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⁽¹⁾ Text with EEA relevance.

EN

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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DECISIONS

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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2022/1158

of 27 June 2022

on the signing, on behalf of the Union, and provisional application of the Agreement between the European Union and Ukraine on the carriage of freight by road

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91, in conjunction with Article 218(5), thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 2 June 2022, the Council authorised the opening of negotiations with Ukraine on an Agreement between the European Union and Ukraine on the carriage of freight by road (hereinafter, the 'Agreement').
- (2) The negotiations were successfully concluded on 14 June 2022.
- (3) In view of the important disruptions in the transport sector in Ukraine caused by the war of aggression undertaken by Russia, it is necessary to find alternative routes by road for Ukraine to export its stocks of grain, fuel, foodstuffs and other relevant goods.
- (4) Given that permits granted in the framework of the European Conference of Ministers of Transport multilateral quota system within the International Transport Forum and existing bilateral agreements with Ukraine do not allow for the necessary flexibility for Ukrainian road haulage operators to increase and plan ahead their operations through and with the European Union, it is crucial to liberalise the transport of freight by road for bilateral operations as well as for transit.
- (5) Russia's war of aggression against Ukraine has compromised the possibility for many Ukrainian drivers to follow the administrative procedures related to driver documents such as international driving permit applications or the issuance of new documents in the event of lost or stolen documents. It is thus important to address these exceptional circumstances by providing for specific measures that exempt drivers from the requirement to present an international driving permit, recognising decisions taken by Ukraine to extend the administrative validity of driver documents and facilitating the exchange of information between the competent authorities of the two Parties with the aim of combatting fraud and the forgery of driver documents.

- (6) In view of the exceptional and unique circumstances that necessitate the signature and provisional application of the Agreement and in accordance with the Treaties, it is appropriate for the Union to exercise temporarily the relevant shared competence conferred upon it by the Treaties. Any effect of this Decision on the division of competences between the Union and the Member States should be strictly limited in time. The competence exercised by the Union on the basis of this Decision and of the Agreement should therefore be exercised only during the period of application of the Agreement. Accordingly, the shared competence thus exercised will cease to be exercised by the Union as soon as the Agreement ceases to apply. Without prejudice to other Union measures, and subject to compliance with those Union measures, that competence will, in accordance with Article 2(2) of the Treaty on the Functioning of the European Union (TFEU), again be exercised by the Member States thereafter. Furthermore, it is recalled that, as set out in Protocol No 25 on the exercise of shared competence annexed to the Treaty on European Union and to the TFEU, the scope of the exercise of the competence of the Union in this Decision covers only those elements governed by this Decision and the Agreement and does not cover the whole area. The exercise of Union competence by this Decision is without prejudice to the respective competences of the Union and of the Member States in relation to any ongoing or future negotiations for, or signature or conclusion of, international agreements with any other third country in that area.
- (7) Therefore, the Agreement, which is limited in time, with a possibility for renewal, subject to a decision by the Joint Committee established by the Agreement which should follow the adoption of a Council Decision defining the position of the Union in that regard, should be urgently signed on behalf of the European Union, subject to its conclusion at a later date.
- (8) In order to start deploying the beneficial effects of the Agreement on the carriage of freight and to allow the export of Ukrainian products, in particular grains, as soon as possible, the Agreement should be applied provisionally in accordance with Article 13 thereof,

HAS ADOPTED THIS DECISION:

Article 1

The signing, on behalf of the Union, of the Agreement between the European Union and Ukraine on the carriage of freight by road, is hereby authorised, subject to the conclusion of the said Agreement ⁽¹⁾.

Article 2

1. The exercise of Union competence pursuant to this Decision and the Agreement shall be limited to the period of application of the Agreement. Without prejudice to other Union measures, and subject to compliance with those Union measures, after the end of that period of application the Union shall immediately cease to exercise that competence and the Member States shall again exercise their competence in accordance with Article 2(2) TFEU.
2. The exercise of Union competence pursuant to this Decision and the Agreement shall be without prejudice to the competence of the Member States concerning any ongoing or future negotiations for, or signature or conclusion of, international agreements related to the carriage of goods by road with any other third country, and with Ukraine with respect to the period after the Agreement has ceased to apply.
3. The exercise of the competence by the Union referred to in paragraph 1 covers only the elements governed by this Decision and the Agreement.
4. This Decision and the Agreement are without prejudice to the respective competences of the Union and the Member States in the area of carriage of goods by road with regard to elements other than those governed by this Decision and the Agreement.

⁽¹⁾ See page 4 of this Official Journal.

Article 3

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

Article 4

The Agreement shall be applied on a provisional basis, in accordance with Article 13 thereof, as from the date of its signature, pending the completion of the procedures necessary for its entry into force.

Article 5

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

Done at Luxembourg, 27 June 2022.

For the Council
The President
A. PANNIER-RUNACHER

AGREEMENT between the European Union and Ukraine on the carriage of freight by road

THE EUROPEAN UNION, hereinafter also referred to as "the Union",

of the one part,

and

UKRAINE,

of the other part,

hereinafter referred to individually as a "Party" and collectively as the "Parties",

ACKNOWLEDGING the important disruptions faced by the transport sector in Ukraine following Russia's war of aggression against Ukraine,

RECOGNISING the unavailability of traditional transport routes in the region and the urgent need to secure supply chains and food security by using alternative routes via road, in particular for the transport of grain, fuel, foodstuffs and other goods from Ukraine to the Union,

DESIRING to support the Ukrainian society and economy by allowing Union and Ukrainian road haulage operators to carry out freight transport operations to and through the Ukrainian territory to the Union and *vice versa* when needed,

NOTING that the current system based on a limited number of Member States' permits does not allow the necessary flexibility for Ukrainian road haulage operators to increase their operations through and with the Union,

DETERMINED to ensure for the future that the conditions of market access in transport of goods by road between the Parties currently available to road transport operators established in any of the Parties will in any case not be more restrictive as compared to the situation currently existing,

DETERMINED to help the Ukrainian economy by liberalising transit and bilateral international carriage operations between the Union and Ukraine to allow for the necessary transport of goods and to give the same reciprocal rights to both Parties to carry out transit and bilateral international carriage operations between the Union and Ukraine,

NOTING that Article 136 of the Association Agreement between the European Union and European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part (hereinafter the "Association Agreement") provides for a coordinated and progressive liberalisation of transport between the Parties and states that conditions to that effect should be dealt with by special road transport agreements,

DESIRING to subject the provisions of this Agreement to the dispute settlement chapter of the Association Agreement,

DESIRING to support Ukrainian drivers and facilitate the application of their skills and knowledge by creating conditions to allow them to continue using their existing Ukrainian driving licences and certificates of professional competence,

RECOGNISING the impossibility of anticipating the duration of the impact of the Russian war of aggression on the transport sector and infrastructures in Ukraine, for which reason the Parties shall, at the latest three months before the expiry of this Agreement, consult within the Joint Committee in order to assess the need for its renewal,

ACKNOWLEDGING that the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) will ensure that the transport operations under this Agreement respect drivers' working conditions, fair competition and not jeopardise road safety,

HAVE AGREED AS FOLLOWS:

Article 1

Objectives

1. The aim of this Agreement is to temporarily facilitate road freight transport between and through the territory of the European Union and Ukraine by granting additional rights of transit and carriage of goods between the Parties to operators established in one of the Parties, following the repercussions of Russia's war of aggression against Ukraine and the significant disruptions it brings for all transport modes in the country.
2. This Agreement shall also include measures to facilitate the recognition of driver documents.
3. This Agreement shall not be construed as having the effect of diminishing or otherwise rendering the conditions of market access to international road transport services between the Parties more restrictive as compared to the situation existing on the day preceding the date of entry into force of this Agreement.

Article 2

Scope

1. This Agreement shall apply to the transit and international carriage of goods by road between the Parties for hire or reward and is without prejudice to the application of the rules established by the European Conference of Ministers of Transport multilateral quota system within the International Transport Forum. The carriage of goods by road within a Member State of the European Union or between Member States of the European Union is outside the scope of this Agreement. Transit through the territory of the other Party for the carriage of goods between third countries is not covered by this Agreement.
2. This Agreement also lays down certain specific provisions concerning driver documents.

Article 3

Definitions

For the purposes of this Agreement the following definitions apply:

- (1) 'party of establishment' means the Party in which the road haulage operator is established;
- (2) 'road haulage operator' means any natural or legal person engaged in the transport of freight with a commercial purpose established in a Party in conformity with the law of that Party and authorised by the same Party to carry out the international transport of goods for hire or reward by means either of motor vehicles or combinations of vehicles;
- (3) 'vehicle' means a motor vehicle registered in one of the Parties, or a coupled combination of vehicles the motor vehicle of which at least is registered in one of the Parties, used exclusively for the carriage of goods;
- (4) 'transit' means the movement of vehicles, without loading or unloading goods, in the territory of a Party by a road haulage operator established in the other Party;
- (5) 'bilateral international carriage' means laden journeys with a vehicle, from the territory of the Party of establishment to the territory of the other Party, and *vice versa*, with or without transit through the territory of a third country;
- (6) 'driver documents' means a domestic driving permit, such as a driving licence, proving the conditions under which a driver is authorised to drive under the law of the Party issuing the document, or a certificate of professional competence, a driver qualification card or any other official document proving that its holder has the relevant qualification and training required under the law of the Party issuing the document to carry out the activity of driving in similar terms to those set out in Article 1 of Directive 2003/59/EC ⁽¹⁾.

⁽¹⁾ Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC (OJ EU L 226, 10.9.2003, p. 4).

*Article 4***Access to road transport services**

Road haulage operators shall be entitled to carry out the following road haulage operations:

- (a) laden journeys undertaken by a vehicle the point of departure and the point of arrival of which are in the territory of two different Parties, with or without transit through the territory of a third country;
- (b) laden journeys undertaken by a vehicle from the territory of the Party of establishment to the territory of the same Party with transit through the territory of the other Party;
- (c) laden journeys undertaken by a vehicle to or from the territory of the Party of establishment to a third country with transit through the territory of the other Party;
- (d) unladen journeys undertaken by a vehicle in conjunction with the journeys referred to in points (a), (b) and (c).

