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⁽¹⁾ Text with EEA relevance.

I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2022/312 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 24 February 2022****amending Regulation (EU) 2020/1429 as regards the duration of the reference period for the application of temporary measures concerning the levying of charges for the use of railway infrastructure****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The COVID-19 pandemic has led to a sharp drop in rail traffic caused by a significant fall in demand. This has had a serious impact on railway undertakings.
- (2) Those circumstances are beyond the control of railway undertakings, which have continuously faced considerable liquidity problems, major losses and in some cases are risking insolvency.
- (3) In order to counteract the negative economic effects of the COVID-19 pandemic and to support railway undertakings, Regulation (EU) 2020/1429 of the European Parliament and of the Council ⁽³⁾ enabled Member States to authorise infrastructure managers to reduce, waive or defer charges for accessing rail infrastructure. That possibility was granted for a reference period from 1 March 2020 until 31 December 2020 and was further extended by Commission Delegated Regulation (EU) 2021/1061 ⁽⁴⁾ until 31 December 2021.

⁽¹⁾ Opinion of 19 January 2022 (not yet published in the Official Journal).

⁽²⁾ Position of the European Parliament of 16 February 2022 (not yet published in the Official Journal) and decision of the Council of 24 February 2022.

⁽³⁾ Regulation (EU) 2020/1429 of the European Parliament and of the Council of 7 October 2020 establishing measures for a sustainable rail market in view of the COVID-19 outbreak (OJ L 333, 12.10.2020, p. 1).

⁽⁴⁾ Commission Delegated Regulation (EU) 2021/1061 of 28 June 2021 extending the reference period of Regulation (EU) 2020/1429 of the European Parliament and of the Council establishing measures for a sustainable rail market in view of the COVID-19 outbreak (OJ L 229, 29.6.2021, p. 1).

- (4) The continuation of the COVID-19 pandemic and the emergence of very contagious and unpredictable variants, such as the COVID-19 Omicron variant, mean that new restrictive measures might be necessary.
- (5) The negative impact of the COVID-19 pandemic on rail traffic is persisting and it is possible that railway undertakings will continue to be affected. In an effort to respond to the urgent needs of the sector, the reference period set by Regulation (EU) 2020/1429 should be further extended until 30 June 2022.
- (6) The unforeseeable evolution of the COVID-19 pandemic, the sudden emergence of new variants and the need to assess their impact on the railway sector requires a swift and flexible regulatory response. In order to avoid a gap in the response to the current situation, it is essential to ensure that the rules continue to apply after 31 December 2021. Given the nature of the measures provided for by Regulation (EU) 2020/1429, the retroactive application of the extension of the reference period does not result in a violation of the legitimate expectations of the persons concerned.
- (7) The Commission should continuously analyse the economic impact of the COVID-19 pandemic on the rail sector and the Union should be in a position to prolong without undue delay the period of application of the measures provided for by Regulation (EU) 2020/1429 if the adverse conditions persist.
- (8) In order to extend, if necessary and justified, the validity of the rules provided for in Regulation (EU) 2020/1429, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of prolonging the reference period during which the measures provided for by Regulation (EU) 2020/1429 apply. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽⁹⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (9) Since the objective of this Regulation, namely to extend the application of the temporary rules on the levying of charges for the use of railway infrastructure laid down in response to the urgent situation created by the COVID-19 pandemic, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.
- (10) Regulation (EU) 2020/1429 should therefore be amended accordingly.
- (11) In view of urgency entailed by the exceptional circumstances caused by the COVID-19 pandemic justifying the proposed measures, and more particularly in order to adopt the necessary measures quickly so as to address the severe and immediate problems faced by the sector, it is considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.
- (12) In order to ensure continuity and to allow for the prompt application of the measures provided for in this Regulation, it should enter into force as a matter of urgency on the day of its publication in the *Official Journal of the European Union*, and should apply, with retroactive effect, from 1 January 2022,

⁽⁹⁾ OJ L 123, 12.5.2016, p. 1.

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) 2020/1429

Regulation (EU) 2020/1429 is amended as follows:

(1) Article 1 is replaced by the following:

'Article 1

This Regulation lays down temporary rules on the levying of charges for the use of railway infrastructure as set out in Chapter IV of Directive 2012/34/EU. It applies to the use of railway infrastructure for domestic and international rail services covered by that Directive, during the period from 1 March 2020 until 30 June 2022 ("the reference period").;

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

'2. Where the Commission finds, on the basis of the data referred to in paragraph 1, that the reduction in the level of rail traffic as compared to the level in the corresponding period in the previous years is persisting and is likely to persist, and also finds, on the basis of the best available scientific data, that this situation is the result of the impact of the COVID-19 pandemic, the Commission shall adopt delegated acts in accordance with Article 6 to amend the reference period specified in Article 1 accordingly. Any such amendment may only extend the reference period by up to six months, and the reference period may not be extended beyond 31 December 2023.';

(3) Article 6, paragraph 2 is replaced by the following:

'2. The power to adopt delegated acts referred to in Article 5(2) shall be conferred on the Commission until 31 December 2023.'.

Article 2

Entry into force

This Regulation shall enter into force on the day 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, 24 February 2022.

