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Contents



[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.

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

II

*(Non-legislative acts)*

# INTERNATIONAL AGREEMENTS

## COUNCIL DECISION (EU) 2017/1541

## of 17 July 2017

## on the conclusion, on behalf of the European Union, of the Kigali Amendment to the Montreal Protocol on substances that deplete the ozone layer

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) in conjunction with point (a) of the second subparagraph of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ([1]),

Whereas:

(1) The Union became a party to the Vienna Convention for the protection of the ozone layer ('the Vienna Convention') and the Montreal Protocol on substances that deplete the ozone layer ('the Montreal Protocol') by Council Decision 88/540/EEC ([2]). Subsequently, the following amendments to the Montreal Protocol were approved: the First Amendment, by Council Decision 91/690/EEC ([3]); the Second Amendment, by Council Decision 94/68/EC ([4]); the Third Amendment, by Council Decision 2000/646/EC ([5]); and the Fourth Amendment, by Council Decision 2002/215/EC ([6]).

(2) At the 28th meeting of the Parties to the Montreal Protocol, which took place in Kigali, Rwanda, from 10 to 15 October 2016, the text of a further amendment to the Montreal Protocol ('the Kigali Amendment') was adopted, adding a stepwise reduction in the consumption and production of hydrofluorocarbons to the control measures of the Montreal Protocol.

(3) A stepwise reduction in the consumption and production of hydrofluorocarbons is necessary to reduce the contribution of those substances to climate change and to prevent their unlimited introduction, in particular in developing countries.

(4) The Kigali Amendment is a necessary contribution to the implementation of the Paris Agreement, approved by Council Decision (EU) 2016/1841 ([7]), as regards its objective to keep the global temperature increase well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1,5 °C above pre-industrial levels.

([1]) Consent of 5 July 2017 (not yet published in the Official Journal).
([2]) Council Decision 88/540/EEC of 14 October 1988 concerning the conclusion of the Vienna Convention for the protection of the ozone layer and the Montreal Protocol on substances that deplete the ozone layer (OJ L 297, 31.10.1988, p. 8).
([3]) Council Decision 91/690/EEC of 12 December 1991 concerning the conclusion of the amendment to the Montreal Protocol on substances that deplete the ozone layer as adopted in June 1990 in London by the Parties to the Protocol (OJ L 377, 31.12.1991, p. 28).
([4]) Council Decision 94/68/EC of 2 December 1993 concerning the conclusion of the amendment to the Montreal Protocol on substances that deplete the ozone layer (OJ L 33, 7.2.1994, p. 1).
([5]) Council Decision 2000/646/EC of 17 October 2000 concerning the conclusion of the amendment to the Montreal Protocol on substances that deplete the ozone layer (OJ L 272, 25.10.2000, p. 26).
([6]) Council Decision 2002/215/EC of 4 March 2002 concerning the conclusion of the Fourth Amendment to the Montreal Protocol on substances that deplete the ozone layer (OJ L 72, 14.3.2002, p. 18).
([7]) Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

(5) The extent of competence exercised by the Union with respect to the matters covered by the Vienna Convention and the Montreal Protocol has developed significantly since 1988. The Depository should be informed of any substantial modification in the extent of the Union competence in those matters, in accordance with Article 13(3) of the Vienna Convention.

(6) The Union has already adopted instruments on the matters covered by the Kigali Amendment, including Regulation (EU) No 517/2014 of the European Parliament and of the Council ([1]).

(7) The Kigali Amendment should be approved,

HAS ADOPTED THIS DECISION:

*Article 1*

The Kigali Amendment to the Montreal Protocol on substances that deplete the ozone layer is hereby approved on behalf of the European Union.

The Declaration of Competence pursuant to Article 13(3) of the Vienna Convention is hereby also approved.

The texts of the Kigali Amendment and of the Declaration of Competence are attached to this Decision.

*Article 2*

The President of the Council shall designate the person(s) empowered to deposit, on behalf of the Union, the instrument of approval provided for in Article 13(1) of the Vienna Convention, together with the Declaration of Competence ([2]).

*Article 3*

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

Done at Brussels, 17 July 2017.

*For the Council*
*The President*
T. TAMM

([1]) Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006 (OJ L 150, 20.5.2014, p. 195).

([2]) The date of entry into force of the Kigali Amendment will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

# AMENDMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

*Article I*

**Amendment**

*Article 1, paragraph 4*

In paragraph 4 of Article 1 of the Protocol, for the words:

'Annex C or Annex E' there shall be substituted:

'Annex C, Annex E or Annex F'

*Article 2, paragraph 5*

In paragraph 5 of Article 2 of the Protocol, for the words:

'and Article 2H' there shall be substituted:

'Articles 2H and 2J'

*Article 2, paragraphs 8 (a), 9(a) and 11*

In paragraphs 8 (a) and 11 of Article 2 of the Protocol, for the words:

'Articles 2A to 2I' there shall be substituted:

'Articles 2A to 2J'

The following words shall be added at the end of subparagraph (a) of paragraph 8 of Article 2 of the Protocol:

'Any such agreement may be extended to include obligations respecting consumption or production under Article 2J provided that the total combined calculated level of consumption or production of the Parties concerned does not exceed the levels required by Article 2J.'

In subparagraph (a) (i) of paragraph 9 of Article 2 of the Protocol, after the second use of the words:

'should be;'

there shall be deleted:

'and'

Subparagraph (a) (ii) of paragraph 9 of Article 2 of the Protocol shall be renumbered as subparagraph (a) (iii).

The following shall be added as subparagraph (a) (ii) after subparagraph (a) (i) of paragraph 9 of Article 2 of the Protocol:

'Adjustments to the global warming potentials specified in Group I of Annex A, Annex C and Annex F should be made and, if so, what the adjustments should be; and'

*Article 2J*

The following Article shall be inserted after Article 2I of the Protocol:

*'Article 2J: Hydrofluorocarbons*

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 2019, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Annex F, expressed in $CO_2$ equivalents, does not exceed the percentage, set out for the respective range of years specified in subparagraphs (a) to (e) below, of the annual average of its calculated levels of consumption of Annex F controlled substances for the years 2011, 2012 and 2013, plus fifteen per cent of its calculated level of consumption of Annex C, Group I, controlled substances as set out in paragraph 1 of Article 2F, expressed in $CO_2$ equivalents:

(a) 2019 to 2023: 90 per cent

(b) 2024 to 2028: 60 per cent

(c) 2029 to 2033: 30 per cent

(d) 2034 to 2035: 20 per cent

(e) 2036 and thereafter: 15 per cent

2. Notwithstanding paragraph 1 of this Article, the Parties may decide that a Party shall ensure that, for the twelve-month period commencing on 1 January 2020, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Annex F, expressed in $CO_2$ equivalents, does not exceed the percentage, set out for the respective range of years specified in subparagraphs (a) to (e) below, of the annual average of its calculated levels of consumption of Annex F controlled substances for the years 2011, 2012 and 2013, plus twenty-five per cent of its calculated level of consumption of Annex C, Group I, controlled substances as set out in paragraph 1 of Article 2F, expressed in $CO_2$ equivalents:

(a) 2020 to 2024: 95 per cent

(b) 2025 to 2028: 65 per cent

(c) 2029 to 2033: 30 per cent

(d) 2034 to 2035: 20 per cent

(e) 2036 and thereafter: 15 per cent

3. Each Party producing the controlled substances in Annex F shall ensure that for the twelve-month period commencing on 1 January 2019, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Annex F, expressed in $CO_2$ equivalents, does not exceed the percentage, set out for the respective range of years specified in subparagraphs (a) to (e) below, of the annual average of its calculated levels of production of Annex F controlled substances for the years 2011, 2012 and 2013, plus fifteen per cent of its calculated level of production of Annex C, Group I, controlled substances as set out in paragraph 2 of Article 2F, expressed in $CO_2$ equivalents:

(a) 2019 to 2023: 90 per cent

(b) 2024 to 2028: 60 per cent

(c) 2029 to 2033: 30 per cent

(d) 2034 to 2035: 20 per cent

(e) 2036 and thereafter: 15 per cent

4. Notwithstanding paragraph 3 of this Article, the Parties may decide that a Party producing the controlled substances in Annex F shall ensure that for the twelve-month period commencing on 1 January 2020, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Annex F, expressed in $CO_2$ equivalents, does not exceed the percentage, set out for the respective range of years specified in subparagraphs (a) to (e) below, of the annual average of its calculated levels of production of Annex F controlled substances for the years 2011, 2012 and 2013, plus twenty-five per cent of its calculated level of production of Annex C, Group I, controlled substances as set out in paragraph 2 of Article 2F, expressed in $CO_2$ equivalents:

(a) 2020 to 2024: 95 per cent

(b) 2025 to 2028: 65 per cent

(c) 2029 to 2033: 30 per cent

(d) 2034 to 2035: 20 per cent

(e) 2036 and thereafter: 15 per cent

5. Paragraphs 1 to 4 of this Article will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by the Parties to be exempted uses.