*Article 5***Driver documents**

1. Within the scope of this Agreement and for its entire duration, each Party shall exempt the holders of driver documents issued by the other Party from the requirement to hold an international driving permit, as defined in the Conventions on Road Traffic done at Geneva in 1949 and done at Vienna in 1968.
2. Ukraine shall inform the European Union and its Member States of any measures taken after 23 February 2022 to extend the administrative validity of driver documents issued by Ukraine.
3. The Parties shall cooperate in order to prevent and combat fraud and forgery of driver documents. To that end, and without prejudice to the relevant rules on the protection of personal data, the competent authorities of Ukraine shall provide the relevant information to the competent authorities of the European Union and of its Member States by means of a web portal managed by the competent authorities of Ukraine or by the retrieval of data from electronic driver licences issued by Ukraine in accordance with its legislation.

In the event that the competent authorities of the European Union and of its Member States are not able to access the relevant information by appropriate electronic means, the competent authorities of Ukraine shall provide the relevant information to the competent authorities of the European Union and of its Member States by any other appropriate means.

*Article 6***Duration**

1. This Agreement shall apply until 30 June 2023.
2. At the latest three months before the expiry of the Agreement, the Parties shall consult in order to assess the need for its renewal. For this purpose, the Parties shall consult within the Joint Committee as set out in Article 7(2).

*Article 7***Joint Committee**

1. A Joint Committee is hereby established. It shall supervise and monitor the application and implementation of this Agreement and periodically review the functioning of this Agreement in light of its objectives.
2. The Joint Committee shall be convened at the request of either of its co-chairs. It shall also be convened at the latest three months before the expiry of the Agreement, in order to assess and decide the need for the continuation of this Agreement in accordance with Article 6(2). The Joint Committee shall take a decision on such continuation, including the duration thereof, as appropriate, in accordance with paragraph 5 of this Article.

3. The Joint Committee shall be composed of representatives of the Parties. The representatives of the Member States of the European Union may attend the meetings of the Joint Committee as observers.
4. The Joint Committee shall be chaired in turn by a representative of the European Union and a representative of Ukraine.
5. The Joint Committee shall adopt its decisions by consensus between the Parties. The decisions shall be binding on the Parties, which shall take all necessary measures to implement them.
6. The Joint Committee shall adopt its rules of procedure.

Article 8

Dispute settlement ⁽²⁾

When a dispute arises between the Parties concerning the interpretation and application of this Agreement, the provisions of Chapter 14 of Title IV of the Association Agreement shall apply *mutatis mutandis*.

Article 9

Fulfilment of obligations

1. Each Party is fully responsible for the observance of all provisions of this Agreement.
2. Each Party shall ensure that all necessary measures are taken to give effect to the provisions of this Agreement, including their observance at all levels of government as well as by persons exercising delegated governmental authority. Each Party shall act in good faith to ensure that the objectives set out in this Agreement are attained.
3. This Agreement is a specific agreement within the meaning of Article 479(5) of the Association Agreement. A Party may take appropriate measures relating to this Agreement in the event of a particularly serious and substantial violation of any of the obligations described in Article 2 of the Association Agreement as essential elements, which threatens international peace and security so as to require an immediate reaction. Such appropriate measures shall be taken in accordance with Article 478 of the Association Agreement.

Article 10

Safeguard measures

1. Either Party may take appropriate safeguard measures if it considers that transport operations carried out by road haulage operators of the other Party pose a threat to road safety. Safeguard measures shall be taken in full respect of international law, shall be proportionate and limited with regard to their scope and duration, to what is strictly necessary in order to remedy the situation or maintain the balance of this Agreement. Priority shall be given to such measures that least disturb the functioning of this Agreement.
2. The Party concerned shall, before entering into consultations, notify the measures taken to the other Party and shall provide all relevant information.
3. The Parties shall immediately enter into consultations in the Joint Committee with a view to finding a mutually acceptable solution.
4. Any action taken under the terms of this Article shall be suspended, as soon as the Party at fault complies with the provisions of this Agreement or when the threat to road safety ceases to exist.

(²) For the avoidance of doubt, neither this Article nor this Agreement shall be construed as conferring rights or imposing obligations which can be directly invoked before the domestic courts of the Parties.

*Article 11***Territorial application**

This Agreement shall apply, of the one part, to the Territory in which the Treaty on the European Union and the Treaty on the Functioning of the European Union apply and under the conditions laid down in those Treaties, and, of the other part, to the territory of Ukraine within its internationally recognised borders.

Its application is suspended in those areas in which the Government of Ukraine does not exercise effective control.

*Article 12***Termination**

1. Either Party may, at any time, give notice in writing, through diplomatic channels, to the other Party of its decision to terminate this Agreement. The Agreement shall be terminated two weeks after such notification, unless the notifying Party indicates a later date for such notification to take effect. In the latter case, the date shall not be more than two months after the date of the notification.
2. Road haulage operators whose vehicle is in the territory of the other Party upon expiry of this Agreement shall be allowed to transit through the territory of that Party to return to the territory of the Party where they are established.
3. For greater certainty, the date of notification referred to in paragraph 1 means the date the notification is delivered to the other Party.
4. The expiry pursuant to Article 6, or the termination of this Agreement pursuant to paragraph 1 of this Article shall not have the effect of restricting the conditions for market access in road transport services between the Parties as compared to the situation existing on the day before the entry into force of this Agreement. To that effect, in the absence of a subsequent agreement between the Parties, the market access entitlements set under the bilateral agreements existing between Member States of the European Union and Ukraine on that day shall apply again as of the date of expiry or termination of this Agreement.

*Article 13***Entry into force and provisional application**

1. The Parties shall ratify or approve this Agreement in accordance with their own procedures. This Agreement shall enter into force on the day on which the Parties have notified each other of the completion of their respective internal legal procedures necessary for this purpose.
2. Notwithstanding paragraph 1, the Union and Ukraine agree to provisionally apply this Agreement as from the day of its signature.
3. For the purposes of the relevant provisions of this Agreement, any reference in such provisions to the "date of entry into force of this Agreement" shall be understood to the "date from which this Agreement is provisionally applied" in accordance with paragraph 1 of this Article.

Done in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Ukrainian languages, each of these texts being equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorised to this effect, have signed this Agreement.

Съставено в Лион на двадесет и девети юни две хиляди двадесет и втора година.

Hecho en Lyon, el veintinueve de junio de dos mil veintidós.

V Lyonu dne dvacátého devátého června dva tisíce dvacet dva.

Udfærdiget i Lyon, den niogtyvende juni to tusind og toogtyve.

Geschehen zu Lyon am neunundzwanzigsten Juni zweitausendzweiundzwanzig.

Kahe tuhande kahekümne teise aasta juunikuu kahekümne üheksandal päeval Lyonis.

Έγινε στη Λυών, στις είκοσι εννέα Ιουνίου δύο χιλιάδες είκοσι δύο.

Done at Lyon on the twenty-ninth day of June in the year two thousand and twenty two.

Fait à Lyon, le vingt-neuf juin deux mille vingt-deux.

Arna dhéanamh i Lyon, an naoú lá is fiche de Mheitheamh sa bhliain dhá mhíle fiche a dó.

Sastavljeno u Lyonu dvadeset i devetog lipnja godine dvije tisuće dvadeset i druge.

Fatto a Lione, addì ventinove giugno duemilaventidue.

Lionā, divi tūkstoši divdesmit otrā gada divdesmit devītajā jūnijā.

Priimta du tūkstančiai dvidešimt antrų metų birželio dvidešimt devintą dieną Lione.

Kelt Lyonban, a kétezerhuszonkettedik év június havának huszonkilencedik napján.

Magħmul f'Lyon, fid-disgħa u ghoxrin jum ta' Ġunju fis-sena elfejn u tnejn u ghoxrin.

Gedaan te Lyon, negenentwintig juni tweeduizend tweeëntwintig.

Sporządzono w Lyonie dnia dwudziestego dziewiątego czerwca roku dwa tysiące dwudziestego drugiego.

Feito em Lião, em vinte e nove de junho de dois mil e vinte e dois.

Întocmit la Lyon, la douăzeci și nouă iunie două mii douăzeci și doi.

V Lyone dvadsiateho deviateho júna dvetisícadvadsaťdva

V Lyonu, devetindvajsetega junija dva tisoč dvaindvajset.

Tehty Lyonissa kahdentenäkymmenentenäyhdeksäntenä päivänä kesäkuuta vuonna kaksituhattakaksikymmentäkaksi.

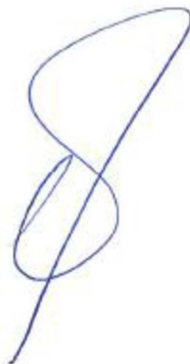
Som skedde i Lyon den tjugonionde juni tjugohundratjugotvå.

Вчинено в м.Ліон двадцять дев'ятого червня дві тисячі двадцять другого року.

За Европейския съюз
Por la Unión Europea
Za Evropskou unii
For Den Europæiske Union
Für die Europäische Union
Euroopa Liidu nimel
Για την Ευρωπαϊκή Ένωση
For the European Union
Pour l'Union européenne
Thar ceann an Aontais Eorpaigh
Za Europsku uniju
Per l'Unione europea
Eiropas Savienības vārdā –
Europos Sąjungos vardu
Az Európai Unió részéről
Għall-Unjoni Ewropea
Voor de Europese Unie
W imieniu Unii Europejskiej
Pela União Europeia
Pentru Uniunea Europeană
Za Európsku úniu
Za Evropsko unijo
Euroopan unionin puolesta
För Europeiska unionen
За Європейський Союз



За Україна
Por Ucraina
Za Ukrajinu
For Ukraine
Für die Ukraine
Ukraina nimel
Για την Ουκρανία
For Ukraine
Pour l'Ukraine
Thar ceann na hÚcráine
Za Ukrajinu
Per l'Ucraina
Ukrainas vārdā
Ukrainos vardu
Ukraina részéről
Għall-Ukrajna
Voor Oekraïne
W imieniu Ukrainy
Pela Ucrânia
Pentru Ucraina
Za Ukrajinu
Za Ukrajino
Ukrainan puolesta
På Ukrainas vägnar
За Україну



REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2022/1159

of 11 March 2022

supplementing Regulation (EU) 2019/2033 of the European Parliament and of the Council with regard to regulatory technical standards for public disclosure of investment policy by investment firms

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 ⁽¹⁾, and in particular Article 52(3) thereof,

Whereas:

- (1) Regulation (EU) 2019/2033 requires investment firms other than small and non-interconnected investment firms to publicly disclose information on their investment policy, in order to provide transparency to their investors and the wider market participants on their influence over the companies in which they hold directly or indirectly shares to which voting rights are attached and on how they vote. The disclosure required includes information on the proportion of voting rights attached to the shares held directly or indirectly by the investment firms, information on their voting behaviour, an explanation of votes and the ratio of proposals put forward and approved, information on the use of proxy advisor firms and information on their voting guidelines.
- (2) This Regulation, as mandated in Article 52(3) of Regulation (EU) 2019/2033, aims at specifying templates for the required disclosure, in response to the need for consistent and comparable public information on the public policy of investment firms.
- (3) While proportionate, the provisions of this Regulation aim at ensuring that the templates and tables used by investment firms for investment policy disclosures convey sufficiently comprehensive and comparable information on their voting behaviour and how it influences their investee companies.
- (4) More specifically, this Regulation introduces a quantitative disclosure template on the proportion of voting rights attached to shares held by the investment firms directly, and indirectly by their subsidiaries, or associates in accordance with Article 2, (13) of Directive 2013/34/EU of the European Parliament and of the Council ⁽²⁾, or any other undertakings with whom the investment firm is linked in accordance with Article 3(1)(4) of Directive (EU) 2019/2034 of the European Parliament and of the Council ⁽³⁾, including shares under investment firms' management on behalf of clients, unless voting rights are retained by shareholders by virtue of a contractual

⁽¹⁾ OJ L 314, 5.12.2019, p. 1.