For the European Parliament
The President
R. METSOLA

For the Council
The President
A. PANNIER-RUNACHER

DECISIONS

DECISION (EU) 2022/313 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 February 2022 providing macro-financial assistance to Ukraine

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 212 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

- (1) Relations between the European Union (the 'Union') and Ukraine continue to develop within the framework of the European Neighbourhood Policy (ENP) and the Eastern Partnership. An association agreement between the Union and Ukraine ⁽²⁾ (the 'Association Agreement'), including a Deep and Comprehensive Free Trade Area (DCFTA), entered into force on 1 September 2017.
- (2) In spring 2014, Ukraine embarked on an ambitious reform programme with the aim of stabilising its economy and improving the livelihoods of its citizens. The fight against corruption as well as constitutional, electoral and judicial reforms are among the top priorities on the agenda. The implementation of those reforms was supported by five consecutive macro-financial assistance programmes, under which Ukraine has received assistance in the form of loans for a total of EUR 5 billion. The latest macro-financial assistance, which was made available in the context of the COVID-19 pandemic pursuant to Decision (EU) 2020/701 of the European Parliament and of the Council ⁽³⁾, provided EUR 1,2 billion in loans to Ukraine and was completed in September 2021.
- (3) The economy of Ukraine has been affected by the recession in 2020, which was caused by the COVID-19 pandemic and by prolonged security threats at its border with Russia. The continuous build-up of uncertainty has resulted in a recent loss of confidence, negatively affecting the economic outlook, and, since mid-January 2022, in the loss of access to international capital markets. The deteriorating financing conditions have contributed to a sizable and increasing residual external financing gap and weigh heavily on investment, thereby weakening Ukraine's resilience to future economic and political shocks.
- (4) The Ukrainian government has demonstrated a strong commitment to implement further reforms focusing, at the current critical juncture, in the short term on key policy areas such as economic resilience and stability, governance and rule of law, and energy.

⁽¹⁾ Position of the European Parliament of 16 February 2022 (not yet published in the Official Journal) and decision of the Council of 21 February 2022.

⁽²⁾ Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part (OJ L 161, 29.5.2014, p. 3).

⁽³⁾ Decision (EU) 2020/701 of the European Parliament and of the Council of 25 May 2020 on providing macro-financial assistance to enlargement and neighbourhood partners in the context of the COVID-19 pandemic (OJ L 165, 27.5.2020, p. 31).

- (5) A renewed commitment to carry out such reforms and a strong political will has led the Ukrainian authorities to accelerate the implementation of reforms since the summer of 2021. This has also enabled Ukraine to successfully complete the macro-financial assistance operation in the context of the COVID-19 pandemic, as all reform actions agreed with the Union in the Memorandum of Understanding were fulfilled.
- (6) To allow for more policy flexibility in the context of the crisis related to the COVID-19 pandemic, the International Monetary Fund (IMF) approved an 18-month Stand-by Arrangement for Ukraine with access equivalent to USD 5 billion in June 2020. That arrangement focuses on four priorities: (i) mitigating the economic impact of the crisis, including by supporting households and businesses; (ii) ensuring continued central bank independence and a flexible exchange rate; (iii) safeguarding financial stability while recovering the costs from bank resolutions; and (iv) moving forward with key governance and anti-corruption measures to preserve and deepen recent gains. Due to an uneven implementation record, the first programme review, which also agreed on an extension of the programme until the end of June 2022, was not concluded until November 2021. This brought total disbursements under the current IMF programme to the equivalent of USD 2,8 billion thus far. Two more reviews are planned to take place by the end of the second quarter of 2022.
- (7) In view of high budget financing risks and in the context of a slow recovery from the crisis related to the COVID-19 pandemic and quickly accelerating inflation, Ukraine requested a new long-term macro-financial assistance programme for up to EUR 2,5 billion from the Union on 16 November 2021. Such emergency macro-financial assistance responds, in particular, to the sharp and unexpected increase in the external financing needs of Ukraine, triggered by the de facto loss of access to financial markets, and to the underlying immediate challenges.
- (8) Given that Ukraine is a country covered by the ENP, it should be considered to be eligible to receive macro-financial assistance from the Union.
- (9) The Union's macro-financial assistance should be an exceptional financial instrument of untied and undesignated balance-of-payments support, which aims to address the beneficiary's immediate external financing needs and should underpin the implementation of a policy programme containing strong immediate adjustment and structural reform measures designed to improve the beneficiary's balance-of-payments position in the short term and economic resilience in the medium term.
- (10) Given that the loss of market access and the capital outflow have created a significant residual external financing gap in Ukraine's balance of payments over and above the resources provided by the IMF and other multilateral institutions, the swift provision by the Union of emergency macro-financial assistance to Ukraine is, under the current exceptional circumstances, considered to be an appropriate short-term response to the sizeable risks to the country. The Union's macro-financial assistance would support Ukraine's economic stabilisation and aim to strengthen the immediate resilience of the country, as well as and where feasible at present, strengthen the structural reform agenda of Ukraine, supplementing resources made available under the IMF's financial arrangement.
- (11) The Union's macro-financial assistance should aim to support the restoration of a sustainable external financing situation for Ukraine, thereby supporting its economic and social development.
- (12) The Union's macro-financial assistance is expected to go hand-in-hand with the implementation of budget support operations under the Neighbourhood, Development and International Cooperation Instrument – Global Europe, established by Regulation (EU) 2021/947 of the European Parliament and of the Council ⁽⁴⁾.

⁽⁴⁾ Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009 (OJ L 209, 14.6.2021, p. 1).