6. Each Party manufacturing Annex C, Group I, or Annex F substances shall ensure that for the twelve-month period commencing on 1 January 2020, and in each twelve-month period thereafter, its emissions of Annex F, Group II, substances generated in each production facility that manufactures Annex C, Group I, or Annex F substances are destroyed to the extent practicable using technology approved by the Parties in the same twelve-month period.

7. Each Party shall ensure that any destruction of Annex F, Group II, substances generated by facilities that produce Annex C, Group I, or Annex F substances shall occur only by technologies approved by the Parties.'

*Article 3*

The preamble to Article 3 of the Protocol should be replaced with the following:

'1. For the purposes of Articles 2, 2A to 2J and 5, each Party shall, for each group of substances in Annex A, Annex B, Annex C, Annex E or Annex F, determine its calculated levels of:'

For the final semi-colon of subparagraph (a) (i) of Article 3 of the Protocol there shall be substituted:

', except as otherwise specified in paragraph 2;'

The following text shall be added to the end of Article 3 of the Protocol:

'; and

(d) Emissions of Annex F, Group II, substances generated in each facility that generates Annex C, Group I, or Annex F substances by including, among other things, amounts emitted from equipment leaks, process vents and destruction devices, but excluding amounts captured for use, destruction or storage.

2. When calculating levels, expressed in $CO_2$ equivalents, of production, consumption, imports, exports and emissions of Annex F and Annex C, Group I, substances for the purposes of Article 2J, paragraph 5 bis of Article 2 and paragraph 1 (d) of Article 3, each Party shall use the global warming potentials of those substances specified in Group I of Annex A, Annex C and Annex F.'

*Article 4, paragraph 1 sept*

The following paragraph shall be inserted after paragraph 1 sex of Article 4 of the Protocol:

'1 sept. Upon entry into force of this paragraph, each Party shall ban the import of the controlled substances in Annex F from any State not Party to this Protocol.'

*Article 4, paragraph 2 sept*

The following paragraph shall be inserted after paragraph 2 sex of Article 4 of the Protocol:

'2 sept. Upon entry into force of this paragraph, each Party shall ban the export of the controlled substances in Annex F to any State not Party to this Protocol.'

*Article 4, paragraphs 5, 6 and 7*

In paragraphs 5, 6 and 7 of Article 4 of the Protocol, for the words:

'Annexes A, B, C and E' there shall be substituted:

'Annexes A, B, C, E and F'

*Article 4, paragraphs 8*

In paragraph 8 of Article 4 of the Protocol, for the words:

'Articles 2A to 2I' there shall be substituted:

'Articles 2A to 2J'

*Article 4B*

The following paragraph shall be inserted after paragraph 2 of Article 4B of the Protocol:

'2 bis. Each Party shall, by 1 January 2019 or within three months of the date of entry into force of this paragraph for it, whichever is later, establish and implement a system for licensing the import and export of new, used, recycled and reclaimed controlled substances in Annex F. Any Party operating under paragraph 1 of Article 5 that decides it is not in a position to establish and implement such a system by 1 January 2019 may delay taking those actions until 1 January 2021.'

*Article 5*

In paragraph 4 of Article 5 of the Protocol, for the word:

'2I'

there shall be substituted:

'2J'

In paragraphs 5 and 6 of Article 5 of the Protocol, for the words:

'Article 2I'

there shall be substituted:

'Articles 2I and 2J'

In paragraph 5 of Article 5 of the Protocol, before the words:

'any control measures' there shall be inserted:

'with'

The following paragraph shall be inserted after paragraph 8 ter of Article 5 of the Protocol:

'8 qua

(a) Each Party operating under paragraph 1 of this Article, subject to any adjustments made to the control measures in Article 2J in accordance with paragraph 9 of Article 2, shall be entitled to delay its compliance with the control measures set out in subparagraphs (a) to (e) of paragraph 1 of Article 2J and subparagraphs (a) to (e) of paragraph 3 of Article 2J and modify those measures as follows:

(i) 2024 to 2028: 100 per cent

(ii) 2029 to 2034: 90 per cent

(iii) 2035 to 2039: 70 per cent

(iv) 2040 to 2044: 50 per cent

(v) 2045 and thereafter: 20 per cent

(b) Notwithstanding subparagraph (a) above, the Parties may decide that a Party operating under paragraph 1 of this Article, subject to any adjustments made to the control measures in Article 2J in accordance with paragraph 9 of Article 2, shall be entitled to delay its compliance with the control measures set out in subparagraphs (a) to (e) of paragraph 1 of Article 2J and subparagraphs (a) to (e) of paragraph 3 of Article 2J and modify those measures as follows:

(i) 2028 to 2031: 100 per cent

(ii) 2032 to 2036: 90 per cent

(iii) 2037 to 2041: 80 per cent

(iv) 2042 to 2046: 70 per cent

(v) 2047 and thereafter: 15 per cent

(c) Each Party operating under paragraph 1 of this Article, for the purposes of calculating its consumption baseline under Article 2J, shall be entitled to use the average of its calculated levels of consumption of Annex F controlled substances for the years 2020, 2021 and 2022, plus sixty-five per cent of its baseline consumption of Annex C, Group I, controlled substances as set out in paragraph 8 ter of this Article.

(d) Notwithstanding subparagraph (c) above, the Parties may decide that a Party operating under paragraph 1 of this Article, for the purposes of calculating its consumption baseline under Article 2J, shall be entitled to use the average of its calculated levels of consumption of Annex F controlled substances for the years 2024, 2025 and 2026, plus sixty-five per cent of its baseline consumption of Annex C, Group I, controlled substances as set out in paragraph 8 ter of this Article.

(e) Each Party operating under paragraph 1 of this Article and producing the controlled substances in Annex F, for the purposes of calculating its production baseline under Article 2J, shall be entitled to use the average of its calculated levels of production of Annex F controlled substances for the years 2020, 2021 and 2022, plus sixty-five per cent of its baseline production of Annex C, Group I, controlled substances as set out in paragraph 8 ter of this Article.

(f) Notwithstanding subparagraph (e) above, the Parties may decide that a Party operating under paragraph 1 of this Article and producing the controlled substances in Annex F, for the purposes of calculating its production baseline under Article 2J, shall be entitled to use the average of its calculated levels of production of Annex F controlled substances for the years 2024, 2025 and 2026, plus sixty-five per cent of its baseline production of Annex C, Group I, controlled substances as set out in paragraph 8 ter of this Article.

(g) Subparagraphs (a) to (f) of this paragraph will apply to calculated levels of production and consumption save to the extent that a high-ambient-temperature exemption applies based on criteria decided by the Parties.'