⁽²⁾ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

⁽³⁾ Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU (OJ L 314, 5.12.2019, p. 64).

arrangement prohibiting the investment firm to vote on their behalf. This Regulation also defines tables and templates for the description of the voting behaviour of the investment firm, and of the proportion of general meeting resolutions that the firm has approved or opposed, by topic, and including information on the departments or roles involved in deciding the voting position, the validation process and material changes in the rate of resolutions approved. In addition, it includes qualitative tables for the description of the use of proxy advisor firms and the links with those firms. Finally, it includes instructions on the information that investment firms must disclose regarding their voting guidelines.

- (5) This Regulation is based on the draft regulatory technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the Commission.
- (6) EBA has conducted an open public consultation on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽⁴⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Disclosure principles

Information to be disclosed in accordance with this Regulation shall be subject to the following principles:

- (a) Disclosures shall be subject to the same level of internal verification as that applicable to the management report included in the investment firm's financial report.
- (b) Disclosures shall be clear. They shall be presented in a form that is understandable to users of information and communicated through an accessible medium. Important messages shall be highlighted and easy to find. Complex issues shall be explained in simple language. Related information shall be presented together.
- (c) Disclosures shall be meaningful and consistent over time to enable users of information to compare information across disclosure periods.
- (d) Quantitative disclosures shall be accompanied by qualitative explanations and any other supplementary information that may be necessary in order for the users of that information to understand them, noting in particular any significant change in any given disclosure compared to the information contained in the previous disclosures.

Article 2

General specifications

1. Where disclosing information in accordance with this Regulation, investment firms shall ensure that numeric values are submitted as facts. Quantitative data disclosed as a percentage shall be expressed per unit with a minimum precision equivalent to two decimal places.

2. Where disclosing information in accordance with this Regulation, investment firms shall ensure that the data are associated with the following information:

- (a) disclosure reference date and reference period;
- (b) name and identifier of the disclosing investment firm (a Legal Entity Identifier (LEI) where available);
- (c) where relevant, accounting standard; and
- (d) where relevant, scope of consolidation.

⁽⁴⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

*Article 3***Disclosure of proportion of voting rights**

Investment firms shall disclose the information referred to in Article 52(1), point (a) of Regulation (EU) 2019/2033 by using template IF IP1 of Annex I to this Regulation and by following the instructions set out in Annex II to this Regulation.

*Article 4***Disclosure of voting behaviour**

Investment firms shall disclose the information referred to in Article 52(1), point (b) of Regulation (EU) 2019/2033 as follows:

- (a) the information on the voting behaviour by using table IF IP2.01 and template IF IP2.02 of Annex I to this Regulation and by following the instructions set out in Annex II to this Regulation;
- (b) the information on the explanation of the votes by using table IF IP2.03 and template IF IP2.04 of Annex I to this Regulation and by following the instructions set out in Annex II to this Regulation;
- (c) the information on the ratio of proposals which the investment firm has approved by using template IF IP2.05 of Annex I to this Regulation and by following the instructions set out in Annex II to this Regulation.

*Article 5***Disclosure of explanation of the use of proxy advisor firms**

Investment firms shall disclose the information referred to in Article 52(1), point (c) of Regulation (EU) 2019/2033 as follows:

- (a) the information on the list of proxy advisor firms used by the investment firm by using table IF IP3.01 of Annex I to this Regulation and by following the instructions set out in Annex II to this Regulation;
- (b) the information on the links with proxy advisor firms by using table IF IP3.02 of Annex I to this Regulation and by following the instructions set out in Annex II to this Regulation.

*Article 6***Disclosure of voting guidelines**

Investment firms shall disclose the information referred to in Article 52(1), point (d) of Regulation (EU) 2019/2033 by using template IF IP4 of Annex I to this Regulation and by following the instructions set out in Annex II to this Regulation.

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, 11 March 2022.

For the Commission
The President
Ursula VON DER LEYEN

DISCLOSURE OF INVESTMENT POLICY BY INVESTMENT FIRMS

INVESTMENT FIRMS DISCLOSURE			
Template number	Template code	Name of the template	Legislative reference
		INVESTMENT POLICY	
1	IF IP1	PROPORTION OF VOTING RIGHTS	Regulation (EU) 2019/2033 Art 52(1), point (a)
2	IF IP2	VOTING BEHAVIOUR	Regulation (EU) 2019/2033 Art 52(1), point (b)
3	IF IP3	PROXY ADVISOR FIRMS	Regulation (EU) 2019/2033 Art 52(1), point (c)
4	IF IP4	VOTING GUIDELINES	Regulation (EU) 2019/2033 Art 52(1), point (d)

IF IP1 – TEMPLATE ON PROPORTION OF VOTING RIGHTS

Country	Economic sector	Company name	Company identifier	Proportion of voting rights attached to shares held directly or indirectly as set out in Article 52(2)
a	b	c	d	e

Please insert additional rows as needed.

IF IP 2.03 – TABLE ON EXPLANATION OF THE VOTES

Row	Item	Value
1	Departments or roles in the investment firm that take part in deciding a voting position	
2	Description of the validation process for negative votes	
3	Number of full time equivalents used to analyse resolutions and examine voting records, excluding external resources such as proxy advisor firms	
4	Explanation of any material change in the rate of approval	
5	List of publicly available investment policy documents describing the investment firm's objectives	
6	If relevant, certification of the firm's investment policy	

IF IP 2.04 – TEMPLATE ON VOTING BEHAVIOUR IN RESOLUTIONS BY THEME

Row	Item	Voted for	Voted against	Abstained	Total
1	Voted resolutions by theme during the past year:				
2	Board structure				
3	Executive remuneration				
4	Auditors				
5	Environment, social, ethics				
6	Capital transactions				
7	External resolutions				
8	Other				

IF IP 2.05 – TEMPLATE ON THE RATIO OF APPROVED PROPOSALS

Row	Item	Value
1	Percentage of resolutions put forward by the administrative or management body that are approved by the firm	
2	Percentage of resolutions put forward by shareholders that are approved by the firm	

IF IP3 – PROXY ADVISOR FIRMS

IF IP 3.01 – TABLE ON THE LIST OF PROXY ADVISOR FIRMS

Name of proxy advisor firm	Identifier of proxy advisor firm	Contract type	Investments associated with the proxy advisor firm	Themes of resolutions in which the proxy firm gave voting recommendations in the past year
a	b	c	d	e

Please insert additional rows as needed.

IF IP 3.02 – TABLE ON THE LINKS WITH PROXY ADVISOR FIRMS

Name of proxy advisor firm	Identifier of proxy advisor firm	Relevant undertakings with which the proxy advisor firm has links	Type of link	If relevant, policy regarding conflicts of interests with the proxy advisor firm
a	b	c	d	e

IF IP4 – TABLE ON VOTING GUIDELINES

Voting guidelines regarding the companies the shares of which are held in accordance with Art. 52(2): short general summary and, if needed, links to non-confidential documents
a

ANNEX II

INSTRUCTIONS ON DISCLOSURE OF INVESTMENT POLICY BY INVESTMENT FIRMS

1.1. PART I: GENERAL INSTRUCTIONS

1.1 Structure

This annex provides instructions for the disclosure templates and tables included in Annex I as regards:

- proportion of voting rights;
- voting behaviour;
- proxy advisor firms;
- voting guidelines.

1.2 Prudential consolidation

The scope of consolidation of an investment firms group is described in more detail in the draft RTS on prudential consolidation under Article 7(5) Regulation (EU) 2019/2033 ⁽¹⁾. Investment firm groups shall use this prudential scope to fulfil the disclosure requirements, and not the scope of accounting consolidation.

1.2. PART II: INSTRUCTIONS RELATED TO TEMPLATES AND TABLES

The requirement of investment policy disclosure shall be fulfilled using both templates and tables. Templates contain quantitative information while tables contain qualitative information.

1. IF IP1 – PROPORTION OF VOTING RIGHTS

1.1. General remarks

Article 52(1), point (a) Regulation (EU) 2019/2033 requires a disclosure of the proportion of voting rights attached to shares held directly or indirectly, broken down by Member State and sector, considering only relevant companies as set out in Article 52(2). In the related template, each company is linked to a relevant country and an economic sector according to the drop-down list provided in the template, where the proportion of voting rights that the investment firm directly or indirectly holds exceeds the threshold of 5 % of all voting rights attached to the shares issued by the company.

Investment firms shall disclose the proportion of voting rights attached to the shares held indirectly by their subsidiaries or other undertakings, where the investment firms exercise significant influence or control over the subsidiaries or other undertakings, or where close links exist.

