Commission Implementing Decision (EU) 2019/690 of 30 April 2019 on a measure taken by Sweden pursuant to Directive 2006/42/EC of the European Parliament and of the Council prohibiting the placing on the market of wind turbine models SWT-2.3-101 and SWT-3.0-113 and withdrawing the machines already placed on the market (notified under document C(2019) 3118) (Text with EEA relevance)

COMMISSION IMPLEMENTING DECISION (EU) 2019/690

of 30 April 2019

on a measure taken by Sweden pursuant to Directive 2006/42/EC of the European Parliament and of the Council prohibiting the placing on the market of wind turbine models SWT-2.3-101 and SWT-3.0-113 and withdrawing the machines already placed on the market

(notified under document C(2019) 3118)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC[(1)], and in particular the second subparagraph of Article 11(3) thereof,

Whereas:

(1) Sweden took a measure prohibiting the placing on the market and withdrawing from the market the wind turbine model SWT-2.3-101, which was not in conformity with the essential health and safety requirement set out in section 1.3.8.1 and 1.4.2.1 of Annex I to Directive 2006/42/EC. Section 1.3.8.1 on moving transmission parts requires that guards designed to protect persons against hazards generated by moving transmission parts must be fixed as referred to in section 1.4.2.1. Pursuant to section 1.4.2.1, fixed guards must be fixed by systems that can be opened or removed only with tools,. In that regard, Sweden indicated that the fixed guard protecting against moving parts on the rotor of model SWT-2.3.-101 can be opened without a separate tool, which constitutes a non-conformity with requirements set out in sections 1.3.8.1 and 1.4.2.1 of Annex I to Directive 2006/42/EC.

(2) With regard to wind turbine model SWT-3.0-113, Sweden took the measure considering that the machine was not in conformity to the essential health and safety requirement set out in section 1.5.14. of Annex I to Directive 2006/42/EC. The essential health and safety requirement 1.5.14. on the risk of being trapped in a machine requires that machinery must be designed, constructed or fitted with a means of preventing a person from being enclosed within it or, if that is impossible, with a means of summoning help. In that regard, Sweden indicated that the smoke detector of wind

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2019/690. (See end of Document for details)*

turbine SWT-3.0-113 does not have a warning signal to warn any person who may be inside the turbine in the event of a fire.

(3) After receiving the notification of the safeguard measure from Sweden, the Commission entered into consultation with the parties concerned in order to hear their views. The Commission sent a letter to the manufacturer on 12 November 2018. In its reply of 30 November 2018, the manufacturer informed the Commission that it has taken measures to rectify the non-conformities of wind turbine models SWT-2.3-101 and SWT-3.0-113 in order to ensure compliance with the Directive 2006/42/EC and that those measures were finalised before the set deadline of 31 December 2017.

(4) The explanation provided by Sweden with respect to the safeguard measure and the documentation available to the Commission, demonstrate that the wind turbine model SWT-2.3-101 failed to satisfy the essential health and safety requirements set out in section 1.3.8.1. and 1.4.2.1. of Annex I to the Directive 2006/42/EC. In addition, wind turbine model SWT-3.0-113 failed to satisfy the essential health and safety requirement set out in section 1.5.14. of Annex I to Directive 2006/42/EC. The deficiencies are liable to compromise the health and safety of persons.

(5) Therefore, the safeguard measure taken by Sweden should be considered justified,

HAS ADOPTED THIS DECISION:

Article 1

The measures taken by Sweden to prohibit the placing on the market of and to withdraw from the market the wind turbine model SWT-2.3-101 and the wind turbine model SWT-3.0-113 manufactured by Siemens Gamesa Renewable Energy AB are justified.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 30 April 2019.

For the Commission

Elżbieta BIEŃKOWSKA

Member of the Commission