*Article 6*

In Article 6 of the Protocol, for the words:

'Articles 2A to 2I' there shall be substituted:

'Articles 2A to 2J'

*Article 7, paragraphs 2, 3 and 3 ter*

The following line shall be inserted after the line that reads '- in Annex E, for the year 1991,' in paragraph 2 of Article 7 of the Protocol:

'— in Annex F, for the years 2011 to 2013, except that Parties operating under paragraph 1 of Article 5 shall provide such data for the years 2020 to 2022, but those Parties operating under paragraph 1 of Article 5 to which subparagraphs (d) and (f) of paragraph 8 qua of Article 5 applies shall provide such data for the years 2024 to 2026;'

In paragraphs 2 and 3 of Article 7 of the Protocol, for the words:

'C and E'

there shall be substituted:

'C, E and F'

The following paragraph shall be added to Article 7 of the Protocol after paragraph 3 bis:

'3 ter. Each Party shall provide to the Secretariat statistical data on its annual emissions of Annex F, Group II, controlled substances per facility in accordance with paragraph 1 (d) of Article 3 of the Protocol.'

*Article 7, paragraph 4*

In paragraph 4 of Article 7, after the words:

'statistical data on' and 'provides data on' there shall be added:

'production,'

*Article 10, paragraph 1*

In paragraph 1 of Article 10 of the Protocol, for the words:

'and Article 2I'

There shall be substituted:

', Article 2I and Article 2J'

The following shall be inserted at the end of paragraph 1 of Article 10 of the Protocol:

'Where a Party operating under paragraph 1 of Article 5 chooses to avail itself of funding from any other financial mechanism that could result in meeting any part of its agreed incremental costs, that part shall not be met by the financial mechanism under Article 10 of this Protocol.'

*Article 17*

In Article 17 of the Protocol, for the words:

'Articles 2A to 2I' there shall be substituted:

'Articles 2A to 2J'

*Annex A*

The following table shall replace the table for Group I in Annex A to the Protocol:

| Group | Substance | Ozone-Depleting Potential* | 100-Year Global Warming Potential |
|---|---|---|---|
| *Group I* | | | |
| $CFCl_3$ | (CFC-11) | 1,0 | 4 750 |
| $CF_2Cl_2$ | (CFC-12) | 1,0 | 10 900 |
| $C_2F_3Cl_3$ | (CFC-113) | 0,8 | 6 130 |
| $C_2F_4Cl_2$ | (CFC-114) | 1,0 | 10 000 |
| $C_2F_5Cl$ | (CFC-115) | 0,6 | 7 370 |

*Annex C and Annex F*

The following table shall replace the table for Group I in Annex C to the Protocol:

| Group | Substance | Number of isomers | Ozone-Depleting Potential* | 100-Year Global Warming Potential*** |
|---|---|---|---|---|
| *Group I* | | | | |
| $CHFCl_2$ | (HCFC-21)** | 1 | 0,04 | 151 |
| $CHF_2Cl$ | (HCFC-22)** | 1 | 0,055 | 1 810 |
| CHFCl | (HCFC-31) | 1 | 0,02 | |
| $C_2HFCl_4$ | (HCFC-121) | 2 | 0,01-0,04 | |
| $C_2HF_2Cl_3$ | (HCFC-122) | 3 | 0,02-0,08 | |
| $C_2HF_3Cl_2$ | (HCFC-123) | 3 | 0,02-0,06 | 77 |
| $CHCl_2CF_3$ | (HCFC-123)** | — | 0,02 | |
| $C_2HF_4Cl$ | (HCFC-124) | 2 | 0,02-0,04 | 609 |
| $CHFClCF_3$ | (HCFC-124)** | — | 0,022 | |
| $C_2H_2FCl_3$ | (HCFC-131) | 3 | 0,007-0,05 | |
| $C_2H_2F_2Cl_2$ | (HCFC-132) | 4 | 0,008-0,05 | |
| $C_2H_2F_3Cl$ | (HCFC-133) | 3 | 0,02-0,06 | |
| $C_2H_3FCl_2$ | (HCFC-141) | 3 | 0,005-0,07 | |
| $CH_3CFCl_2$ | (HCFC-141b)** | — | 0,11 | 725 |
| $C_2H_3F_2Cl$ | (HCFC-142) | 3 | 0,008-0,07 | |
| $CH_3CF_2Cl$ | (HCFC-142b)** | — | 0,065 | 2 310 |
| $C_2H_4FCl$ | (HCFC-151) | 2 | 0,003-0,005 | |
| $C_3HFCl_6$ | (HCFC-221) | 5 | 0,015-0,07 | |
| $C_3HF_2Cl_5$ | (HCFC-222) | 9 | 0,01-0,09 | |
| $C_3HF_3Cl_4$ | (HCFC-223) | 12 | 0,01-0,08 | |
| $C_3HF_4Cl_3$ | (HCFC-224) | 12 | 0,01-0,09 | |
| $C_3HF_5Cl_2$ | (HCFC-225) | 9 | 0,02-0,07 | |
| $CF_3CF_2CHCl_2$ | (HCFC-225ca)** | — | 0,025 | 122 |
| $CF_2ClCF_2CHClF$ | (HCFC-225cb)** | — | 0,033 | 595 |
| $C_3HF_6Cl$ | (HCFC-226) | 5 | 0,02-0,10 | |
| $C_3H_2FCl_5$ | (HCFC-231) | 9 | 0,05-0,09 | |
| $C_3H_2F_2Cl_4$ | (HCFC-232) | 16 | 0,008-0,10 | |
| $C_3H_2F_3Cl_3$ | (HCFC-233) | 18 | 0,007-0,23 | |
| $C_3H_2F_4Cl_2$ | (HCFC-234) | 16 | 0,01-0,28 | |

| Group | Substance | Number of isomers | Ozone-Depleting Potential* | 100-Year Global Warming Potential*** |
|---|---|---|---|---|
| $C_3H_2F_5Cl$ | (HCFC-235) | 9 | 0,03-0,52 | |
| $C_3H_3FCl_4$ | (HCFC-241) | 12 | 0,004-0,09 | |
| $C_3H_3F_2Cl_3$ | (HCFC-242) | 18 | 0,005-0,13 | |
| $C_3H_3F_3Cl_2$ | (HCFC-243) | 18 | 0,007-0,12 | |
| $C_3H_3F_4Cl$ | (HCFC-244) | 12 | 0,009-0,14 | |
| $C_3H_4FCl_3$ | (HCFC-251) | 12 | 0,001-0,01 | |
| $C_3H_4F_2Cl_2$ | (HCFC-252) | 16 | 0,005-0,04 | |
| $C_3H_4F_3Cl$ | (HCFC-253) | 12 | 0,003-0,03 | |
| $C_3H_5FCl_2$ | (HCFC-261) | 9 | 0,002-0,02 | |
| $C_3H_5F_2Cl$ | (HCFC-262) | 9 | 0,002-0,02 | |
| $C_3H_6FCl$ | (HCFC-271) | 5 | 0,001-0,03 | |

* Where a range of ODPs is indicated, the highest value in that range shall be used for the purposes of the Protocol. The ODPs listed as a single value have been determined from calculations based on laboratory measurements. Those listed as a range are based on estimates and are less certain. The range pertains to an isomeric group. The upper value is the estimate of the ODP of the isomer with the highest ODP, and the lower value is the estimate of the ODP of the isomer with the lowest ODP.

** Identifies the most commercially viable substances with ODP values listed against them to be used for the purposes of the Protocol.

*** For substances for which no GWP is indicated, the default value 0 applies until a GWP value is included by means of the procedure foreseen in paragraph 9 (a) (ii) of Article 2.

