assemblers produce both electrical and non-motorized bicycles.
- (8) The parts for the assembly of electrical bicycles are not subject to the extended anti-dumping duty. Therefore, the assembly operations of electrical bicycles remain outside the scope of Regulation (EC) No 71/97. Recital (11) to Regulation (EU) No 512/2013 confirmed that the use of essential bicycle parts for the assembly of electrical bicycles was not intended to be subject to the extended anti-dumping duty on bicycles. Indeed, '[] the current scheme is unclear in respect of imports of bicycle parts used for the assembly of cycles fitted with an auxiliary motor, with or without side-cars, sometimes referred to as electrical bicycles or pedelecs. Complete electrical bicycles and consequently the parts for the assembly of electrical bicycles are subject neither to the anti-dumping duty nor to the extended anti-dumping duty i.e. the assembly operations of electrical bikes remain outside the scope of Regulation (EC) No 71/97. Therefore, it is considered appropriate to extend the existing provisions under Article 14 for 'end use control' of parts intended for the assembly of electrical bicycles. The 'end-use-control' provisions enable national customs authorities to trace the final use of imported parts, i.e. use for assembly of classical bicycles or electrical bicycles.'
- (9) Having reviewed the experience gained in operating the Exemption Scheme, the Commission considers it necessary to introduce certain amendments to facilitate the operation of the Exemption Scheme for the exempted bicycle assemblers.
- (10) The Exemption Scheme should set out the relevant provisions in respect of assemblers of vehicles other than cycles, whether or not electric, for example certain scooters ⁽⁶⁾, where bicycle parts such as wheels, forks and handlebars can also be used in the production. Certain scooters are subject neither to the anti-dumping duty nor to the extended anti-dumping duty so that the assembly operations of scooters remain outside the scope of the extending Regulation. Therefore, it is considered appropriate to extend the existing provisions under Article 14 of the Exemption Regulation for 'end-use-control' of parts intended for the assembly of other products using bicycle parts. The 'end-use-control' provisions enable national customs authorities to trace the final use of imported parts, i.e. used to assemble cycles, whether or not electric, or vehicles other than cycles, whether or not electric.
- (11) The Exemption Scheme should also set out the relevant provisions in respect of assemblers of bicycle parts such as brake systems, where bicycle parts like brake levers can also be used in the production of brake systems. It is considered necessary that assemblers of bicycle parts are made subject to the same rules as assemblers of complete bicycles, in particular the obligations of exempted parties referred to in Article 8 of the Exemption Regulation.
- (12) Against this background and for reasons of legal certainty, it is considered appropriate to extend the scope of the exemption of the imports of essential bicycle parts that are used in the assembly of vehicles other than cycles fitted with an auxiliary motor. To that end, Articles 1, 4(1)(a), 8(1)(b) and 14(d) of the Exemption Regulation are to be amended accordingly.
- (13) In addition, essential bicycle parts may be supplied by exempted bicycle producers to their customers for the purpose of after-sales services and warranty claims without being subject to the anti-circumvention duty. In this respect, the Commission considers that the exempted essential bicycle parts could be used for after-sales services and provision of warranty. The ceiling as defined in Article 14(c) of the Exemption Regulation does not apply to such parts supplied by exempted parties. It is however emphasized that the quantities supplied for such purpose must be reasonable and proportionate to the assembly operation of the exempted party in accordance with Article 8 of the Exemption Regulation, and must not undermine the remedial effects of the duty pursuant to Article 13(2) of the basic Regulation.
- (14) In accordance with the principle of sound administration, the amendments to the Exemption Regulation provided for in this Regulation are to apply as soon as possible to all new and to all pending investigations.

⁽⁶⁾ There are scooters that fall under the definition of a bicycle. The assembly of such scooters is governed by the rules for bicycle assemblers.

- (15) Regulation (EC) No 88/97 should therefore be amended accordingly.
- (16) 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,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 88/97 is amended as follows:

- (1) The definition of ‘assembly operation’ in Article 1 is replaced by the following:
- “assembly operation’ means an operation in which essential bicycle parts are brought in for the assembly or completion of bicycles, or for the production or assembly of bicycle parts.’
- (2) Article 4(1)(a) is replaced by the following:
- ‘(a) it contains evidence that the applicant is using essential bicycle parts for the production or assembly of bicycles or bicycle parts in quantities above the threshold set out in Article 14(c) or that the applicant has entered into an irrevocable contractual obligation to do so;’
- (3) Article 8(1)(b) is replaced by the following:
- ‘(b) where it receives deliveries of essential bicycle parts which have been exempted from the extended duty pursuant to Article 2, those parts are either used in its assembly operations or assembly of other products, destroyed, re-exported, or resold to another exempted party.’
- (4) Article 14(d) is replaced by the following:
- ‘(d) the essential bicycle parts are used in the assembly of cycles fitted with an auxiliary motor (TARIC additional code 8835) or of vehicles other than cycles, whether or not fitted with an auxiliary motor (TARIC additional code C549).’

Article 2

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

It shall apply to all new and to all pending investigations as of its entry into force.

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

Done at Brussels, 16 September 2020.

For the Commission
The President
Ursula VON DER LEYEN

CORRIGENDA

Corrigendum to Commission Implementing Regulation (EU) 2020/1247 of 2 September 2020 operating deductions from fishing quotas available for certain stocks in 2020 on account of overfishing in the previous years

(Official Journal of the European Union L 288 of 3 September 2020)

On page 23, in the table of the Annex:

for:

‘DK	POK	1N2AB.	Saithe	Norwegian waters of 1 and 2	/	17 000	50 968	299,81 %	50 968	1,00	/	/	50 968’
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read:

‘DK	POK	1N2AB.	Saithe	Norwegian waters of 1 and 2	/	17 000	50 968	299,81 %	33 968	1,00	/	/	33 968’
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Page 25, table of the Annex:

for:

“PT	BUM	ATLANT	Blue marlin	Atlantic Ocean	50 440	7 076	18 016	254,61 %	10 940	1,00	A	/	10 940”
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read:

“PT	BUM	ATLANT	Blue marlin	Atlantic Ocean	50 440	7 076	18 016	254,61 %	10 940	1,00	A	/	16 410”
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