1.2. Instructions concerning specific positions

Column	Legal references and instructions
a	Country Article 52(1), point (a) Regulation (EU) 2019/2033. Proportion of voting rights shall be broken down by Member State, based on the residence of the investee company.
b	Economic sector Article 52(1), point (a) Regulation (EU) 2019/2033. Proportion of voting rights shall be broken down by sector. The list of economic sectors provided in the

⁽¹⁾ https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Draft%20Technical%20Standards/2020/RTS/961461/Final%20draft%20RTS%20on%20prudential%20requirements%20for%20Investment%20Firms%20%28EBA-RTS-2020-11%29.pdf

	European Skills, Competences, Qualifications and Occupations framework (ESCO), which consists of 27 sectors, shall be used. These sectors are mapped to NACE codes, as presented in the table ⁽²⁾ on the European Commission website.
c	Company name Name of the company in which shares are held.
d	Identifier of the company Identifier of the company in which shares are held, a Legal Entity Identifier (LEI). Investment firms shall report in this field the LEI code in all the cases where it is available.
e	Proportion of voting rights attached to shares held directly or indirectly as set out in Article 52(2) Article 52(2) Regulation (EU) 2019/2033. Percentage between 5 % (excluded) and 100 %. Relevant companies for the purpose of this template shall be those whose shares are admitted to trading on a regulated market. Only shares to which voting rights are attached shall be considered. The disclosure is required when the proportion of voting rights that the investment firm directly or indirectly holds exceeds the threshold of 5 % of all voting rights attached to the shares issued by the company. Voting rights shall be calculated on the basis of all shares to which voting rights are attached, even if the exercise of those voting rights is suspended. The shares in the scope of this disclosure may be held directly or indirectly. The 'shares held directly' are shares held on the investment firm's own account that are part of its own funds. The 'shares held indirectly' are shares held by a subsidiary of the investment firm, or by any other undertaking over which the investment firm exercises a significant influence either by virtue of a formal agreement or any other business relation. They also include shares under the investment firm's management on behalf of clients, unless voting rights are retained by shareholders by virtue of a contractual arrangement prohibiting the investment firm to vote on their behalf.

2. IF IP2 – VOTING BEHAVIOUR

2.1. General remarks

Article 52(1), point (b) Regulation (EU) 2019/2033 requires a disclosure of three elements:

- (a) a complete description of voting behaviour in the general meetings of companies the shares of which are held in accordance with Article 52(2);
- (b) an explanation of the votes;
- (c) the ratio of proposals which the investment firm has approved.

2.2. Instructions concerning specific positions

IF IP2.01 – TABLE ON THE DESCRIPTION OF VOTING BEHAVIOUR

Row	Legal references and instructions
1	Number of relevant companies in the scope of disclosure Article 52(2) Regulation (EU) 2019/2033. Positive integer. Number of relevant companies in which shares are held (see column d in IF IP1).

⁽²⁾ Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

2	Number of general meetings in the scope of disclosure during the past year Article 52(2) Regulation (EU) 2019/2033. Positive integer. Number of general meetings held during the past year for the companies in the scope of disclosure.
3	Number of general meetings in the scope of disclosure in which the firm has voted during the past year Article 52(2) Regulation (EU) 2019/2033. Positive integer, less than or equal to row 2. Number of general meetings held during the past year for the companies in the scope of disclosure, in which the investment firm has voted. This includes meetings where the firm expressed only abstention votes and meetings in which the firm voted by proxy.
4	Does the investment firm inform the company of negative votes prior to the general meeting? Yes or no question. Answer is yes if the investment firm has a policy of informing a company of negative votes prior to general meetings, or if the firm has done so in a majority of cases during the past year.
5	Proportion of in-person votes used by the firm Percentage. Shall not include votes by proxy.
6	Proportion of votes by mail or electronic voting used by the firm Percentage. Includes votes by proxy.
7	On a consolidated basis, does the investment firm group possess a policy regarding conflicts of interest between relevant entities of the group? Yes or no question. Investment firm groups shall fill in this row, individual investment firms shall not. Relevant entities of the group shall be those included in the scope of prudential consolidation under Regulation (EU) 2019/2033.
8	If yes, summary of this policy Free text. If the answer in row 7 is yes, the firm shall include a short summary of the policy regarding conflicts of interest between relevant entities of the group.

IF IP2.02 – TEMPLATE ON VOTING BEHAVIOUR

Row	Legal references and instructions
1	General meeting resolutions: Title row.
2	the firm has approved Number and percentage of general meeting resolutions in the scope of disclosure that the investment firm has approved during the past year.

3	the firm has opposed Number and percentage of general meeting resolutions in the scope of disclosure that the investment firm has opposed during the past year.
4	in which the firm has abstained Number and percentage of general meeting resolutions in the scope of disclosure in which the investment firm has abstained during the past year.
5	General meetings in which the firm has opposed at least one resolution Number and percentage of general meetings in the scope of disclosure in which the investment firm has opposed at least one resolution during the past year.

IF IP2.03 – TABLE ON EXPLANATION OF THE VOTES

Row	Legal references and instructions
1	Departments or roles in the investment firm that take part in deciding a voting position Free text. List of the departments or roles that take part in deciding a voting position.
2	Description of the validation process for negative votes Free text. If applicable, description of the validation process for negative votes in the relevant general meetings.
3	Number of full-time equivalents used to analyse resolutions and examine voting records, excluding external resources such as proxy advisor firms Positive amount. Amount of full-time equivalents in the departments or roles used to analyse resolutions and examine voting records. This shall include only internal resources at the investment firm.
4	Explanation of any material change in the rate of approval Free text. A short explanation shall be provided if the rate of approval has materially increased or decreased relative to the last disclosure, for instance following a change in policy, strategy or outlook of the investment firm as a shareholder.
5	List of publicly available investment policy documents describing the investment firm's objectives Free text. List of documents, preferably as hypertext links, that describe the investment firm's objectives acting as a shareholder.
6	If relevant, certification of the firm's investment policy Free text. If the investment firm has obtained certification for its investment policy, name and date of award of this certification. There may be several such certifications.

IF IP2.04 – TEMPLATE ON VOTING BEHAVIOUR IN RESOLUTIONS BY THEME

Row	Legal references and instructions
1	Voted resolutions by theme during the past year: Positive integers. Number of resolutions voted by the firm or its proxies during the past year in the general meetings in the scope of disclosure. The total amount is broken down by approval status: approved, objected, abstained.
2	Board structure Positive integers. Number of resolutions about board structure, broken down by approval status.
3	Executive remuneration Positive integers. Number of resolutions about executive remuneration, broken down by approval status.
4	Auditors Positive integers. Number of resolutions about auditors (e.g. appointment, remuneration), broken down by approval status.
5	Environment, social, ethics Positive integers. Number of resolutions about environmental, social and ethical issues, broken down by approval status.
6	Capital transactions Positive integers. Number of resolutions about capital transactions (e.g. mergers, acquisitions), broken down by approval status.
7	External resolutions Positive integers. Number of resolutions about external resolution proposals, broken down by approval status. These external resolutions are proposed by a shareholder to the others, generally in order to convince them to vote against a proposal of the board.
8	Other Positive integers. Number of resolutions about topics other than the ones above, broken down by approval status.

IF IP2.05 – TEMPLATE ON THE RATIO OF APPROVED PROPOSALS

Row	Legal references and instructions
1	Percentage of resolutions put forward by the administrative or management body that are approved by the firm Article 52(1), point (b) Regulation (EU) 2019/2033. Percentage.

2	Percentage of resolutions put forward by shareholders that are approved by the firm Article 52(1), point (b) Regulation (EU) 2019/2033. Percentage.
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3. IF IP3 – PROXY ADVISOR FIRMS

3.1. General remarks

Article 52(1), point (c) Regulation (EU) 2019/2033 requires a disclosure of an explanation of the use of proxy advisor firms. This template includes information on proxy advisor firms as defined in Article 2, point (g) of Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies ^(*). These proxy advisor firms may provide research, advice or voting recommendations, or only execute voting instructions.

3.2. Instructions concerning specific positions

IF IP3.01 – TABLE ON THE LIST OF PROXY ADVISOR FIRMS

Column	Legal references and instructions
a	Name of proxy advisor firm Proxy advisor firms as defined in Article 2, point (g) of the Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies. Free text.
b	Identifier of proxy advisor firm Identifier of the proxy advisor firm, a LEI where applicable.
c	Contract type This field is limited to two choices, between proxy advisor firms that give voting recommendations and firms that do not. In the latter case, the proxy advisor firms only execute votes on behalf of an investment firm.
d	Investments associated with the proxy advisor firm Free text. A list of the undertakings/investments that are related to the services of each proxy advisor firm.
e	Themes of resolutions in which the proxy advisor firm gave voting recommendations in the past year Free text, preferably using the categories given in IF IP2.04: board structure, executive remuneration, auditors, environment/social/ethics, capital transactions, external resolutions, or other themes to be specified.

IF IP3.02 – TABLE ON THE LINKS WITH PROXY ADVISOR FIRMS

Column	Legal references and instructions
a	Name of proxy advisor firm Free text.

^(*) Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies (OJ L 184, 14.7.2007, p. 17).

b	Identifier of proxy advisor firm Identifier of the proxy advisor firm, preferably a LEI.
c	Relevant undertakings with which the proxy advisor firm has links Relevant undertakings with which proxy advisor firms have links, with a description of these links. Relevant undertakings shall be publicly traded companies, investment firms and credit institutions.
d	Type of link Possible links as given in IAS 24.9. If several apply, the most significant shall be selected and specified in the accompanying narrative: — the same group; — associate or joint venture of the other entity; — associate or joint venture of a third entity; — a related person has control or joint control; — a related person has significant influence; — key management personnel.
e	If relevant, policy regarding conflicts of interest with the proxy advisor firm Free text. If applicable, a short description of the policy pursued by the investment firm to prevent conflicts of interest that may arise from links between proxy firms and undertakings or groups in which investment firms hold shares.

4. IF IP4 – VOTING GUIDELINES

4.1. General remarks

Article 52(1), point (d) Regulation (EU) 2019/2033 requires a disclosure of the voting guidelines regarding the companies the shares of which are held in accordance with Paragraph 2 of the same article. The related table is used to disclose all voting guidelines in the relevant scope, not only proxy voting guidelines. Voting guidelines can be extensive and may be decided upon on a case-by-case basis for certain items in a general meeting agenda. These guidelines may vary by geographical zone, economic sector or theme of resolutions.

4.2. Instructions concerning specific positions

Column	Legal references and instructions
a	Voting guidelines regarding the companies the shares of which are held in accordance with Article 52(2) Article 52(1), point (d), Article 52(2) Regulation (EU) 2019/2033. Free text. Short general summary and, if available, links to non-confidential documents, preferably in the form of hypertext links.