- (13) The determination of the amount of the Union's macro-financial assistance is based on a quantitative assessment of Ukraine's residual external financing needs, and takes into account its capacity to finance itself with its own resources, in particular the international reserves at its disposal. The Union's macro-financial assistance should complement the programmes and resources provided by the IMF and the World Bank. The determination of the amount of the assistance also takes into account expected financial contributions from multilateral donors and the need to ensure fair burden sharing between the Union and other donors, as well as the pre-existing deployment of the Union's other external financing instruments in Ukraine and the added value of the overall Union involvement.
- (14) The Commission should ensure that the Union's macro-financial assistance is legally and substantially in accordance with the key principles and objectives of, and the measures taken within the different areas of external action and other relevant Union policies.
- (15) The Union's macro-financial assistance should support the Union's external policy towards Ukraine. The Commission and the European External Action Service should work closely together throughout the macro-financial assistance operation in order to coordinate, and ensure the consistency of, Union external policy.
- (16) The Union's macro-financial assistance should support Ukraine's commitment to values shared with the Union, including democracy, the rule of law, good governance, respect for human rights, sustainable development and poverty reduction, as well as its commitment to the principles of open, rule-based and fair trade.
- (17) A precondition for granting the Union's macro-financial assistance should be that Ukraine respects effective democratic mechanisms, including a multi-party parliamentary system, and the rule of law, and guarantees respect for human rights. In addition, the specific objectives of the Union's macro-financial assistance should strengthen the efficiency, transparency and accountability of the public finance management systems and should promote structural reforms aimed at supporting sustainable and inclusive growth, decent employment creation and fiscal consolidation. The Commission and the European External Action Service should regularly monitor both the fulfilment of the precondition and the achievement of those objectives.
- (18) In order to ensure that the Union's financial interests linked to the Union's macro-financial assistance are protected efficiently, Ukraine should take appropriate measures relating to the prevention of, and fight against, fraud, corruption and any other irregularities linked to that assistance. In addition, provision should be made for the Commission to carry out checks, for the Court of Auditors to carry out audits and for the European Public Prosecutor's Office to exercise its competences.
- (19) Release of the Union's macro-financial assistance is without prejudice to the powers of the European Parliament and the Council as budgetary authority.
- (20) The amounts of provisioning required for the Union's macro-financial assistance should be consistent with the budgetary appropriations provided for in the multiannual financial framework.
- (21) The Union's macro-financial assistance should be managed by the Commission. In order to ensure that the European Parliament and the Council are able to follow the implementation of this Decision, the Commission should regularly inform them of developments relating to that assistance and provide them with the relevant documents.

- (22) In order to ensure uniform conditions for the implementation of this Decision, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽³⁾.
- (23) The Union's macro-financial assistance should be subject to economic policy conditions, to be set out in a memorandum of understanding (MOU). In order to ensure uniform conditions of implementation and for reasons of efficiency, the Commission should be empowered to negotiate such conditions with the Ukrainian authorities under the supervision of the committee of representatives of the Member States in accordance with Regulation (EU) No 182/2011. Under that Regulation, the advisory procedure should, as a general rule, apply in all cases other than as provided for in that Regulation. Considering the potentially significant impact of assistance of more than EUR 90 million, it is appropriate that the examination procedure as specified in Regulation (EU) No 182/2011 be used for operations above that threshold. Considering the amount of the Union's macro-financial assistance to Ukraine, the examination procedure should apply to the adoption of the MOU, and to any reduction, suspension or cancellation of the assistance.
- (24) Since the objective of this Decision, namely to provide emergency macro-financial assistance to Ukraine with a view to supporting, in particular, its economic resilience and stability, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary to achieve that objective.
- (25) In view of the urgency entailed by the exceptional circumstances caused by the COVID-19 pandemic and the associated economic consequences, it is considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.
- (26) In order to allow for the prompt application of measures laid down in this Decision, this Decision should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS DECISION:

Article 1

1. The Union shall make macro-financial assistance of a maximum amount of EUR 1,2 billion available to Ukraine (the 'Union's macro-financial assistance'), with a view to supporting Ukraine's economic stabilisation and substantive reform agenda. The full amount of the Union's macro-financial assistance shall be provided to Ukraine in the form of loans. The release of the Union's macro-financial assistance is subject to the approval of the Union budget for the relevant year by the European Parliament and the Council. The assistance shall contribute to covering Ukraine's balance-of-payments needs as identified in the IMF programme.

2. In order to finance the Union's macro-financial assistance, the Commission shall be empowered, on behalf of the Union, to borrow the necessary funds on the capital markets or from financial institutions and to on-lend them to Ukraine. The loans shall have a maximum average maturity of 15 years.

3. The release of the Union's macro-financial assistance shall be managed by the Commission in a manner consistent with the agreements or understandings reached between the IMF and Ukraine, and with the key principles and objectives of economic reforms set out in the Association Agreement, including the DCFTA, agreed under the ENP.

⁽³⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

The Commission shall regularly inform the European Parliament and the Council of developments regarding the Union's macro-financial assistance, including disbursements thereof, and shall provide those institutions with the relevant documents in due time.

4. The Union's macro-financial assistance shall be made available for a period of 12 months, starting on the first day after the entry into force of the MOU referred to in Article 3(1).

5. If the financing needs of Ukraine decrease fundamentally during the period of the disbursement of the Union's macro-financial assistance compared to the initial projections, the Commission, acting in accordance with the examination procedure referred to in Article 7(2), shall reduce the amount of the assistance or suspend or cancel it.

Article 2

1. A precondition for granting the Union's macro-financial assistance shall be that Ukraine respects effective democratic mechanisms, including a multi-party parliamentary system, and the rule of law, and guarantees respect for human rights.

2. The Commission and the European External Action Service shall monitor the fulfilment of the precondition set out in paragraph 1 throughout the life-cycle of the Union's macro-financial assistance.

3. Paragraphs 1 and 2 of this Article shall apply in accordance with Council Decision 2010/427/EU ⁽⁶⁾.

Article 3

1. The Commission, in accordance with the examination procedure referred to in Article 7(2), shall agree with the Ukrainian authorities on clearly defined economic policy and financial conditions, focusing on structural reforms and sound public finances, to which the Union's macro-financial assistance is to be subject. Those economic policy and financial conditions shall be set out in a MOU which shall include a timeframe for the fulfilment of those conditions. The economic policy and financial conditions set out in the MOU shall be consistent with the agreements or understandings referred to in Article 1(3), including the macroeconomic adjustment and structural reform programmes implemented by Ukraine with the support of the IMF.

2. The conditions referred to in paragraph 1 shall aim, in particular, to enhance the efficiency, transparency and accountability of the public finance management systems in Ukraine, including for the use of the Union's macro-financial assistance. Progress in mutual market opening, the development of rule-based and fair trade, and other priorities in the context of the Union's external policy shall also be duly taken into account when designing the policy measures. The Commission shall regularly monitor the progress in attaining those objectives.

3. The detailed financial terms of the Union's macro-financial assistance shall be laid down in a loan agreement to be concluded between the Commission and Ukraine.