The following annex shall be added to the Protocol after Annex E:

"*Annex F: Controlled substances*

| Group | Substance | 100-Year Global Warming Potential |
|---|---|---|
| *Group I* | | |
| $CHF_2CHF_2$ | HFC-134 | 1 100 |
| $CH_2FCF_3$ | HFC-134a | 1 430 |
| $CH_2FCHF_2$ | HFC-143 | 353 |
| $CHF_2CH_2CF_3$ | HFC-245fa | 1 030 |
| $CF_3CH_2CF_2CH_3$ | HFC-365mfc | 794 |
| $CF_3CHFCF_3$ | HFC-227ea | 3 220 |
| $CH_2FCF_2CF_3$ | HFC-236cb | 1 340 |
| $CHF_2CHFCF_3$ | HFC-236ea | 1 370 |

| Group | Substance | 100-Year Global Warming Potential |
|---|---|---|
| $CF_3CH_2CF_3$ | HFC-236fa | 9 810 |
| $CH_2FCF_2CHF_2$ | HFC-245ca | 693 |
| $CF_3CHFCHFCF_2CF_3$ | HFC-43-10mee | 1 640 |
| $CH_2F_2$ | HFC-32 | 675 |
| $CHF_2CF_3$ | HFC-125 | 3 500 |
| $CH_3CF_3$ | HFC-143a | 4 470 |
| $CH_3F$ | HFC-41 | 92 |
| $CH_2FCH_2F$ | HFC-152 | 53 |
| $CH_3CHF_2$ | HFC-152a | 124 |
| | | |
| *Group II* | | |
| $CHF_3$ | HFC-23 | 14 800’ |

*Article II*

**Relationship to the 1999 Amendment**

No State or regional economic integration organization may deposit an instrument of ratification, acceptance or approval of or accession to this Amendment unless it has previously, or simultaneously, deposited such an instrument to the Amendment adopted at the Eleventh Meeting of the Parties in Beijing, 3 December 1999.

*Article III*

**Relationship to the United Nations Framework Convention on Climate Change and its Kyoto Protocol**

This Amendment is not intended to have the effect of excepting hydrofluorocarbons from the scope of the commitments contained in Articles 4 and 12 of the United Nations Framework Convention on Climate Change or in Articles 2, 5, 7 and 10 of its Kyoto Protocol.

*Article IV*

**Entry into force**

1. Except as noted in paragraph 2, below, this Amendment shall enter into force on 1 January 2019, provided that at least twenty instruments of ratification, acceptance or approval of the Amendment have been deposited by States or regional economic integration organizations that are Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. In the event that this condition has not been fulfilled by that date, the Amendment shall enter into force on the ninetieth day following the date on which it has been fulfilled.

2. The changes to Article 4 of the Protocol, Control of trade with non-Parties, set out in Article I of this Amendment shall enter into force on 1 January 2033, provided that at least seventy instruments of ratification, acceptance or approval of the Amendment have been deposited by States or regional economic integration organizations that are Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. In the event that this condition has not been fulfilled by that date, the Amendment shall enter into force on the ninetieth day following the date on which it has been fulfilled.

3. For purposes of paragraphs 1 and 2, any such instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

4. After the entry into force of this Amendment, as provided under paragraphs 1 and 2, it shall enter into force for any other Party to the Protocol on the ninetieth day following the date of deposit of its instrument of ratification, acceptance or approval.

*Article V*

**Provisional application**

Any Party may, at any time before this Amendment enters into force for it, declare that it will apply provisionally any of the control measures set out in Article 2J, and the corresponding reporting obligations in Article 7, pending such entry into force.

**Declaration by the European Union in conformity with Article 13 (3) of the Vienna Convention for the protection of the ozone layer concerning the extent of its competence with respect to the matters covered by the Convention and by the Montreal Protocol on substances that deplete the ozone layer**

The following States are at present Members of the European Union: the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Republic of Croatia, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland.

In accordance with the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof, the Union has competence for entering into international agreements, and for implementing the obligations resulting therefrom, which contribute to the pursuit of the following objectives:

— preserving, protecting and improving the quality of the environment;

— protecting human health;

— prudent and rational utilisation of natural resources;

— promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

The Union has exercised its competence in the area covered by the Vienna Convention and the Montreal Protocol by adopting legal instruments, in particular Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (recast) ([1]), replacing earlier legislation for the protection of the ozone layer, and of Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006 ([2]). The Union is competent for the performance of those obligations from the Vienna Convention and the Montreal Protocol regarding which the provisions of Union legal instruments, in particular those mentioned above, establish common rules and if and insofar as such common rules are affected or altered in scope by provisions of the Vienna Convention or the Montreal Protocol or an act adopted in implementation thereof; otherwise the Union's competence continues to be shared between the Union and its Member States.

The exercise of competences by the European Union pursuant to the Treaties is, by its nature, subject to continuous development. The Union therefore reserves the right to adjust this Declaration.

In the field of research, as referred to by the Convention, the Union has competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence does not result in Member States being prevented from exercising theirs.

([1]) OJ L 286, 31.10.2009, p. 1.
([2]) OJ L 150, 20.5.2014, p. 195.

# REGULATIONS

## COMMISSION DELEGATED REGULATION (EU) 2017/1542

**of 8 June 2017**

**amending Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings (infrastructure corporates)**

**(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ([1]), and in particular Article 50(1)(a) and 111(1)(b), (c) and (m) thereof,

Whereas:

(1) The Investment Plan for Europe focuses on removing obstacles to investment, providing visibility and technical assistance to investment projects and making smarter use of new and existing financial resources. In particular, the third pillar of the Investment Plan is based on removing barriers to investment and providing greater regulatory predictability in order to keep Europe attractive for investments.

(2) One of the objectives of the Capital Markets Union is to mobilise capital in Europe and channel it to, among others, infrastructure projects that need it to expand and create jobs. Insurance companies, in particular life insurers, are among the largest institutional investors in Europe, with the ability to provide equity as well as debt funding to long term infrastructure.

(3) On 2 April 2016, Commission Delegated Regulation (EU) 2016/467 ([2]), amending Commission Delegated Regulation (EU) 2015/35 ([3]), entered into force which created a distinct asset class for infrastructure projects for the purpose of risk calibrations.

(4) The Commission requested and received further technical advice from the European Insurance and Occupational Pensions Authority (EIOPA) as regards the criteria and calibration of a new asset class for infrastructure corporates. That technical advice also recommended some changes to the criteria for qualifying infrastructure projects investments as introduced by Delegated Regulation (EU) 2016/467.

(5) In order to cover structured project finance situations involving multiple legal entities of a corporate group, the definition of infrastructure project entity should be replaced and expanded to cover both individual entities and corporate groups. To cover entities that earn a substantial portion of their revenues through infrastructure activities, the wording of the revenue criteria should be amended. To assess the sources of revenues of an infrastructure entity the most recent financial year where available or a financing proposal such as a bonds prospectus or financial projections in a loan application should be used. The definition of infrastructure assets should include physical assets so that the relevant infrastructure entities may qualify.

([1]) OJ L 335, 17.12.2009, p. 1.

([2]) Commission Delegated Regulation (EU) 2016/467 of 30 September 2015 amending Commission Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings (OJ L 85, 1.4.2016, p. 6).

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

(6) To avoid an outright exclusion of infrastructure entities that are unable to provide security to lenders on all assets for legal or ownership reasons, mechanisms should be captured that allow other security arrangements in favour of debt providers.

(7) Taking into account situations where the pledge prior to default may not be permissible under the national law, the requirement that equity is pledged to debt providers should be included in other security arrangements.

(8) Where the consent by the existing debt providers is implicit in the terms of the relevant document such as maximum indebtedness limit, further debt issuance by an existing infrastructure entity or corporate group should be allowed for qualifying infrastructure investments.

(9) Calibrations in Delegated Regulation (EU) 2015/35 should be proportionate to the risk involved.

(10) Based on EIOPA's technical advice to amend the existing treatment of qualifying infrastructure project investments the existing provisions for infrastructure projects should be amended.

(11) EIOPA's technical advice as well as complementary evidence confirms that qualifying infrastructure corporate investments can be safer than non-infrastructure investments. Delegated Regulation (EU) 2015/35 should be amended to include the new risk calibrations for debt investment in qualifying infrastructure corporates to distinguish these investments from non-infrastructure investments.

(12) Appropriate definitions and qualifying criteria should ensure prudent investment behaviour by insurance undertakings. Those definitions and criteria should ensure that only safer investments will benefit from lower calibrations.

(13) The diversification of revenues may not always be possible for infrastructure entities that provide core infrastructure assets or services to other infrastructure businesses. In such situations take-or-pay contracts should be allowed in the assessment of the predictability of revenues.

(14) Stress testing as a part of investment risk management should consider risks arising from non-infrastructure activities. However, in order to make a prudent assessment of the investment risk the revenues generated by such activities should not be taken into account when determining whether the financial obligations can be met.