COMMISSION IMPLEMENTING REGULATION (EU) 2022/1160**of 5 July 2022****amending Implementing Regulation (EU) 2017/2470 as regards the conditions of use and the specifications of the novel food nicotinamide riboside chloride****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council and repealing Regulation (EC) No 258/97 of the European Parliament and of the Council and Commission Regulation (EC) No 1852/2001 ⁽¹⁾, and in particular Article 12 thereof,

Whereas:

- (1) Regulation (EU) 2015/2283 provides that only novel foods authorised and included in the Union list of novel foods may be placed on the market within the Union.
- (2) Pursuant to Article 8 of Regulation (EU) 2015/2283, Commission Implementing Regulation (EU) 2017/2470 ⁽²⁾ has established a Union list of novel foods.
- (3) The Union list set out in the Annex to Implementing Regulation (EU) 2017/2470 includes nicotinamide riboside chloride as an authorised novel food.
- (4) Commission Implementing Regulation (EU) 2020/16 ⁽³⁾ authorised the placing on the market of nicotinamide riboside chloride as a novel food for use in food supplements as defined in Directive 2002/46/EC of the European Parliament and of the Council ⁽⁴⁾, for the adult population.
- (5) On 2 March 2020, the company ChromaDex Inc. ('the applicant') submitted an application to the Commission pursuant to Article 10(1) of Regulation (EU) 2015/2283 for an amendment of the conditions of use of the novel food nicotinamide riboside chloride. The applicant requested to extend the use of nicotinamide riboside chloride to: foods for special medical purposes and total diet replacement for weight control, as defined by Regulation (EU) No 609/2013 of the European Parliament and of the Council ⁽⁵⁾, at 500 mg per day, and meal replacements, at 300 mg per day; all of those categories intended for the adult population, excluding pregnant and lactating women.
- (6) On 2 March 2020, the applicant also made a request to the Commission for the protection of proprietary data for a study submitted in support of the application, namely, a human study evaluating the safety and dose-dependent effects of nicotinamide riboside chloride supplementation ⁽⁶⁾.

⁽¹⁾ OJ L 327, 11.12.2015, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) 2017/2470 of 20 December 2017 establishing the Union list of novel foods in accordance with Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods (OJ L 351, 30.12.2017, p. 72).

⁽³⁾ Commission Implementing Regulation (EU) 2020/16 of 10 January 2020 authorising the placing on the market of nicotinamide riboside chloride as a novel food under Regulation (EU) 2015/2283 of the European Parliament and of the Council and amending Commission Implementing Regulation (EU) 2017/2470 (OJ L 7, 13.1.2020, p. 6).

⁽⁴⁾ Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements (OJ L 183, 12.7.2002, p. 51).

⁽⁵⁾ Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 (OJ L 181, 29.6.2013, p. 35).

⁽⁶⁾ Clinical Study Safety Report. Safety and Metabolic Effects of Nicotinamide Riboside in a Randomized, Double-blind, Crossover, Placebo-controlled Trial of Men and Women ≥ 55 Years of Age (Maki et al., 2020). Annex 4 – Study Report Maki.

- (7) In accordance with Article 10(3) of Regulation (EU) 2015/2283, the Commission consulted the European Food Safety Authority ('the Authority') on 8 June 2020, requesting it to provide a scientific opinion by carrying out an assessment of an extension of use of the novel food nicotinamide riboside chloride.
- (8) On 14 September 2021, the Authority adopted its scientific opinion on the 'Extension of use of nicotinamide riboside chloride as a novel food pursuant to Regulation (EU) 2015/2283' ⁽⁷⁾ in accordance with Article 11 of Regulation (EU) 2015/2283.
- (9) In its scientific opinion, the Authority concluded that nicotinamide riboside chloride, when used at levels of 500 mg per day in foods for special medical purposes and in total diet replacement for weight control intended for the adult population, excluding pregnant and lactating women, is safe. Therefore, it is appropriate to change the conditions of use of nicotinamide riboside chloride and to authorise use of nicotinamide riboside chloride in those foods.
- (10) In the same opinion, the Authority assessed the safety of meal replacements for the general population, and not only for adults, as according to Article 5(6) of Commission Implementing Regulation (EU) 2017/2469 ⁽⁸⁾ it cannot be excluded that meal replacements containing the novel food would be consumed by other groups of the population. In its opinion, the Authority also indicated that, with the exception of infants, the intake of 300 mg per day of nicotinamide riboside chloride from meal replacements for the adult population, excluding pregnant and lactating women, would be below the established nicotinamide Upper Level ⁽⁹⁾ ('UL') and thus would be considered to be safe. However, in light of the assessment of the Authority on the use of the novel food in meal replacements for all population groups, except infants, demonstrating that the intake of the novel food from meal replacements will be well below the UL for nicotinamide, and in light of the fact that meal replacements are a category of food that is essentially exclusively sought after and used by adults, the Commission is of the view that the novel food may be authorised only for use in meal replacements for the adult population, excluding pregnant and lactating women, at the use level of 300 mg day, as proposed by the applicant.
- (11) That scientific opinion gives sufficient grounds to establish that nicotinamide riboside chloride, when used at levels of 500 mg per day in foods for special medical purposes and total diet replacement for weight control intended for the adult population, excluding pregnant and lactating women fulfils the conditions for its placing on the market in accordance with Articles 9 and 12(1) of Regulation (EU) 2015/2283. Furthermore, that scientific opinion also gives sufficient grounds to establish that nicotinamide riboside chloride, when used at levels of 300 mg per day in meal replacements intended for the adult population, excluding pregnant and lactating women, fulfils the conditions for its placing on the market in accordance with Article 12(1) of Regulation (EU) 2015/2283.
- (12) Safety data and assessment of nicotinamide riboside chloride for use in foods for special medical purposes, total diet replacement for weight control and meal replacements covered only the adult population, excluding pregnant and lactating women. Therefore, a labelling requirement should be provided in order to properly inform the consumers that foods for special medical purposes, total diet replacement for weight control and meal replacements containing nicotinamide riboside chloride should only be consumed by persons above 18 years of age excluding pregnant and lactating women.
- (13) In its scientific opinion, the Authority included maximum levels for mercury, cadmium and lead in the specifications of the novel food. These levels are applicable only to foods for special medical purposes, total diet replacement for weight control and meal replacements as for these foods no maximum levels for mercury, cadmium and lead have been established by Commission Regulation (EC) No 1881/2006 ⁽¹⁰⁾. Therefore, the specification of the novel food should be amended accordingly by setting up maximum levels for these heavy metals applicable only to new uses. As no maximum level have been set for arsenic by the same Regulation, the level set by the present Regulation shall be applicable to all authorised uses.

⁽⁷⁾ EFSA Journal 2021;19(11):6843.

⁽⁸⁾ Commission Implementing Regulation (EU) 2017/2469 of 20 December 2017 laying down administrative and scientific requirements for applications referred to in Article 10 of Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods (OJ L 351, 30.12.2017, p. 64).

⁽⁹⁾ EFSA (European Food Safety Authority), 2006. Opinion of the Scientific Committee on Food on the tolerable upper intake level of nicotinic acid and nicotinamide (Niacin): expressed on 17 April 2002. In: SCF (Scientific Committee on Food) and EFSA NDA Panel (Scientific Panel on Dietetic Products, Nutrition and Allergies). Tolerable upper intake levels for vitamins and minerals. EFSA, s.l. 121–134. pp.

⁽¹⁰⁾ Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs (OJ L 364, 20.12.2006, p. 5).

- (14) In its scientific opinion, the Authority indicated that the human study evaluating the safety and dose-dependent effects of nicotinamide riboside chloride supplementation ⁽¹⁾ was not needed for the assessment and reaching the conclusion by the Authority. Therefore, that study should not be protected in accordance with Article 27(1) of Regulation (EU) 2015/2283.
- (15) The Annex to Implementing Regulation (EU) 2017/2470 should therefore be amended accordingly.
- (16) 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) 2017/2470 is amended in accordance with 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*.

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

Done at Brussels, 5 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

⁽¹⁾ Clinical Study Safety Report. Safety and Metabolic Effects of Nicotinamide Riboside in a Randomized, Double-blind, Crossover, Placebo-controlled Trial of Men and Women ≥ 55 Years of Age (Maki et al., 2020). Annex 4 – Study Report Maki.

The Annex to Implementing Regulation (EU) 2017/2470 is amended as follows:

(1) in Table 1 (Authorised novel foods), the entry for 'nicotinamide riboside chloride' is replaced by the following:

Authorised novel food	Conditions under which the novel food may be used		Additional specific labelling requirements	Other requirements	Data protection
	<i>Specified food category</i>	<i>Maximum levels</i>			
Nicotinamide riboside chloride	Food supplements as defined in Directive 2002/46/EC	300 mg/day for the adult population, excluding pregnant and lactating women 230 mg/day for pregnant and lactating women	The designation of the novel food on the labelling of the foodstuffs containing it shall be 'nicotinamide riboside chloride'.		Authorised on 20 February 2020. This inclusion is based on proprietary scientific evidence and scientific data protected in accordance with Article 26 of Regulation (EU) 2015/2283. Applicant: ChromaDex Inc., 10900 Wilshire Boulevard Suite 600, Los Angeles, CA 90024 USA. During the period of data protection, the novel food is authorised for placing on the market within the Union only by ChromaDex Inc. unless a subsequent applicant obtains authorisation for that novel food without reference to the proprietary scientific evidence or scientific data protected in accordance with Article 26 of Regulation (EU) 2015/2283 or with the agreement of ChromaDex Inc. End date of the data protection: 20 February 2025.'
	Foods for special medical purposes as defined by Regulation (EU) No 609/2013 for the adult population, excluding pregnant and lactating women	In accordance with the particular nutritional requirements of the persons for whom the products are intended	1. The designation of the novel food on the labelling of the foodstuffs containing it shall be 'nicotinamide riboside chloride'		
	Total diet replacement for weight control as defined by Regulation (EU) No 609/2013 for the adult population, excluding pregnant and lactating women	500 mg/day	2. The labelling of foodstuffs containing the novel food shall bear a statement that those foods should only be consumed by persons above 18 years of age excluding pregnant and lactating women.		
	Meal replacements for the adult population, excluding pregnant and lactating women	150 mg/meal (maximum 2 meals/day up to a maximum of 300 mg/day)			

(2) in Table 2 (Specifications), the entry for 'nicotinamide riboside chloride' is replaced by the following:

Authorised Novel Food	Specification
Nicotinamide riboside chloride	Description/Definition: The novel food is a synthetic form of nicotinamide riboside. The novel food contains ≥ 90 % nicotinamide riboside chloride, predominantly in its β form, the remaining components being residual solvents, reaction by-products and degradation products. Nicotinamide riboside chloride: CAS number: 23111-00-4 EC number: 807-820-5 IUPAC name: 1-[(2R,3R,4S,5R)-3,4-dihydroxy-5-(hydroxymethyl)oxolan-2-yl]pyridin-1-ium-3-carboxamide;chloride Chemical formula: C₁₁H₁₅N₂O₅Cl Molecular weight: 290,7 g/mol Characteristics/Composition: Colour: White to light brown Form: Powder Identification: Conforms by NMR (nuclear magnetic resonance) Nicotinamide riboside chloride: ≥ 90 % Water content: ≤ 2 % Residual solvents: Acetone: $\leq 5\,000$ mg/kg Methanol: $\leq 1\,000$ mg/kg Acetonitrile: ≤ 50 mg/kg Methyl tert-butyl ether: ≤ 500 mg/kg Reaction by-products: Methyl acetate: $\leq 1\,000$ mg/kg Acetamide: ≤ 27 mg/kg Acetic acid: $\leq 5\,000$ mg/kg Heavy metals: Arsenic: ≤ 1 mg/kg Mercury*: $\leq 0,1$ mg/kg Cadmium*: ≤ 1 mg/kg Lead*: $\leq 0,5$ mg/kg Microbiological criteria: Total Plate Count: $\leq 1\,000$ CFU/g Yeast and Mould: ≤ 100 CFU/g <i>Escherichia coli</i>: Absence in 10 g CFU: colony forming units (*) only for foods for special medical purposes, total diet replacement for weight control and meal replacements'

COMMISSION IMPLEMENTING REGULATION (EU) 2022/1161**of 5 July 2022****establishing budgetary ceilings for 2022 applicable to certain direct support schemes provided for in Regulation (EU) No 1307/2013 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 ⁽¹⁾, and in particular Articles 22(1), 36(4), 42(2), 47(3), 49(2), 51(4) and 53(7) thereof,

Whereas:

- (1) For each Member State implementing the basic payment scheme provided for in Chapter 1 of Title III of Regulation (EU) No 1307/2013, the annual national ceiling referred to in Article 22(1) of that Regulation for 2022 has to be set by the Commission by deducting from the annual national ceiling set out in Annex II to that Regulation the ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53 of that Regulation. In accordance with Article 22(2) of that Regulation any increases applied by Member States pursuant to that provision are to be taken into account.
- (2) For each Member State implementing the single area payment scheme provided for in Chapter 1 of Title III of Regulation (EU) No 1307/2013, the annual national ceiling referred to in Article 36(4) of that Regulation for 2022 has to be set by the Commission by deducting from the annual national ceiling set out in Annex II to that Regulation the ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53 of that Regulation. In accordance with Article 36(4), second subparagraph, of that Regulation, when setting the annual national ceiling for the single area payment scheme, any increases applied by Member States pursuant to that provision are to be taken into account by the Commission.
- (3) For each Member State granting the redistributive payment provided for in Chapter 2 of Title III of Regulation (EU) No 1307/2013, the annual national ceiling referred to in Article 42(2) of that Regulation for 2022 has to be set by the Commission on the basis of the percentage notified by those Member States pursuant to Article 42(1) of that Regulation.
- (4) In relation to the payment for agricultural practices beneficial for the climate and the environment provided for in Chapter 3 of Title III of Regulation (EU) No 1307/2013, the annual national ceilings referred to in Article 47(3) of that Regulation for 2022 have to be calculated in accordance with Article 47(1) of that Regulation and amounting to 30 % of the national ceiling of the relevant Member State as set out in Annex II to that Regulation.
- (5) For Member States granting the payment for areas with natural constraints provided for in Chapter 4 of Title III of Regulation (EU) No 1307/2013, the annual national ceilings referred to in Article 49(2) of that Regulation for 2022 have to be set by the Commission on the basis of the percentage notified by the relevant Member States pursuant to Article 49(1) of that Regulation.

⁽¹⁾ OJ L 347, 20.12.2013, p. 608.

- (6) In relation to the payment for young farmers provided for in Chapter 5 of Title III of Regulation (EU) No 1307/2013, the annual national ceilings referred to in Article 51(4) of that Regulation for 2022 have to be set by the Commission on the basis of the percentage notified by Member States pursuant to Article 51(1) of that Regulation and have not to be higher than 2 % of the annual ceiling set out in Annex II to that Regulation.
- (7) Where the total amount of the payment for young farmers applied for in 2022 in a Member State exceeds the ceiling set pursuant to Article 51(4) of Regulation (EU) No 1307/2013 for that Member State, the difference has to be financed by the Member State in accordance with Article 51(2) of that Regulation whilst respecting the maximum amount laid down in Article 51(1) of that Regulation. For the sake of clarity, it is appropriate to set this maximum amount for each Member State.
- (8) For each Member State granting voluntary coupled support provided for in Chapter 1 of Title IV of Regulation (EU) No 1307/2013 in 2022, the Commission has to set the annual national ceilings referred to in Article 53(7) of that Regulation for 2022 on the basis of the percentage notified by the relevant Member State pursuant to Article 54(1) of that Regulation.
- (9) Concerning the year 2022, the implementation of direct support schemes provided for in Regulation (EU) No 1307/2013 started on 1 January 2022. For the sake of consistency between the applicability of that Regulation for the claim year 2022 and the applicability of the corresponding budgetary ceilings, this Regulation should apply from the same date.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Direct Payments,

HAS ADOPTED THIS REGULATION:

Article 1

1. The annual national ceilings for 2022 for the basic payment scheme referred to in Article 22(1) of Regulation (EU) No 1307/2013 are set out in point I of the Annex to this Regulation.
2. The annual national ceilings for 2022 for the single area payment scheme referred to in Article 36(4) of Regulation (EU) No 1307/2013 are set out in point II of the Annex to this Regulation.
3. The annual national ceilings for 2022 for the redistributive payment referred to in Article 42(2) of Regulation (EU) No 1307/2013 are set out in point III of the Annex to this Regulation.
4. The annual national ceilings for 2022 for the payment for agricultural practices beneficial for the climate and the environment referred to in Article 47(3) of Regulation (EU) No 1307/2013 are set out in point IV of the Annex to this Regulation.
5. The annual national ceilings for 2022 for the payment for areas with natural constraints referred to in Article 49(2) of Regulation (EU) No 1307/2013 are set out in point V of the Annex to this Regulation.
6. The annual national ceilings for 2022 for the payment for young farmers referred to in Article 51(4) of Regulation (EU) No 1307/2013 are set out in point VI of the Annex to this Regulation.
7. The maximum amounts for 2022 for the payment for young farmers referred to in Article 51(1) of Regulation (EU) No 1307/2013 are set out in point VII of the Annex to this Regulation.

8. The annual national ceilings for 2022 for voluntary coupled support referred to in Article 53(7) of Regulation (EU) No 1307/2013 are set out in point VIII of the Annex to this Regulation.

Article 2

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

It shall apply from 1 January 2022.

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

Done at Brussels, 5 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

I. **Annual national ceilings for the basic payment scheme referred to in Article 22(1) of Regulation (EU) No 1307/2013**

(thousand EUR)

Calendar year	2022
Belgium	206 964
Denmark	496 739
Germany	2 819 741
Ireland	814 613
Greece	1 068 315
Spain	2 789 560
France	3 025 958
Croatia	181 856
Italy	2 074 792
Luxembourg	22 741
Malta	650
Netherlands	424 101
Austria	458 384
Portugal	268 021
Slovenia	72 697
Finland	259 284
Sweden	391 651

II. **Annual national ceilings for the single area payment scheme referred to in Article 36(4) of Regulation (EU) No 1307/2013**

(thousand EUR)

Calendar year	2022
Bulgaria	381 002
Czechia	464 763
Estonia	127 424
Cyprus	29 400
Latvia	175 229
Lithuania	224 175
Hungary	712 920
Poland	1 549 794
Romania	947 209
Slovakia	205 513

III. Annual national ceilings for the redistributive payment referred to in Article 42(2) of Regulation (EU) No 1307/2013

(thousand EUR)

Calendar year	2022
Belgium	45 157
Bulgaria	55 967
Germany	316 571
France	672 643
Croatia	40 323
Lithuania	86 777
Poland	281 472
Portugal	78 100
Romania	106 527
Slovakia	10 600

IV. Annual national ceilings for the payment for agricultural practices beneficial for the climate and the environment referred to in Article 47(3) of Regulation (EU) No 1307/2013

(thousand EUR)

Calendar year	2022
Belgium	141 599
Bulgaria	239 177
Czechia	254 432
Denmark	234 909
Germany	1 356 732
Estonia	58 073
Ireland	355 885
Greece	538 858
Spain	1 439 232
France	2 017 928
Croatia	120 968
Italy	1 088 559
Cyprus	14 294
Latvia	95 742
Lithuania	173 555
Luxembourg	10 030
Hungary	391 715
Malta	1 573
Netherlands	182 933

Austria	203 275
Poland	1 017 370
Portugal	205 658
Romania	575 809
Slovenia	39 459
Slovakia	118 810
Finland	155 260
Sweden	205 771

V. **Annual national ceilings for payment for areas with natural constraints referred to in Article 49(2) of Regulation (EU) No 1307/2013**

<i>(thousand EUR)</i>	
Calendar year	2022
Denmark	2 857
Slovenia	2 078

VI. **Annual national ceilings for the payment for young farmers referred to in Article 51(4) of Regulation (EU) No 1307/2013**

<i>(thousand EUR)</i>	
Calendar year	2022
Belgium	8 909
Bulgaria	1 521
Czechia	1 696
Denmark	15 661
Germany	45 224
Estonia	1 258
Ireland	23 726
Greece	35 924
Spain	95 949
France	67 264
Croatia	8 065
Italy	72 571
Cyprus	476
Latvia	2 489
Lithuania	7 231
Luxembourg	501
Hungary	5 223
Malta	21

Netherlands	12 196
Austria	13 552
Poland	33 912
Portugal	13 711
Romania	22 766
Slovenia	1 578
Slovakia	1 706
Finland	5 175
Sweden	13 718