4. The Commission shall verify, at regular intervals, that the conditions referred to in Article 4(3) continue to be met, including whether the economic policies of Ukraine are in accordance with the objectives of the Union's macro-financial assistance. For the purposes of that verification, the Commission shall coordinate closely with the IMF and the World Bank, and, where necessary, with the European Parliament and with the Council.

Article 4

1. Subject to the conditions referred to in paragraph 3, the Union's macro-financial assistance shall be made available by the Commission in two equal instalments, each of which shall consist of a loan. The timeframe for the disbursement of each instalment shall be laid down in the MOU.

⁽⁶⁾ Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

2. The amounts of the Union's macro-financial assistance provided in the form of loans shall be provisioned, where required, in accordance with Regulation (EU) 2021/947.

3. The Commission shall decide on the release of the instalments, subject to the fulfilment of the following conditions:

- (a) the precondition set out in Article 2(1);
- (b) a continuous satisfactory track record of implementing a non-precautionary IMF credit arrangement;
- (c) the satisfactory implementation of the economic policy and financial conditions agreed in the MOU.

The release of the second instalment shall not, in principle, take place earlier than three months after the release of the first instalment.

4. Where the conditions referred to in paragraph 3, first subparagraph, are not met, the Commission shall temporarily suspend or cancel the disbursement of the Union's macro-financial assistance. In such cases, it shall inform the European Parliament and the Council of the reasons for the suspension or cancellation.

5. The Union's macro-financial assistance shall be disbursed to the National Bank of Ukraine. Subject to the provisions to be agreed in the MOU, including a confirmation of residual budgetary financing needs, the Union funds may be transferred to the Ukrainian Ministry of Finance as the final beneficiary.

Article 5

1. The borrowing and lending operations related to the Union's macro-financial assistance shall be carried out in euro using the same value date and shall not involve the Union in the transformation of maturities, or expose the Union to any exchange or interest rate risk, or to any other commercial risk.

2. Where the circumstances permit, and if Ukraine so requests, the Commission may take the steps necessary to ensure that an early repayment clause is included in the loan terms and conditions and that it is matched by a corresponding clause in the terms and conditions of the borrowing operations.

3. Where circumstances permit an improvement of the interest rate of the loan and if Ukraine so requests, the Commission may decide to refinance all or part of its initial borrowings or may restructure the corresponding financial conditions. Refinancing or restructuring operations shall be carried out in accordance with paragraphs 1 and 4 and shall not have the effect of extending the maturity of the borrowings concerned or of increasing the amount of capital outstanding at the date of the refinancing or restructuring.

4. All costs incurred by the Union which relate to the borrowing and lending operations under this Decision shall be borne by Ukraine.

5. The Commission shall inform the European Parliament and the Council of developments in the operations referred to in paragraphs 2 and 3.

Article 6

1. The Union's macro-financial assistance shall be implemented in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁷⁾.

⁽⁷⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

2. The Union's macro-financial assistance shall be implemented under direct management.
3. The loan agreement referred to in Article 3(3) shall contain all of the following provisions:
 - (a) ensuring that Ukraine regularly checks that financing provided from the general budget of the Union has been properly used, takes appropriate measures to prevent irregularities and fraud, and, if necessary, takes legal action to recover any funds provided under this Decision that have been misappropriated;
 - (b) ensuring the protection of the Union's financial interests, in particular providing for specific measures in relation to the prevention of, and fight against, fraud, corruption and any other irregularities affecting the Union's macro-financial assistance, in accordance with Council Regulations (EC, Euratom) No 2988/95 ⁽⁸⁾ and (Euratom, EC) No 2185/96 ⁽⁹⁾, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽¹⁰⁾ and, for those Member States participating in enhanced cooperation regarding the European Public Prosecutor's Office, Council Regulation (EU) 2017/1939 ⁽¹¹⁾;
 - (c) expressly authorising the European Anti-Fraud Office to carry out investigations, including on-the-spot checks and inspections including digital forensic operations and interviews;
 - (d) expressly authorising the Commission, or its representatives, to carry out checks, including on-the-spot checks and inspections;
 - (e) expressly authorising the Commission and the Court of Auditors to perform audits during and after the availability period of the Union's macro-financial assistance, including document audits and on-the-spot audits, such as operational assessments;
 - (f) ensuring that the Union is entitled to early repayment of the loan where it has been established that, in relation to the management of the Union's macro-financial assistance, Ukraine has engaged in any act of fraud or corruption or any other illegal activity detrimental to the financial interests of the Union;
 - (g) ensuring that all costs incurred by the Union that relate to the borrowing and lending operations under this Decision are to be borne by Ukraine.
4. Before the implementation of the Union's macro-financial assistance, the Commission shall assess, by means of an operational assessment, the soundness of Ukraine's financial arrangements, the administrative procedures, and the internal and external control mechanisms which are relevant to the assistance.

Article 7

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 8

1. By 30 June of each year, the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Decision in the preceding year, including an evaluation of that implementation. That report shall:
 - (a) examine the progress made in implementing the Union's macro-financial assistance;

⁽⁸⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

⁽⁹⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁽¹⁰⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽¹¹⁾ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

- (b) assess the economic situation and prospects of Ukraine, as well as the progress made in implementing the policy measures referred to in Article 3(1);
 - (c) indicate the connection between the economic policy conditions set out in the MOU, Ukraine's ongoing economic and fiscal performance and the Commission's decisions to release the instalments of the Union's macro-financial assistance.
2. Not later than two years after the expiry of the availability period referred to in Article 1(4), the Commission shall submit to the European Parliament and to the Council an *ex-post* evaluation report, assessing the results and efficiency of the completed Union's macro-financial assistance and the extent to which it has contributed to the aims of the assistance.

Article 9

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, 24 February 2022.