(15) Following the introducing of the new qualifying infrastructure corporate asset class, other provisions of Delegated Regulation (EU) 2015/35 should be aligned accordingly, such as the formula for the solvency capital requirement and the due diligence requirements which are essential for prudent investment decisions by insurance companies.

(16) Delegated Regulation (EU) 2015/35 should therefore be amended accordingly.

(17) To allow for immediate investments in this long-term infrastructure asset class, it is important to ensure this Regulation enters into force as soon as possible, on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

(1) in Article 1, points 55a and 55b are replaced by the following:

'55a. "infrastructure assets" means physical assets, structures or facilities, systems and networks that provide or support essential public services;

55b. "infrastructure entity" means an entity or corporate group which, during the most recent financial year of that entity or group for which figures are available or in a financing proposal, derives the substantial majority of its revenues from owning, financing, developing or operating infrastructure assets;';

(2) in Article 164a, paragraph 1 is replaced by the following:

'1. For the purposes of this Regulation, qualifying infrastructure investment shall include investment in an infrastructure entity that meets the following criteria:

(a) the cash flows generated by the infrastructure assets allow for all financial obligations to be met under sustained stresses that are relevant for the risks of the project;

(b) the cash flows that the infrastructure entity generates for debt providers and equity investors are predictable;

(c) the infrastructure assets and infrastructure entity are governed by a regulatory or contractual framework that provides debt providers and equity investors with a high degree of protection including the following:

(a) the contractual framework shall include provisions that effectively protect debt providers and equity investors against losses resulting from the termination of the project by the party which agrees to purchase the goods or services provided by the infrastructure project, unless one of the following conditions is met:

(i) the revenues of the infrastructure entity are funded by payments from a large number of users; or

(ii) the revenues are subject to a rate-of-return regulation;

(b) the infrastructure entity has sufficient reserve funds or other financial arrangements to cover the contingency funding and working capital requirements of the project;

Where investments are in bonds or loans, this contractual framework shall also include the following:

(i) debt providers have security or the benefit of security to the extent permitted by applicable law in all assets and contracts that are critical to the operation of the project;

(ii) the use of net operating cash flows after mandatory payments from the project for purposes other than servicing debt obligations is restricted;

(iii) restrictions on activities that may be detrimental to debt providers, including that new debt cannot be issued without the consent of existing debt providers in the form agreed with them, unless such new debt issuance is permitted under the documentation for the existing debt;

Notwithstanding point (i) of the second subparagraph, for investments in bonds or loans, where undertakings can demonstrate that security in all assets and contracts is not essential for debt providers to effectively protect or recover the vast majority of their investment, other security mechanisms may be used. In that case, the other security mechanisms shall comprise at least one of the following:

(i) pledge of shares;

(ii) step-in rights;

(iii) lien over bank accounts;

(iv) control over cash flows;

(v) provisions for assignment of contracts;

(d) where investments are in bonds or loans, the insurance or reinsurance undertaking can demonstrate to the supervisor that it is able to hold the investment to maturity;

(e) where investments are in bonds or loans for which a credit assessment by a nominated ECAI is not available, the investment instrument and other pari passu instruments are senior to all other claims other than statutory claims and claims from liquidity facility providers, trustees and derivatives counterparties;

(f) where investments are in equities, or bonds or loans for which a credit assessment by a nominated ECAI is not available, the following criteria are met:

(i) the infrastructure assets and infrastructure entity are located in the EEA or in the OECD;

(ii) where the infrastructure project is in the construction phase the following criteria shall be fulfilled by the equity investor, or where there is more than one equity investor, the following criteria shall be fulfilled by a group of equity investors as a whole:

— the equity investors have a history of successfully overseeing infrastructure projects and the relevant expertise,

— the equity investors have a low risk of default, or there is a low risk of material losses for the infrastructure entity as a result of the their default,

— the equity investors are incentivised to protect the interests of investors;

(iii) where there are construction risks, safeguards to ensure completion of the project according to the agreed specification, budget or completion date;

(iv) where operating risks are material, they are properly managed;

(v) the infrastructure entity uses tested technology and design;

(vi) the capital structure of the infrastructure entity allows it to service its debt;

(vii) the refinancing risk for the infrastructure entity is low;

(viii) the infrastructure entity uses derivatives only for risk-mitigation purposes.';

(3) the following Article 164b is inserted:

'*Article 164b*

**Qualifying infrastructure corporate investments**

For the purpose of this Regulation, qualifying infrastructure corporate investment shall include investment in an infrastructure entity that meets the following criteria:

(1) The substantial majority of the infrastructure entity's revenues is derived from owning, financing, developing or operating infrastructure assets located in the EEA or the OECD;

(2) The revenues generated by the infrastructure assets satisfy one of the criteria set out in Article 164a(2)(a);

(3) Where the revenues of the infrastructure entity are not funded by payments from a large number of users, the party which agrees to purchase the goods or services provided by the infrastructure entity shall be one of the entities listed in Article 164a(2)(b);

(4) The revenues shall be diversified in terms of activities, location, or payers, unless the revenues are subject to a rate-of-return regulation in accordance with Article 164a(1)(c)(a)(ii) or a take-or-pay contract or the revenues are availability based;

(5) Where investments are in bonds or loans, the insurance or reinsurance undertaking can demonstrate to the supervisor that it is able to hold the investment to maturity;

(6) Where no credit assessment from a nominated ECAI is available for the infrastructure entity:

(a) the capital structure of the infrastructure corporate shall allow it to service all its debt under conservative assumptions based on an analysis of the relevant financial ratios;

(b) the infrastructure entity shall have been active for at least three years or, in the case of an acquired business, it shall have been in operation for at least three years;

(7) Where a credit assessment from a nominated ECAI is available for the infrastructure entity, such credit assessment has a credit quality step between 0 and 3.';

(4) Article 168 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The equity risk sub-module referred to in point (b) of the second subparagraph of Article 105(5) of Directive 2009/138/EC shall include a risk sub-module for type 1 equities, a risk sub-module for type 2 equities, a risk sub-module for qualifying infrastructure equities and a risk sub-module for qualifying infrastructure corporate equities.';

(b) the following paragraph 3b is inserted:

'3b. Qualifying infrastructure corporate equities shall comprise equity investments in infrastructure entities that meet the criteria set out in Article 164b.';

(c) paragraph 4 is replaced by the following:

'4. The capital requirement for equity risk shall be equal to the following:

$$SCR_{equity} = \sqrt{SCR_{equ1}^2 + 2 \cdot 0{,}75 \cdot (SCR_{equ2} + SCR_{quinf} + SCR_{quinfc}) + (SCR_{equ2} + SCR_{quinf} + SCR_{quinfc})^2}$$

where:

(a) $SCR_{equ1}$ denotes the capital requirement for type 1 equities;

(b) $SCR_{equ2}$ denotes the capital requirement for type 2 equities;

(c) $SCR_{quinf}$ denotes the capital requirement for qualifying infrastructure equities;

(d) $SCR_{quinfc}$ denotes the capital requirement for qualifying infrastructure corporate equities.';

(d) paragraph 6 is amended as follows:

(i) points (a) and (b) are replaced by the following:

'(a) equities, other than qualifying infrastructure equities or qualifying infrastructure corporate equities, held within collective investment undertakings which are qualifying social entrepreneurship funds as referred to in Article 3(b) of Regulation (EU) No 346/2013 of the European Parliament and of the Council (*) where the look-through approach set out in Article 84 of this Regulation is possible for all exposures within the collective investment undertaking, or units or shares of those funds where the look through approach is not possible for all exposures within the collective investment undertaking;

(b) equities, other than qualifying infrastructure equities or qualifying infrastructure corporate equities, held within collective investment undertakings which are qualifying venture capital funds as referred to in Article 3(b) of Regulation (EU) No 345/2013 of the European Parliament and of the Council (**) where the look-through approach set out in Article 84 of this Regulation is possible for all exposures within the collective investment undertaking, or units or shares of those funds where the look through approach is not possible for all exposures within the collective investment undertaking;

(*) Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds (OJ L 115, 25.4.2013, p. 18).
(**) Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p. 1).';

(ii) in point (c), point (i) is replaced by the following:

'(i) equities, other than qualifying infrastructure equities or qualifying infrastructure corporate equities, held within such funds where the look-through approach set out in Article 84 of this Regulation is possible for all exposures within the alternative investment fund;';

(iii) point (d) is replaced by the following:

'(d) equities, other than qualifying infrastructure equities or qualifying infrastructure corporate equities, held within collective investment undertakings which are authorised as European long-term investment funds pursuant to Regulation (EU) 2015/760 where the look through approach set out in Article 84 of this Regulation is possible for all exposures within the collective investment undertaking, or units or shares of those funds where the look through approach is not possible for all exposures within the collective investment undertaking.';

(5) in Article 169, the following paragraph 4 is added:

'4. The capital requirement for qualifying infrastructure corporate equities referred to in Article 168 of this Regulation shall be equal to the loss in the basic own funds that would result from the following instantaneous decreases:

(a) an instantaneous decrease equal to 22 % in the value of qualifying infrastructure corporate equity investments in related undertakings within the meaning of Article 212(1)(b) and 212(2) of Directive 2009/138/EC where these investments are of a strategic nature;

(b) an instantaneous decrease equal to the sum of 36 % and 92 % of the symmetric adjustment as referred to in Article 172 of this Regulation in the value of qualifying infrastructure corporate equities other than those referred to in point (a).';

(6) in Article 170, the following paragraph 4 is added:

'4. Where an insurance or reinsurance undertaking has received supervisory approval to apply the provisions set out in Article 304 of Directive 2009/138/EC, the capital requirement for qualifying infrastructure corporate equities shall be equal to the loss in the basic own funds that would result from an instantaneous decrease:

(a) equal to 22 % in the value of the qualifying infrastructure corporate equity corresponding to the business referred to in point (i) of Article 304(1)(b) of Directive 2009/138/EC;

(b) equal to 22 % in the value of qualifying infrastructure corporate equity investments in related undertakings within the meaning of Article 212(1)(b) and (2) of Directive 2009/138/EC, where these investments are of a strategic nature;

(c) equal to the sum of 36 % and 92 % of the symmetric adjustment as referred to in Article 172 of this Regulation in the value of qualifying infrastructure corporate equities other than those referred to in points (a) or (b).';

(7) in Article 171, the introductory sentence is replaced by the following:

'For the purposes of Article 169(1)(a), (2)(a), (3)(a) and (4)(a) and of Article 170(1)(b), (2)(b), (3)(b) and (4)(b), equity investments of a strategic nature shall mean equity investments for which the participating insurance or reinsurance undertaking demonstrates the following:';

(8) in Article 180, the following paragraphs 14, 15 and 16 are added:

'14. Exposures in the form of bonds and loans that fulfil the criteria set out in paragraph 15 shall be assigned a risk factor $stress_i$ depending on the credit quality step and the duration of the exposure according to the following table:

| Credit quality step | | 0 | | 1 | | 2 | | 3 | |
|---|---|---|---|---|---|---|---|---|---|
| Duration ($dur_i$) | $stress_i$ | $a_i$ | $b_i$ | $a_i$ | $b_i$ | $a_i$ | $b_i$ | $a_i$ | $b_i$ |
| up to 5 | $b_i \cdot dur_i$ | — | 0,68 % | — | 0,83 % | — | 1,05 % | — | 1,88 % |
| More than 5 and up to 10 | $a_i + b_i \cdot (dur_i - 5)$ | 3,38 % | 0,38 % | 4,13 % | 0,45 % | 5,25 % | 0,53 % | 9,38 % | 1,13 % |
| More than 10 and up to 15 | $a_i + b_i \cdot (dur_i - 10)$ | 5,25 % | 0,38 % | 6,38 % | 0,38 % | 7,88 % | 0,38 % | 15,0 % | 0,75 % |
| More than 15 and up to 20 | $a_i + b_i \cdot (dur_i - 15)$ | 7,13 % | 0,38 % | 8,25 % | 0,38 % | 9,75 % | 0,38 % | 18,75 % | 0,75 % |
| More than 20 | $\min[a_i + b_i \cdot (dur_i - 20);1]$ | 9,0 % | 0,38 % | 10,13 % | 0,38 % | 11,63 % | 0,38 % | 22,50 % | 0,38 % |

15. The criteria for exposures that are assigned a risk factor in accordance with paragraph 14 shall be:

(a) the exposure relates to a qualifying infrastructure corporate investment that meets the criteria set out in Article 164b;

(b) the exposure is not an asset that fulfils the following conditions:

— it is assigned to a matching adjustment portfolio in accordance with Article 77b(2) of Directive 2009/138/EC,

— it has been assigned a credit quality step between 0 and 2;

(c) a credit assessment by a nominated ECAI is available for the infrastructure entity.

(d) the exposure has been assigned a credit quality step between 0 and 3.

16. Exposures in the form of bonds and loans that meet the criteria set out in paragraph 15(a) and (b), but do not meet the criteria set out in paragraph 15(c), shall be assigned a risk factor $stress_i$ equivalent to credit quality step 3 and the duration of the exposure in accordance with the table set out in paragraph 14.';

(9) in Article 181, the second paragraph of point (b) is replaced by the following:

'For assets in the assigned portfolio for which no credit assessment by a nominated ECAI is available, and for qualifying infrastructure assets and for qualifying infrastructure corporate assets that have been assigned credit quality step 3, the reduction factor shall be 100 %.';

(10) Article 261a is replaced by the following:

'*Article 261a*

**Risk management for qualifying infrastructure investments or qualifying infrastructure corporate investments**

1. Insurance and reinsurance undertakings shall conduct adequate due diligence prior to making a qualifying infrastructure investment or a qualifying infrastructure corporate investment, including all of the following:

(a) a documented assessment of how the infrastructure entity satisfies the criteria set out in Article 164a or Article 164b, which has been subject to a validation process, carried out by persons that are free from influence from those persons responsible for the assessment of the criteria, and have no potential conflicts of interest with those persons;

(b) a confirmation that any financial model for the cash flows of the infrastructure entity has been subject to a validation process carried out by persons that are free from influence from those persons responsible for the development of the financial model, and have no potential conflicts of interest with those persons.

2. Insurance and reinsurance undertakings with a qualifying infrastructure investment or a qualifying infrastructure corporate investment shall regularly monitor and perform stress tests on the cash flows and collateral values supporting the infrastructure entity. Any stress tests shall be commensurate with the nature, scale and complexity of the risk inherent in the infrastructure project.

3. The stress testing shall consider risks arising from non-infrastructure activities, but the revenues generated by such activities shall not be taken into account when determining whether the infrastructure entity is able to meet its financial obligations.

4. Where insurance or reinsurance undertakings hold material qualifying infrastructure investments or qualifying infrastructure corporate investments, they shall, when establishing the written procedures referred to in Article 41(3) of Directive 2009/138/EC, include provisions for an active monitoring of these investments during the construction phase, and for a maximisation of the amount covered from these investments in case of a work-out scenario.

5. Insurance or reinsurance undertakings with a qualifying infrastructure investment or a qualifying infrastructure corporate investment in bonds or loans shall set up their asset-liability management to ensure that, on an ongoing basis, they are able to hold the investment to maturity.'.

*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, 8 June 2017.

*For the Commission*

*The President*

Jean-Claude JUNCKER

# DECISIONS

## DECISION (EU, Euratom) 2017/1543 OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES

**of 6 September 2017**

**appointing a Judge to the General Court**

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 19 thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 254 and 255 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a(1) thereof,

Whereas:

(1) Article 48 of Protocol No 3 on the Statute of the Court of Justice of the European Union, as amended by Regulation (EU, Euratom) 2015/2422 of the European Parliament and of the Council [1], provides that the General Court consists of 47 Judges as from 1 September 2016. Point (b) of Article 2 of that Regulation fixes the term of office of the seven additional Judges in such a way that the end of their term of office corresponds to the partial replacements of the General Court which will take place on 1 September 2019 and 1 September 2022.

(2) It is on that basis that Mr Geert DE BAERE has been nominated for the post of additional Judge of the General Court.