VII. Maximum amounts for the payment for young farmers referred to in Article 51(1) of Regulation (EU) No 1307/2013

(thousand EUR)

Calendar year	2022
Belgium	9 440
Bulgaria	15 945
Czechia	16 962
Denmark	15 661
Germany	90 449
Estonia	3 872
Ireland	23 726
Greece	35 924
Spain	95 949
France	134 529
Croatia	8 065
Italy	72 571
Cyprus	953
Latvia	6 383
Lithuania	11 570
Luxembourg	669
Hungary	26 114
Malta	105
Netherlands	12 196
Austria	13 552
Poland	67 825
Portugal	13 711
Romania	38 387
Slovenia	2 631

Slovakia	7 921
Finland	10 351
Sweden	13 718

VIII. Annual national ceilings for voluntary coupled support referred to in Article 53(7) of Regulation (EU) No 1307/2013

(thousand EUR)

Calendar year	2022
Belgium	79 279
Bulgaria	119 588
Czechia	127 216
Denmark	32 863
Estonia	6 821
Ireland	3 000
Greece	178 243
Spain	573 444
France	1 008 964
Croatia	60 484
Italy	468 806
Cyprus	3 812
Latvia	45 680
Lithuania	86 777
Luxembourg	160
Hungary	195 857
Malta	3 000
Netherlands	3 350
Austria	14 229
Poland	508 685
Portugal	134 434
Romania	276 893
Slovenia	17 099
Slovakia	59 405
Finland	101 436
Sweden	89 168

COMMISSION IMPLEMENTING REGULATION (EU) 2022/1162**of 5 July 2022**

making imports of electric bicycles originating in the People's Republic of China subject to registration following the reopening of the investigations in order to implement the judgments of 27 April 2022 in cases T-242/19 and T-243/19, with regard to Implementing Regulation (EU) 2019/73 and Implementing Regulation (EU) 2019/72

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 anti-dumping Regulation'), and in particular Article 14 thereof,

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 ⁽²⁾ ('the basic anti-subsidy Regulation'), and in particular Article 24 thereof,

Whereas:

1. PROCEDURE**1.1. Adoption of measures**

- (1) On 17 July 2018, the Commission ('the Commission') adopted Implementing Regulation (EU) 2018/1012 ⁽³⁾ imposing a provisional anti-dumping duty on imports of electric bicycles originating in the People's Republic of China ('the provisional Regulation').
- (2) On 17 January 2019, the Commission adopted Implementing Regulation (EU) 2019/73 ⁽⁴⁾ and Implementing Regulation (EU) 2019/72 ⁽⁵⁾ (the regulations at issue).

1.2. The Judgment of the General Court of the European Union

- (3) Giant Electric Vehicle Kunshan Co. Ltd (Giant) brought annulment actions before the General Court challenging the legality of the regulations at issue. Giant challenged the adjustment made on its export price for sales via related traders established in the Union using by analogy Article 2(9) of the basic anti-dumping Regulation in the calculation of price undercutting. In particular, Giant claimed that the adjustment – the deduction of the related importer's SG&A and a notional profit – changed the level of trade of its export sales, which resulted in the comparison of its export price at the level of an importer with the Union prices at retailers' level. This adjusted export price was compared to the Union industry's sale prices to their first independent customers through sales via related selling entities in the EU for the purpose of the undercutting and underselling calculations. Giant also challenged the treatment of Original Equipment Manufacturer (OEM) sales for the purpose of the undercutting calculation. In Giant's view, the Union producers' sales of own-brand products to retailers should have been adjusted to bring them to the level of a sale to an unrelated OEM customer in the Union before they were compared with its OEM sales.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ L 176, 30.6.2016, p. 55.

⁽³⁾ Commission Implementing Regulation (EU) 2018/1012 of 17 July 2018 imposing a provisional anti-dumping duty on imports of electric bicycles originating in the People's Republic of China and amending Implementing Regulation (EU) 2018/671 (OJ L 181, 18.7.2018, p. 7).

⁽⁴⁾ Commission Implementing Regulation (EU) 2019/73 of 17 January 2019 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of electric bicycles originating in the People's Republic of China (OJ L 16, 18.1.2019, p. 108).

⁽⁵⁾ Commission Implementing Regulation (EU) 2019/72 of 17 January 2019 imposing a definitive countervailing duty on imports of electric bicycles originating in the People's Republic of China (OJ L 16, 18.1.2019, p. 5).

- (4) On 27 April 2022, the General Court issued its judgements in cases T-242/19 and T-243/19, annulling both Implementing Regulation (EU) 2019/73 (anti-dumping) and Implementing Regulation (EU) 2019/72 (anti-subsidy) as far as Giant is concerned.
- (5) The General Court found that the Commission was not obliged to determine price undercutting margins and that it was entitled to base its injury analysis and, therefore, the causal link, on other price phenomena listed, respectively, in Article 3(3) of the basic anti-dumping Regulation, and in Article 8(2) of the basic anti-subsidy Regulation such as significant depression of Union industry prices or prevention of price increases to a notable extent. However, in both cases, since the Commission relied on the calculation of price undercutting in the context of Article 3(3) and Article 8(2), the General Court found that by taking into account, in relation to the prices of Union producers, certain elements which it had nevertheless deducted from the applicant's prices (or were not present as regards OEM sales since the downstream marketing of the product concerned ⁽⁶⁾ was carried out by the independent buyer itself), the Commission did not make a fair comparison when calculating the applicant's price undercutting margin. The General Court noted that that methodological error found had the effect of identifying undercutting of those prices, the importance or existence of which had not been properly established.
- (6) Considering the importance the Commission had attached to the existence of price undercutting as an indicator of primary importance in its injury analysis and that it was a decisive element in the conclusion on the causal link between the dumped or subsidised imports and that injury, the General Court found that the error in the calculation of price undercutting was sufficient to invalidate the Commission's analysis of the respective causal links, existence of which is an essential element for the imposition of measures.
- (7) Finally, the General Court noted that irrespective of the application by analogy of Article 2(9) of the basic anti-dumping Regulation for the purposes of assessing the existence of injury within the meaning of Article 3 of that Regulation, or Article 8 of the basic anti-subsidy Regulation, the unfair nature of the comparison found under the second part of that plea vitiated, in any event, the Commission's analysis under those provisions ⁽⁷⁾ ⁽⁸⁾.
- (8) The General Court also noted that the injury elimination level was determined on the basis of a comparison involving the weighted average import price of the sampled exporting producers, duly adjusted for importation costs and customs duties, as had been established for the price undercutting calculation ⁽⁹⁾ ⁽¹⁰⁾. It consequently held that it cannot be ruled out that, were it not for the methodological error relating to the undercutting of the applicant's prices, the injury margin of the Union industry would have been established at a level even lower than that established in the regulations at issue and lower still than the dumping margin or amount of countervailable subsidies established therein. In that case, in accordance with Article 9(4) of the basic anti-dumping Regulation and Article 15(1) of the basic anti-subsidy Regulation the amount of the respective duties should be reduced to a rate which would be adequate to remove the injury ⁽¹¹⁾ ⁽¹²⁾.
- (9) Based on those findings, the General Court annulled both regulations at issue insofar as Giant was concerned.

⁽⁶⁾ As defined in the regulations at issue.

⁽⁷⁾ Case T-242/19 Giant Electric Vehicle Kunshan Co. Ltd. v European Commission EU:T:2022:259, paragraph 126.

⁽⁸⁾ Case T-243/19 Giant Electric Vehicle Kunshan Co. Ltd. v European Commission EU:T:2022:260, paragraph 118.

⁽⁹⁾ Case T-242/19 Giant Electric Vehicle Kunshan Co. Ltd. v European Commission EU:T:2022:259, paragraph 122.

⁽¹⁰⁾ Case T-243/19 Giant Electric Vehicle Kunshan Co. Ltd. v European Commission EU:T:2022:260, paragraph 114.

⁽¹¹⁾ Case T-242/19 Giant Electric Vehicle Kunshan Co. Ltd. v European Commission EU:T:2022:259, paragraph 123.

⁽¹²⁾ Case T-243/19 Giant Electric Vehicle Kunshan Co. Ltd. v European Commission EU:T:2022:260, paragraph 115.

2. GROUND FOR REGISTRATION

- (10) The Commission analysed whether it is appropriate to make the imports of the product concerned subject to registration. In that context, the Commission took the following considerations into account.
- (11) Article 266 TFEU provides that the Institutions must take the necessary measures to comply with the judgments. In case of annulment of an act adopted by the Institutions in the context of an administrative procedure, such as anti-dumping or anti-subsidy investigations, compliance with the General Court's judgement consists in the replacement of the annulled act by a new act, in which the illegality identified by the Court is eliminated ⁽¹³⁾.
- (12) According to the case-law of the Court of Justice, the procedure for replacing the annulled act may be resumed at the very point at which the illegality occurred ⁽¹⁴⁾. That implies in particular that in a situation where an act concluding an administrative procedure is annulled, that annulment does not necessarily affect the preparatory acts, such as the initiation of the anti-dumping procedure. In a situation where for instance a Regulation imposing definitive anti-dumping measures is annulled, that means that subsequent to the annulment, the anti-dumping proceeding is still open, because the act concluding the anti-dumping proceeding has disappeared from the Union legal order ⁽¹⁵⁾, except if the illegality occurred at the stage of initiation.
- (13) As explained in the reopening Notice ⁽¹⁶⁾, and since the illegality did not occur at the stage of initiation but at the stage of the investigation, the Commission decided to reopen the anti-dumping and anti-subsidy investigations insofar as they concern Giant, and resumed them at the point at which the irregularity occurred.
- (14) According to the case-law of the Court of Justice, the resumption of the administrative procedure and the eventual re-imposition of duties cannot be seen as contrary to the rule of non-retroactivity ⁽¹⁷⁾. The Notice of reopening informed interested parties, including importers, that any future liability, if warranted, would emanate from the findings of the re-examination.
- (15) Based on its new findings and the outcome of the reopened investigations, which is unknown at this stage, the Commission may adopt regulations revising, where warranted, the applicable duty rates. Those revised rates, if any, will take effect as from the date on which the anti-dumping and anti-subsidy Regulations at issue entered into force.
- (16) For this purpose, the Commission requested national customs authorities to await the outcome of the re-examination before deciding on any repayment claim concerning the anti-dumping and/or countervailing duties annulled by the General Court with respect to Giant. Customs authorities are thus directed to put on hold any claims for reimbursements of the annulled duties until the outcome of the re-examination is published in the *Official Journal of the European Union*.
- (17) Furthermore, should the reopening investigations lead to the re-imposition of measures, duties should also be collected for the period during which the reopening investigations are carried out.