For the European Parliament

The President

R. METSOLA

For the Council

The President

A. PANNIER-RUNACHER

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2022/314**of 15 February 2022****concerning the accession of the European Union to the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43 in conjunction with Article 218(6), second subparagraph, point (a), thereof,

Having regard to the proposal from the European Commission,

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

Whereas:

- (1) On 22 June 2018, the Council authorised the Commission to open negotiations with the North Pacific Fisheries Commission for the Union to accede to the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean (the 'Convention').
- (2) The Union is competent to adopt measures for the conservation of marine biological resources under the common fisheries policy and to enter into agreements with third countries and international organisations.
- (3) Pursuant to Council Decision 98/392/EC ⁽²⁾, the Union is a contracting party to the United Nations Convention on the Law of the Sea ('UNCLOS') of 10 December 1982, which requires all contracting parties to UNCLOS to cooperate in conserving and managing the biological resources of the sea.
- (4) Pursuant to Council Decision 98/414/EC ⁽³⁾, the Union is a contracting party to the Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, relating to the conservation and management of straddling fish stocks and highly migratory fish stocks.
- (5) At its sixth annual session from 23 to 25 February 2021, the North Pacific Fisheries Commission invited the Union to accede to the Convention.

⁽¹⁾ Consent of 15 February 2022 (not yet published in the Official Journal).

⁽²⁾ Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 1).

⁽³⁾ Council Decision 98/414/EC of 8 June 1998 on the ratification by the European Community of the Agreement for the implementing of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling stocks and highly migratory fish stocks (OJ L 189, 3.7.1998, p. 14).

- (6) Accession to the Convention should promote consistency in the Union's conservation approach across the world's oceans and reinforce its commitment to the long-term conservation and sustainable use of fisheries resources globally. In accordance with the joint communication of the High Representative of the Union for Foreign Affairs and Security Policy and the Commission of 10 November 2016 on 'International ocean governance: an agenda for the future of our oceans' and the Council conclusions of 3 April 2017 on that joint communication, promoting measures to support and enhance the effectiveness of regional fisheries management organisations and, where relevant, improve their governance is a central feature of the Union's action in those organisations.
- (7) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁴⁾, and delivered formal comments on 27 August 2021. Personal data processed by Member States or by the Commission in the framework of the Convention is to be treated in accordance with the applicable provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽⁵⁾ and Regulation (EU) 2018/1725.
- (8) The Union should therefore accede to the Convention,

HAS ADOPTED THIS DECISION:

Article 1

The accession of the European Union to the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean is hereby approved on behalf of the Union.

The text of the Convention is 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 accession provided for in Article 24(4) of the Convention.

Article 3

This Decision shall enter into force on the date of its adoption ⁽⁶⁾.

Done at Brussels, 15 February 2022.

For the Council

The President

J.-Y. LE DRIAN

⁽⁴⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

⁽⁵⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁽⁶⁾ The date of entry into force of the Convention for the Union will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

CONVENTION ON THE CONSERVATION AND MANAGEMENT OF HIGH SEAS FISHERIES RESOURCES IN THE NORTH PACIFIC OCEAN

The CONTRACTING PARTIES,

COMMITTED to ensuring the long-term conservation and sustainable use of fisheries resources in the North Pacific Ocean and in so doing safeguarding the marine ecosystems in which these resources occur;

RECALLING relevant international law as reflected in the *United Nations Convention on the Law of the Sea* of 10 December 1982, the *Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks* of 4 December 1995 and the *Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas* of 24 November 1993 and taking into account the *Code of Conduct for Responsible Fisheries* adopted by the Conference of the Food and Agriculture Organization of the United Nations ("FAO") at its 28th session on 31 October 1995 as well as the *International Guidelines for the Management of Deep-Sea Fisheries in the High Seas* adopted by FAO on 29 August 2008;

NOTING the call from the United Nations General Assembly in its resolutions 61/105 and 64/72 to take steps to protect vulnerable marine ecosystems and associated species from significant adverse impacts of destructive fishing practices and its resolution 60/31 encouraging States, as appropriate, to recognize that the general principles of the *Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks* of 4 December 1995 should also apply to discrete fish stocks in the high seas;

RECOGNIZING the necessity to collect scientific data in order to understand the marine biodiversity and ecology in the region and to assess the impacts of fisheries on marine species and vulnerable marine ecosystems;

CONSCIOUS of the need to avoid adverse impacts on the marine environment, to preserve biodiversity, to maintain the integrity of marine ecosystems, and to minimize the risk of long-term or irreversible effects of fishing operations;

CONCERNED about possible adverse impacts of unregulated bottom fishing activities on marine species and vulnerable marine ecosystems on the high seas of the North Pacific Ocean;

FURTHER COMMITTED to conducting responsible fishing activities and to cooperating effectively to prevent, deter and eliminate illegal, unreported and unregulated fishing ("IUU fishing") activities and the adverse impacts that they have on the state of the world's fisheries resources and the ecosystems in which they occur;

HAVE AGREED as follows:

Article 1

Use of Terms

For the purposes of this Convention:

- (a) "1982 Convention" means the *United Nations Convention on the Law of the Sea* of 10 December 1982;
- (b) "1995 Agreement" means the *Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks* of 4 December 1995;
- (c) "Bottom fishing" means fishing activities where the fishing gear is likely to contact the seafloor during the normal course of fishing operations;
- (d) "Consensus" means the absence of any formal objection made at the time the decision is taken;