(3) The panel set up under Article 255 of the Treaty on the Functioning of the European Union has given an opinion on the suitability of Mr Geert DE BAERE to perform the duties of Judge of the General Court.

(4) Mr Geert DE BAERE should therefore be appointed for the period from the date of entry into force of this Decision to 31 August 2022,

HAVE ADOPTED THIS DECISION:

*Article 1*

Mr Geert DE BAERE is hereby appointed Judge of the General Court for the period from the date of entry into force of this Decision to 31 August 2022.

*Article 2*

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

Done at Brussels, 6 September 2017.

*The President*

K. TAEL

[1] Regulation (EU, Euratom) 2015/2422 of the European Parliament and of the Council of 16 December 2015 amending Protocol No 3 on the Statute of the Court of Justice of the European Union (OJ L 341, 24.12.2015, p. 14).

# RECOMMENDATIONS

## RECOMMENDATION No 1/2017 OF THE EU-EGYPT ASSOCIATION COUNCIL

**of 25 July 2017**

**agreeing on the EU-Egypt Partnership Priorities [2017/1544]**

THE EU-EGYPT ASSOCIATION COUNCIL,

Having regard to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part ([1]), and in particular Article 76 thereof,

Whereas:

(1) The Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part (hereinafter referred to as the 'Agreement') was signed on 25 June 2001 and entered into force on 1 June 2004.

(2) Article 76 of the Agreement gives the Association Council the power to take appropriate decisions for the purposes of attaining the objectives of the Agreement.

(3) In accordance with Article 86 of the Agreement, the Parties are to take any general or specific measures required to fulfil their obligations under the Agreement and shall see to it that the objectives set out in the Agreement are attained.

(4) The review of the European Neighbourhood Policy proposed a new phase of engagement with partners, allowing for a greater sense of ownership by both sides.

(5) The Union and Egypt have agreed to consolidate their partnership by agreeing on a set of priorities for the period 2017-2020 with the aim of addressing common challenges facing the Union and Egypt, to promote joint interests and to guarantee long-term stability on both sides of the Mediterranean,

HEREBY RECOMMENDS:

*Article 1*

The Association Council recommends that the Parties implement the EU-Egypt Partnership Priorities set out in the Annex to this Recommendation.

*Article 2*

The EU-Egypt Partnership Priorities referred to in Article 1 replace the EU-Egypt Action Plan, whose implementation was recommended by Recommendation No 1/2007 of the Association Council of 6 March 2007.

*Article 3*

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

Done at Brussels, 25 July 2017.

*For the EU-Egypt Association Council*

*The President*

F. MOGHERINI

([1]) OJ L 304, 30.9.2004, p. 39.

*ANNEX*

**EU-EGYPT PARTNERSHIP PRIORITIES 2017-2020**

I. **Introduction**

The general framework of the cooperation between the EU and Egypt is set by the **Association Agreement** which was signed in 2001 and entered into force in 2004. While all elements of the Association Agreement remain in effect, this document sets the priorities jointly defined between the EU and Egypt in light of the revised **European Neighbourhood Policy** that will guide the partnership for the next 3 years.

These **Partnership Priorities** aim to address common challenges facing the EU and Egypt, to promote joint interests and to guarantee long-term stability on both sides of the Mediterranean. The Partnership Priorities are guided by a shared commitment to the universal values of democracy, the rule of law and the respect of human rights. They also aim to reinforce cooperation in support of Egypt's 'Sustainable Development Strategy — Vision 2030'.

II. **Proposed Priorities**

The Partnership Priorities should contribute to meeting the aspirations of the people of both sides of the Mediterranean, particularly in ensuring social justice, decent job opportunities, economic prosperity and substantially improved living conditions, thus cementing the stability of Egypt and the EU. Inclusive growth, underpinned by innovation, and effective and participatory governance, governed by the rule of law, human rights and fundamental freedoms, are key aspects of these goals. The priorities also take into account the respective roles of the EU and Egypt as international players and aim both to enhance their bilateral cooperation as well as their regional and international cooperation. As such, the following overarching priorities will guide the renewed partnership:

1. **Egypt's Sustainable Modern Economy and Social Development**

The EU and Egypt as key partners will cooperate in advancing socioeconomic goals set out in Egypt's 'Sustainable Development Strategy — Vision 2030' with a view to building a stable and prosperous Egypt.

(a) **Economic modernisation and entrepreneurship**

Egypt is committed to attaining long-term socioeconomic sustainability through, inter alia, creating a more conducive environment for **inclusive growth and job creation**, particularly for youth and women, including by encouraging integration of the informal sector into the economy. For long-term economic sustainability, this will include measures that can generate a larger fiscal space to better implement its sustainable development strategy, further reform of subsidies and taxation, strengthening the role of the **private sector** and **enhancing the business climate** to attract more foreign investment, including through a more open and competitive trade policy, fully benefit from the digital dividend and through support to key infrastructure projects such as the development of an efficient transport system. Furthermore, the EU will support Egypt's efforts towards **public administration reform** and good governance, including through the use of high quality statistics and taking into account the digital revolution and the related new business and societal models.

The Egyptian Sustainable Development Strategy attaches great importance to small and medium enterprises (SMEs) and to 'Mega Projects' such as the Suez Canal Development Project, the Golden Triangle Project for Mineral Resources in Upper Egypt and reclaiming four million hectares for agriculture and urbanisation, as well as to the Egyptian Knowledge Bank as major contributors to the long-term socioeconomic development process. Given the importance of SME development for inclusive growth, this sector will continue to play a central role in EU cooperation with Egypt. The EU will also consider ways to further the potential for socioeconomic development of the Suez Canal Development Project (Suez Canal Hub). Moreover, the EU and Egypt will cooperate across sectors in research and innovation and in advancing digital technologies and services. In this context, Egypt and the EU highlighted their interest in intensifying cooperation in a number of relevant research and higher education activities, including in the framework of Horizon-2020 and Erasmus +.

Given Egypt's invaluable and diverse heritage, and the significant contribution of the cultural sector (to which tourism is strongly linked) to the country's GDP, employment, foreign exchange reserves and society more broadly, a particular emphasis will be placed on the **link between culture, cultural heritage and local economic development**.

(b) **Trade and investment**

The EU and Egypt are important **trading partners**. They are committed to **strengthening the existing trade and investment relationship** and to ensuring that the trade provisions of the EU-Egypt Association Agreement establishing a free trade area (FTA) are implemented in a manner that enables it to reach its full potential. While the EU has previously put forward the idea of a comprehensive Deep and Comprehensive Free Trade Agreement (DCFTA) initiative to both deepen and widen the existing FTA, the EU and Egypt will also jointly identify other suitable approaches to enhance trade relations.

(c) **Social development and social justice**

Egypt reiterates its commitment to reforming and promoting social development and social justice, to address the social and demographic challenges it is facing, and to boost the country's human resources that will advance economic and social development. In this regard, the EU will support Egypt's efforts to **protect marginalised groups** from potential negative impacts of economic reforms through **social safety nets and social protection**. Moreover, the EU and Egypt will continue to promote **rural and urban development**, as well as to improve the delivery of basic services, with an emphasis on modernising **education** (including technical and vocational training) and **health systems**. The EU will share its experience in establishing an inclusive healthcare coverage and improved healthcare services.

(d) **Energy security, environment and climate action**

The EU and Egypt will cooperate in the **diversification of energy sources**, with a particular focus on **renewable energy sources**, and in **energy efficiency** actions. The EU will, upon request from the Egyptian government, support Egypt's efforts to update its integrated energy strategy that aims at satisfying the country's sustainable development requirements and reducing greenhouse gas emissions. Further, the discovery of offshore gas fields in Egypt, provides an important scope for **synergies between the EU and Egypt in conventional energy sources**, given the existing liquefaction infrastructures in Egypt. This would allow for a **more predictable generation of energy**, which would serve the interests of both Egypt — given the significant consumption needs of the country and the income-generation potential (including for the business environment and social development) — and the EU, in diversifying its supply. **Strengthening the energy dialogue** between the EU and Egypt will contribute to the identification of key areas of cooperation (such as technical assistance to establish a regional energy hub), joint research, sharing experience and best practice, technology transfers and promoting sub-regional (intra-Mediterranean) cooperation, while being cognizant of the need to preserve the Mediterranean marine ecosystems.