⁽¹³⁾ Joined cases 97, 193, 99 and 215/86 *Asteris AE and others and Hellenic Republic v Commission* [1988] ECR 2181, paragraphs 27 and 28.

⁽¹⁴⁾ Case C-415/96 *Spain v Commission* [1998] ECR I-6993, paragraph 31; Case C-458/98 P *Industrie des Poudres Sphériques v Council* [2000] I-8147, paragraphs 80 to 85; Case T-301/01 *Alitalia v Commission* [2008] II-1753, paragraphs 99 and 142; Joined Cases T-267/08 and T-279/08 *Région Nord-Pas de Calais v Commission* [2011] II-0000, paragraph 83.

⁽¹⁵⁾ Case C-415/96 *Spain v Commission* [1998] ECR I-6993, paragraph 31; Case C-458/98 P *Industrie des Poudres Sphériques v Council* [2000] I-8147, paragraphs 80 to 85.

⁽¹⁶⁾ OJ C 260, 6.7.2022, p 5.

⁽¹⁷⁾ Case C-256/16 *Deichmann SE v Hauptzollamt Duisburg*, Judgment of the Court of 15 March 2018, paragraph 79 and C-612/16 C & J *Clark International Ltd v Commissioners for Her Majesty's Revenue & Customs*, judgment of 19 June 2019, paragraph 5.

- (18) In this respect, the Commission notes that registration is a tool provided in Articles 14(5) of the basic anti-dumping Regulation and Article 24(5) of the basic anti-subsidy Regulation so that measures may subsequently be applied against imports from the date of the registration. In the present case, the Commission deems it appropriate to register imports concerning Giant with a view to facilitating the collection of anti-dumping and countervailing duties once their levels are revised in line with the General Court ruling ⁽¹⁸⁾.
- (19) In line with the jurisprudence of the Court of Justice ⁽¹⁹⁾, contrary to registration taking place during the period before the adoption of provisional measures, the conditions of Article 10(4) of the basic anti-dumping Regulation and Article 16(4) of the basic anti-subsidy Regulation are not applicable to the case at hand. Indeed, the purpose of registration in the context of Court implementation is not to allow the possible retroactive collection of trade defence measures as envisaged in those provisions. The purpose is rather to safeguard the effectiveness of the measures in place, without undue interruption from the date of entry into force of the regulations at issue until the re-imposition of the corrected duties, by ensuring that the collection of the correct amount of duties is possible in the future.
- (20) In light of the above considerations, the Commission considered that there were grounds for registration pursuant to Article 14(5) of the basic anti-dumping Regulation and Article 24(5) of the basic anti-subsidy Regulation.

3. REGISTRATION

- (21) On the basis of the above, imports of the product concerned produced by Giant Electric Vehicle Kunshan Co. Ltd. under TARIC additional code C383 must be made subject to registration.
- (22) As indicated in the reopening Notice, the final liability for payment of anti-dumping and countervailing duties, if any, from the date of entry into force of the anti-dumping and anti-subsidy regulations at issue will emanate from the findings of the re-examination.
- (23) No duties higher than the duties established in the regulations at issue may be collected for the period between the publication of the Notice of reopening and the date of entry into force of the results of the reopening investigations.
- (24) The current anti-dumping and anti-subsidy duties applicable to Giant Electric Vehicle Kunshan Co. Ltd are 20,7 % and 3,9 % respectively,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Customs authorities shall, pursuant to Article 14(5) of Regulation (EU) 2016/1036 and Article 24(5) of Regulation (EU) 2016/1037, take the appropriate steps to register the imports of cycles, with pedal assistance, with an auxiliary electric motor, currently falling under CN codes 8711 60 10 and ex 8711 60 90 (TARIC code 8711 60 90 10), originating in the People's Republic of China and produced by Giant Electric Vehicle Kunshan Co. Ltd (TARIC additional code C383).
2. Registration shall expire nine months following the date of entry into force of this Regulation.
3. The rates of the anti-dumping and countervailing duties that can be collected on imports of cycles, with pedal assistance, with an auxiliary electric motor, currently falling under CN codes 8711 60 10 and ex 8711 60 90 (TARIC code 8711 60 90 10), originating in the People's Republic of China and produced by Giant Electric Vehicle Kunshan Co. Ltd (TARIC additional code C383) between the reopening of the investigations and the date of entry into force of the results of the reopening investigations shall not exceed those imposed by Implementing Regulations (EU) 2019/73 and (EU) No 2019/72.

⁽¹⁸⁾ Case T-440/20 *Jindal Saw v European Commission*, EU:T:2022:318 paragraphs 154 – 159.

⁽¹⁹⁾ Case C-256/16 *Deichmann SE v Hauptzollamt Duisburg*, paragraph 79 and Case C-612/16, C & J Clark International Ltd v Commissioners for Her Majesty's Revenue & Customs, judgment of 19 June 2019, paragraph 58.

4. The national customs authorities shall await the publication of the relevant Commission Implementing Regulation re-imposing the duties before deciding on the claim for repayment and remission of anti-dumping and/or countervailing duties insofar as imports concerning Giant Electric Vehicle Kunshan Co. Ltd are concerned.

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, 5 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

DECISIONS

DECISION (EU) 2022/1163 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 23 June 2022

on the mobilisation of the European Globalisation Adjustment Fund for Displaced Workers following an application from Greece (EGF/2021/008 EL/Attica electrical equipment manufacturing)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Regulation (EU) 2021/691 of the European Parliament and of the Council of 28 April 2021 on the European Globalisation Adjustment Fund for Displaced Workers (EGF) and repealing Regulation (EU) No 1309/2013 ⁽¹⁾, and in particular Article 15(1) thereof,

Having regard to the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources ⁽²⁾, and in particular point 9 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The objectives of the European Globalisation Adjustment Fund for Displaced Workers (EGF) are to demonstrate solidarity and promote decent and sustainable employment in the Union by providing support for workers made redundant and self-employed persons whose activity has ceased in the case of major restructuring events and assisting them in returning to decent and sustainable employment as soon as possible.
- (2) The EGF is not to exceed a maximum annual amount of EUR 186 000 000 (in 2018 prices), as laid down in Article 8 of Council Regulation (EU, Euratom) 2020/2093 ⁽³⁾.
- (3) On 21 December 2021, Greece submitted an application to mobilise the EGF, in respect of workers' displacements in the economic sector classified under the Statistical classification of economic activities in the European Community ('NACE') ⁽⁴⁾ Revision 2 division 27 (Manufacture of electrical equipment) in the Nomenclature of Territorial Units for Statistics ('NUTS') ⁽⁵⁾ level 2 region of Attica (EL30) in Greece. It was supplemented by additional information provided in accordance with Article 8(5) of Regulation (EU) 2021/691. That application complies with the conditions for a financial contribution from the EGF as laid down in Article 13 of Regulation (EU) 2021/691.
- (4) The EGF should, therefore, be mobilised in order to provide a financial contribution of EUR 1 495 830 in respect of the application submitted by Greece.
- (5) In order to minimise the time taken to mobilise the EGF, this decision should apply from the date of its adoption,

⁽¹⁾ OJ L 153, 3.5.2021, p. 48.

⁽²⁾ OJ L 433 I, 22.12.2020, p. 28.

⁽³⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

⁽⁴⁾ Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

⁽⁵⁾ Commission Delegated Regulation 2019/1755 of 8 August 2019 amending the Annexes to Regulation (EC) No 1059/2003 of the European Parliament and of the Council on the establishment of a common classification of territorial units for statistics (NUTS). OJ L 270, 24.10.2019, p. 1.

HAVE ADOPTED THIS DECISION:

Article 1

For the general budget of the Union for the financial year 2022, the European Globalisation Adjustment Fund for Displaced Workers shall be mobilised to provide the amount of EUR 1 495 830 in commitment and payment appropriations.

Article 2

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

It shall apply from 23 June 2022.

Done at Brussels, 23 June 2022.

For the European Parliament
The President
R. METSOLA

For the Council
The President
F. RIESTER

DECISION (EU) 2022/1164 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 23 June 2022****on the mobilisation of the European Globalisation Adjustment Fund for Displaced Workers
following an application from France (EGF/2022/001 FR/Air France)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Regulation (EU) 2021/691 of the European Parliament and of the Council of 28 April 2021 on the European Globalisation Adjustment Fund for Displaced Workers (EGF) and repealing Regulation (EU) No 1309/2013 ⁽¹⁾, and in particular Article 15(1) thereof,

Having regard to the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources ⁽²⁾, and in particular point 9 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The objectives of the European Globalisation Adjustment Fund for Displaced Workers (EGF) are to demonstrate solidarity and promote decent and sustainable employment in the Union by providing support for workers made redundant and self-employed persons whose activity has ceased in the case of major restructuring events and assisting them in returning to decent and sustainable employment as soon as possible.
- (2) The EGF is not to exceed a maximum annual amount of EUR 186 000 000 (in 2018 prices), as laid down in Article 8 of Council Regulation (EU, Euratom) 2020/2093 ⁽³⁾.
- (3) On 21 January 2022, France submitted an application to mobilise the EGF, in respect of workers' displacements in Air France in France. It was supplemented by additional information provided in accordance with Article 8(5) of Regulation (EU) 2021/691. That application complies with the conditions for a financial contribution from the EGF as laid down in Article 13 of Regulation (EU) 2021/691.
- (4) The EGF should, therefore, be mobilised in order to provide a financial contribution of EUR 17 742 607 in respect of the application submitted by France.
- (5) In order to minimise the time taken to mobilise the EGF, this decision should apply from the date of its adoption,

HAVE ADOPTED THIS DECISION:

Article 1

For the general budget of the Union for the financial year 2022, the European Globalisation Adjustment Fund for Displaced Workers shall be mobilised to provide the amount of EUR 17 742 607 in commitment and payment appropriations.

⁽¹⁾ OJ L 153, 3.5.2021, p. 48.

⁽²⁾ OJ L 433 I, 22.12.2020, p. 28.

⁽³⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

Article 2

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

It shall apply from 23 June 2022.

Done at Brussels, 23 June 2022.

For the European Parliament
The President
R. METSOLA

For the Council
The President
F. RIESTER

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