- (e) “Contracting Party” means any State or regional economic integration organization that has consented to be bound by this Convention and for which the Convention is in force;
- (f) “Convention Area” means the area to which this Convention applies, as prescribed in Article 4, paragraph 1;
- (g) “FAO International Guidelines” means *the International Guidelines for the Management of Deep-Sea Fisheries in the High Seas* adopted by FAO on 29 August 2008, as may be modified from time to time;
- (h) “Fisheries resources” means all fish, mollusks, crustaceans and other marine species caught by fishing vessels within the Convention Area, excluding:
 - (i) sedentary species insofar as they are subject to the sovereign rights of coastal States consistent with Article 77, paragraph 4 of the 1982 Convention and indicator species of vulnerable marine ecosystems as listed in, or adopted pursuant to, Article 13, paragraph 5 of this Convention;
 - (ii) catadromous species;
 - (iii) marine mammals, marine reptiles and seabirds; and
 - (iv) other marine species already covered by pre-existing international fisheries management instruments within the area of competence of such instruments;
- (i) “Fishing activities” means:
 - (i) the actual or attempted searching for, catching, taking or harvesting of fisheries resources;
 - (ii) engaging in any activity that can reasonably be expected to result in locating, catching, taking or harvesting of these resources for any purpose;
 - (iii) the processing of these resources at sea and the transshipping of these resources at sea or in port; and
 - (iv) any operation at sea in direct support of, or in preparation for, any activity described in subparagraphs (i) to (iii) above, except for any operation related to emergencies involving the health and safety of crew members or the safety of fishing vessels;
- (j) “Fishing vessel” means any vessel used or intended for use for the purpose of engaging in fishing activities, including fish processing vessels, support ships, carrier vessels and any other vessel directly engaged in such fishing activities;
- (k) “IUU fishing” refers to the activities as set out in paragraph 3 of the 2001 FAO *International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing*, and other activities as may be decided by the Commission;
- (l) “Precautionary approach” means the precautionary approach as specified in Article 6 of the 1995 Agreement;
- (m) “Regional economic integration organization” means a regional economic integration organization to which its member States have transferred competence over matters covered by this Convention, including the authority to make decisions binding on its member States in respect of those matters; and
- (n) “Transshipment” means the unloading of any fisheries resources or products of fisheries resources taken in the Convention Area from one fishing vessel to another fishing vessel either at sea or in port.

Article 2

Objective

The objective of this Convention is to ensure the long-term conservation and sustainable use of the fisheries resources in the Convention Area while protecting the marine ecosystems of the North Pacific Ocean in which these resources occur.

*Article 3***General Principles**

In giving effect to the objective of this Convention, the following actions shall be taken individually or collectively as appropriate:

- (a) promoting the optimum utilization and ensuring the long-term sustainability of fisheries resources;
- (b) adopting measures, based on the best scientific information available, to ensure that fisheries resources are maintained at or restored to levels capable of producing maximum sustainable yield, taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;
- (c) adopting and implementing measures in accordance with the precautionary approach and an ecosystem approach to fisheries, and in accordance with the relevant rules of international law, in particular as reflected in the 1982 Convention, the 1995 Agreement and other relevant international instruments;
- (d) assessing the impacts of fishing activities on species belonging to the same ecosystem or dependent upon or associated with the target stocks and adopting, where necessary, conservation and management measures for such species with a view to maintaining or restoring the populations of such species above levels at which their reproduction may become seriously threatened;
- (e) protecting biodiversity in the marine environment, including by preventing significant adverse impacts on vulnerable marine ecosystems, taking into account any relevant international standards or guidelines including the FAO International Guidelines;
- (f) preventing or eliminating overfishing and excess fishing capacity, and ensuring that levels of fishing effort or harvest levels are based on the best scientific information available and do not exceed those commensurate with the sustainable use of the fisheries resources;
- (g) ensuring that complete and accurate data concerning fishing activities, including with respect to all target and non-target species within the Convention Area, are collected and shared in a timely and appropriate manner;
- (h) ensuring that any expansion of fishing effort, development of new or exploratory fisheries, or change in the gear used for existing fisheries, does not proceed without prior assessment of the impacts of those fishing activities on the long-term sustainability of fisheries resources and a determination that those activities would not have significant adverse impacts on vulnerable marine ecosystems, or ensuring that those activities are managed to prevent those impacts or are not authorized to proceed;
- (i) ensuring, in accordance with Article 7 of the 1995 Agreement, that conservation and management measures established for straddling fish stocks on the high seas and those adopted for areas under national jurisdiction are compatible in order to ensure conservation and management of these fisheries resources in their entirety;
- (j) ensuring compliance with conservation and management measures and that sanctions applicable in respect of violations are adequate in severity to be effective in securing compliance, to discourage violations wherever they occur and to deprive offenders of the benefits accruing from their illegal activities;
- (k) minimizing pollution and waste originating from fishing vessels, discards, catch by lost or abandoned gear, and impacts on other species and marine ecosystems through measures including, to the extent practicable, the development and use of selective, environmentally safe, and cost-effective fishing gear and techniques; and
- (l) applying this Convention in a fair, transparent and non-discriminatory manner, consistent with international law.

*Article 4***Area of Application**

1. This Convention applies to the waters of the high seas area of the North Pacific Ocean, excluding the high seas areas of the Bering Sea and other high seas areas that are surrounded by the exclusive economic zone of a single State. The area of application is bounded to the south by a continuous line beginning at the seaward limit of waters under the jurisdiction of the United States of America around the Commonwealth of the Northern Mariana Islands at twenty (20) degrees North latitude, then proceeding East and connecting the following coordinates:

- 20°00'00"N, 180°00'00"E/W;
- 10°00'00"N, 180°00'00"E/W;
- 10°00'00"N, 140°00'00"W;
- 20°00'00"N, 140°00'00"W; and
- Thence East to the seaward limit of waters under the fisheries jurisdiction of Mexico.

2. Nothing in this Convention, nor any act or activity carried out in pursuance of this Convention, shall constitute recognition of the claims or positions of any Contracting Party concerning the legal status and extent of waters and zones claimed by any such Contracting Party.

*Article 5***Establishment of the Commission**

1. The North Pacific Fisheries Commission ("Commission") is hereby established. The Commission shall function in accordance with the provisions of this Convention. Each Contracting Party shall be a member of the Commission.

2. A fishing entity referred to in the Convention may participate in the work of the Commission in accordance with the Annex. The participation of a fishing entity in the work of the Commission shall not constitute a deviation from accepted application of international law, including the 1982 Convention.

3. The Commission shall hold a regular meeting at least once every two years at a time and location to be decided by the Commission and may hold such other meetings as may be necessary to carry out its functions under this Convention.