The EU and Egypt will cooperate in the promotion of **action on climate** and the **environment within the context of achieving sustainable development**. In line with their commitments following the adoption of the Paris Agreement on climate change, the EU will support the implementation of Egypt's **Intended Nationally Determined Contributions** in the fields of mitigation and adaptation. Further, the EU and Egypt will cooperate towards achieving the goals identified in, inter alia, the 2030 Development Agenda and the Sendai Framework for Disaster Risk Reduction.

Egypt and the EU will explore potential cooperation in areas such as **sustainable resource management**, including water resources, **biodiversity conservation, sanitation, solid waste management**, including the abatement of industrial pollutants, chemicals and hazard waste management, as well as combating desertification and land degradation. Egypt and the EU are also exploring the opportunities provided for in the Union for the Mediterranean (UfM) Ministerial Declaration on Blue Economy through IMP/CC ([1]) facility. Potential fields of cooperation under consideration include smart seaports, maritime clusters, integrated coastal zone management, and marine fisheries.

2. **Partners in Foreign Policy**

The EU and Egypt have a shared interest in reinforcing cooperation in foreign policy at the bilateral, regional and international levels.

**Stabilising the common neighbourhood and beyond**

Egypt has a role to play using its seat on the UN Security Council as well as its seat on the African Union Peace and Security Council. Egypt is also hosting the headquarters of the League of Arab States (LAS), with which the EU intends

([1]) Facility for Regional Policy Dialogue on Integrated Maritime Policy/Climate Change

to deepen and broaden cooperation. Egypt and the EU will seek greater cooperation and a common understanding of a range of issues, including in the multilateral sphere. The partnership between the EU and Egypt is important for the stability and prosperity of the Mediterranean, the Middle East and Africa. Cooperation between the EU and Egypt, including within regional fora, will aim to contribute to the resolution of conflict, to building peace and to tackling political and economic challenges in these regions. Further, the EU and Egypt will reinforce the exchange of information on major regional and international challenges that affect both sides.

**Cooperating in crisis management and humanitarian assistance**

The EU and Egypt will step up cooperation and consultations and will exchange experience in crisis management and prevention, both bilaterally and regionally, to address the complex challenges to peace, stability and development arising from conflict and natural disasters, in their common neighbourhood and beyond.

3. **Enhancing stability**

**Stabilisation** is a common challenge facing the EU and Egypt. Establishing **a modern, democratic state that delivers benefits equitably** to all people is essential for this. Human rights — civil, political, economic, social and cultural rights, as set out in international human rights law, the Treaty on European Union and the Egyptian Constitution — are a common value and constitute the cornerstone of a modern democratic state. Egypt and the EU are therefore committed to promoting democracy, fundamental freedoms and human rights as constitutional rights of all their citizens, in line with their international obligations. In this context, the EU will provide support to Egypt in translating these rights into law.

(a) **A modern, democratic state**

Egypt and the EU are committed to ensuring accountability, the rule of law, the full respect of human rights and fundamental freedoms and responding to the demands of their citizens. The EU will support Egypt's efforts to **enhance the capacity of state institutions** for effective **public sector reform**, to enhance the capacity of **law enforcement institutions in implementing their duties in providing security to all**, as well as to develop **the new Parliament's constitutional functions**. Further, the EU and Egypt will enhance cooperation in **modernising the justice sector** and increasing access to justice for all citizens through legal aid and establishing specialised courts, in public finance management reform and in **tackling corruption**. The EU and Egypt will also consider developing judicial cooperation on criminal and civil matters. Parliamentary cooperation between the EU and Egypt, including through structured exchanges between parliamentary committees and groups, would reinforce coordination and promote mutual understanding. The EU will also support Egypt's efforts to **empower local authorities** in planning and delivering public services, as well as in further ensuring equality in economic, social and political opportunities and to promote social integration for all.

(b) **Security and terrorism**

**Security** is a shared objective. **Terrorism** and violent extremism conducive to terrorism threaten the social fabric of nations across both sides of the Mediterranean. They pose a major threat to the security and well-being of our citizens. Combating these threats represents a common goal of the EU and Egypt who can cooperate through a comprehensive approach that will address the root causes of terrorism with due respect for human rights and fundamental freedoms, in order to successfully **counter and prevent radicalisation** and promote socioeconomic development. The EU and Egypt remain committed to cooperating in fighting extremism and any form of discrimination, including Islamophobia and xenophobia.

Other fields of cooperation include, inter alia, strengthening the aviation security and protective security as well as the capacity to prevent and fight trans-national organised crime such as migrant smuggling, human trafficking, the illicit drugs trade and money laundering.

Both parties agree to strengthen their cooperation in the area of the implementation of the UN Programme of Action on Combating Illicit trade in Small Arms and Light Weapons, including through exchanging experiences, training and other capacity building activities.

(c) **Managing migratory flows for mutual benefit**

The political declaration of the Valletta Summit and the Joint Valletta Action Plan will provide the main context for cooperation between the EU and Egypt in the field of migration. The EU will support the Egyptian government's efforts

to strengthen its **migration governance** framework, including elements of legislative reform and strategies for migration management. The EU will support Egypt's efforts to prevent and combat irregular migration, trafficking and smuggling of human beings, including identifying and assisting victims of trafficking. It will also seek to support and strengthen Egyptian capacity to protect migrants' rights and to provide protection to those who qualify for it, in line with international standards. The EU and Egypt will explore cooperation on the voluntary return of irregular migrants to their country of origin to ensure that migration is globally managed in a legal manner. This will go hand in hand with cooperation in addressing root causes of irregular migration, in particular underdevelopment, poverty and unemployment.

**Mobility** of persons can contribute to the development of skills and knowledge which could in turn contribute to the development of Egypt. It can also build sustainable bridges between a high-skilled labour force in the EU and Egypt. The EU and Egypt are committed to the full protection of the rights of migrants.

III. **Principles of cooperation**

**Promoting the human factor** and people-to-people contacts will reinforce the links, thereby consolidate the partnership, between the EU and Egypt. Mutual accountability and responsibility, towards the European and Egyptian people are an essential aspect of the Partnership Priorities.

Issues of common interest should also be tackled through a **stronger regional and sub-regional (South-South) cooperation**. In this respect, the EU and Egypt will work together within the framework of the UfM and through the Anna Lindh Foundation, particularly on cross-cultural dialogue.

The culture of dialogue has proven to be a valuable tool in developing mutual respect. **Deepening the political dialogue** on democracy and human rights and maintaining those technical aspects that reinforce it will be essential. Dialogue will also provide the means to substantiate the partnership and to take stock of its depth and achievements.

In line with the Egyptian's government's priorities, a focus on **youth** — on which the long-term stability of our societies lies — and on **women** — essential for progress in any society — will be mainstreamed in the Partnership Priorities. A key objective is to empower and equip them with the legal and practical tools to assume their due role in society through their active participation in the economy and the governance of their country. The EU will continue to share its experience in fighting discrimination against women and promoting gender equality, as well as in promoting inclusion and providing opportunities for the young.

The EU and Egypt agree that **civil society** is an important and potent contributor to the implementation of their partnership priorities and to transparent, participatory governance and can support the sustainable development process underway in Egypt. They will work with civil society in contributing effectively in the economic, political and social development process in compliance with the Egyptian Constitution and the respective national legislation.

IV. **Conclusion**

In the spirit of co-ownership, the EU and Egypt have jointly defined Partnership Priorities and will develop an agreed evaluation and monitoring mechanism. A mid-term review is also foreseen to evaluate the impact of the Partnership Priorities. In line with the focused approach of the Partnership Priorities, the EU and Egypt will jointly **rationalise the implementation of their Association Agreement** for their mutual interests. The Association Committee and Association Council will remain the key bodies that will carry out the overall assessment of the implementation of the Partnership Priorities on an annual basis.

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