4. Any member of the Commission may request a meeting of the Commission, which shall be convened with the consent of a majority of the members of the Commission. The Chairperson shall then convene such a meeting in a timely fashion at such time and place as the Chairperson may determine in consultation with the members of the Commission.

5. The Commission shall elect a Chairperson and a vice-Chairperson from among the representatives of Contracting Parties, who shall each be from a different Contracting Party. They shall be elected for a period of two years and shall be eligible for reelection, but shall not serve for more than four years in succession in the same capacity. The Chairperson and the vice-Chairperson shall remain in office until the election of their successors.

6. The Commission shall apply the principle of cost-effectiveness to the frequency, duration and scheduling of meetings of the Commission and its subsidiary bodies.

7. The Commission shall have international legal personality and such legal capacity as may be necessary to perform its functions and achieve its objectives. The privileges and immunities that the Commission and its officers shall enjoy in the territory of a Contracting Party shall be determined by agreement between the Commission and the Contracting Party concerned.

8. All meetings of the Commission and subsidiary bodies shall be open to participation by accredited observers in accordance with Rules of Procedure that the Commission shall adopt. Related documents shall be made publicly available in accordance with such Rules of Procedure.

9. The Commission may establish a permanent Secretariat consisting of an Executive Secretary and other such staff as the Commission may require and/or enter into contractual arrangements with the Secretariat of an existing organization for the provision of services. Any Executive Secretary shall be appointed with the approval of the Contracting Parties.

Article 6

Subsidiary Bodies

1. A Scientific Committee and a Technical and Compliance Committee are hereby established. The Commission may establish by consensus any other subsidiary bodies from time to time to assist in meeting the objective of this Convention.

2. Each subsidiary body shall, after each meeting, provide a report on its work to the Commission that includes, where appropriate, advice and recommendations to the Commission.

3. Subsidiary bodies may establish working groups and may seek external advice in accordance with any guidance provided by the Commission.

4. Subsidiary bodies shall be responsible to the Commission and shall operate under the Rules of Procedure of the Commission, unless the Commission decides otherwise.

Article 7

Functions of the Commission

1. The Commission shall, in accordance with the principles set out in Article 3 and based on the best scientific information available and the advice of the Scientific Committee:

- (a) adopt conservation and management measures to ensure the long-term sustainability of the fisheries resources within the Convention Area, including the total allowable catch or total allowable level of fishing effort for those fisheries resources as the Commission may decide;
- (b) ensure that levels of total allowable catch or total allowable level of fishing effort are in accordance with the advice and recommendations of the Scientific Committee;
- (c) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem or dependent upon or associated with the target stocks;
- (d) adopt, where necessary, management strategies for any fisheries resources and for species belonging to the same ecosystem or dependent upon or associated with the target stocks, as may be necessary to achieve the objective of this Convention;
- (e) adopt conservation and management measures to prevent significant adverse impacts on vulnerable marine ecosystems in the Convention Area, including but not limited to:
 - (i) measures for conducting and reviewing impact assessments to determine if fishing activities would produce such impacts on such ecosystems in a given area;
 - (ii) measures to address unexpected encounters with vulnerable marine ecosystems in the course of normal bottom fishing activities; and
 - (iii) as appropriate, measures that specify locations in which fishing activities shall not occur;
- (f) determine the nature and extent of participation in existing fisheries, including through the allocation of fishing opportunities;

- (g) establish by consensus the terms and conditions for any new fisheries in the Convention Area and the nature and extent of participation in such fisheries, including through the allocation of fishing opportunities; and
- (h) agree on means by which the fishing interests of new Contracting Parties may be accommodated in a manner consistent with the need to ensure the long-term sustainability of the fisheries resources covered by this Convention.

2. The Commission shall adopt measures to ensure effective monitoring, control and surveillance, as well as compliance with and enforcement of the provisions of this Convention and measures adopted pursuant to this Convention. To this end, the Commission shall:

- (a) establish procedures for the regulation and monitoring of transshipment of fisheries resources and products of fisheries resources taken in the Convention Area, including notification to the Commission of the location and quantity of any transshipment;
- (b) develop and implement a North Pacific Ocean Fisheries Observer Program ("Observer Program"), taking into account relevant international standards and guidelines;
- (c) establish procedures for the boarding and inspection of fishing vessels in the Convention Area;
- (d) establish appropriate cooperative mechanisms for effective monitoring, control and surveillance to ensure enforcement of the conservation and management measures adopted by the Commission including mechanisms to prevent, deter and eliminate IUU fishing;
- (e) develop standards, specifications and procedures for members of the Commission to report movements and activities using real-time satellite position-fixing transmitters for vessels engaged in fishing activities in the Convention Area and, in accordance with those procedures, coordinate timely dissemination of data collected from members' satellite vessel monitoring systems;
- (f) establish procedures by which entry into and exit from the Convention Area of fishing vessels catching or planning to catch fisheries resources in the Convention Area are notified to the Commission in a timely manner;
- (g) establish, where appropriate, non-discriminatory market-related measures consistent with international law to prevent, deter and eliminate IUU fishing; and
- (h) establish procedures for reviewing compliance with the provisions of this Convention and measures adopted pursuant to this Convention.

3. The Commission shall:

- (a) adopt and/or amend as necessary, by consensus, the rules for the conduct of its meetings and for the exercise of its functions, including Rules of Procedure, Financial Regulations and other regulations;
- (b) adopt a plan of work and terms of reference for the Scientific Committee, for the Technical and Compliance Committee and, as necessary, for other subsidiary bodies;
- (c) refer to the Scientific Committee any question pertaining to the scientific basis for the decisions the Commission may need to take concerning conserving and managing fisheries resources and species belonging to the same ecosystem or dependent upon or associated with the target stocks and assessing and addressing the impacts of fishing activities on vulnerable marine ecosystems;
- (d) establish the terms and conditions for any experimental, scientific, and exploratory fishing activities in the Convention Area and determine the scope of any cooperative scientific research on fisheries resources, vulnerable marine ecosystems, and species belonging to the same ecosystem or dependent upon or associated with the target stocks;
- (e) adopt and amend from time to time a list of indicator species for vulnerable marine ecosystems for which directed fishing shall be prohibited;
- (f) direct the external relations of the Commission; and
- (g) perform such other functions and carry out such other activities as may be necessary to promote the objective of this Convention.

*Article 8***Decision-Making**

1. As a general rule, the Commission shall make its decisions by consensus.
2. Except where this Convention expressly provides that a decision shall be taken by consensus, if the Chairperson considers that all efforts to reach consensus have been exhausted:
 - (a) decisions of the Commission on questions of procedure shall be taken by a majority of members of the Commission casting affirmative or negative votes; and
 - (b) decisions on questions of substance shall be taken by a three-quarters majority of members of the Commission casting affirmative or negative votes.
3. When the issue arises as to whether a question is one of substance or not, that question shall be treated as one of substance.
4. No decisions shall be taken unless there is a quorum of two-thirds of the members of the Commission present at the time the decision is to be taken.

*Article 9***Implementation of Commission Decisions**

1. Binding decisions by the Commission shall take effect in the following manner:
 - (a) the Chairperson of the Commission shall notify promptly in writing all members of the Commission of such a decision following its adoption by the Commission;
 - (b) the decision shall become binding upon all members of the Commission ninety (90) days after the date of transmittal specified in the Chairperson's notification of the adoption of the decision by the Commission, pursuant to subparagraph (a) above, unless otherwise specified in the decision;
 - (c) a member of the Commission may object to a decision solely on the grounds that the decision is inconsistent with the provisions of this Convention, the 1982 Convention or the 1995 Agreement, or that the decision unjustifiably discriminates in form or in fact against the objecting member;
 - (d) if a member of the Commission presents an objection, it shall so notify the Chairperson of the Commission in writing at least two weeks in advance of the date that the decision becomes binding in accordance with subparagraph (b) above; in this case, the decision shall not, to the extent stated, be binding upon that member; however, the decision shall remain binding on all other members unless the Commission decides otherwise;
 - (e) any member of the Commission that makes a notification under subparagraph (d) above shall specify whether the decision is inconsistent with the provisions of this Convention, the 1982 Convention or the 1995 Agreement, or unjustifiably discriminates in form or in fact against that member and, at the same time, provide a written explanation of the grounds for its position. The member must also adopt and implement alternative measures that are equivalent in effect to the decision to which it has objected and that have the same date of application;
 - (f) the Chairperson shall promptly circulate to all members of the Commission details of any notification and explanation received in accordance with subparagraphs (d) and (e) above;
 - (g) in the event that any member of the Commission invokes the procedure set out in subparagraphs (d) and (e) above, a Commission meeting shall take place at the request of any other member to review the decision to which the objection has been presented. The Commission shall, at its expense, invite to that meeting two or more experts who are nationals of non-members of the Commission and who have sufficient knowledge of international law related to fisheries and of the operation of regional fisheries management organizations to provide advice to the Commission on the matter in question. The selection and activities of these experts shall be in accordance with procedures to be adopted by the Commission;

- (h) the Commission meeting shall consider whether the grounds specified for the objection presented by the member of the Commission are justified and whether the alternative measures adopted are equivalent in effect to the decision to which the objection has been presented;
- (i) if the Commission finds that the decision to which objection has been presented does not discriminate in form or fact against the objecting member of the Commission and is not inconsistent with this Convention, the 1982 Convention or the 1995 Agreement, but that the alternative measures are equivalent in effect to the decision by the Commission and should be accepted as such by the Commission, the alternative measures shall be binding on the objecting member in substitution for the decision to which the objection has been presented; and
- (j) if the Commission finds that the decision to which objection has been presented does not discriminate in form or in fact against the objecting member and is not inconsistent with this Convention, the 1982 Convention or the 1995 Agreement, but that the alternative measures are not equivalent in effect to the decision to which it has objected, the objecting member may:
 - (i) present different alternative measures to be considered by the Commission;
 - (ii) within forty-five (45) days implement the original decision to which it had presented an objection; or
 - (iii) institute dispute settlement proceedings pursuant to Article 19 or paragraph 4 of the Annex.

2. Any member of the Commission that invokes the right of objection set out in paragraph 1 may at any time withdraw its notification of objection and become bound by the decision immediately if it is already in effect or at such time as it may come into effect under this Article.

Article 10

Scientific Committee

1. The Scientific Committee shall provide scientific advice and recommendations in accordance with the terms of reference for the Committee to be adopted at the first regular meeting of the Commission and as may be amended from time to time.
2. The Scientific Committee shall meet, unless the Commission otherwise decides, at least once every two years, and prior to the regular meeting of the Commission.
3. The Scientific Committee shall make every effort to adopt its reports by consensus. If every effort to achieve consensus has failed, the report shall indicate the majority and minority views and may include the differing views of the representatives of the members on all or any part of the report.
4. The functions of the Scientific Committee shall be to:
 - (a) recommend to the Commission a research plan, including specific issues and items to be addressed by the scientific experts or by other organizations or individuals, as appropriate, and identify data needs and coordinate activities that meet those needs;
 - (b) regularly plan, conduct and review the scientific assessments of the status of fisheries resources in the Convention Area, identify actions required for their conservation and management, and provide advice and recommendations to the Commission;
 - (c) collect, analyze and disseminate relevant information;
 - (d) assess the impacts of fishing activities on fisheries resources and species belonging to the same ecosystem or dependent upon or associated with the target stocks;
 - (e) develop a process to identify vulnerable marine ecosystems, including relevant criteria for doing so, and identify, based on the best scientific information available, areas or features where these ecosystems are known to occur, or are likely to occur, and the location of bottom fisheries in relation to these areas or features, taking due account of the need to protect confidential information;

- (f) identify and advise the Commission on additional indicator species for vulnerable marine ecosystems for which directed fishing shall be prohibited;
- (g) establish science-based standards and criteria to determine if bottom fishing activities are likely to produce significant adverse impacts on vulnerable marine ecosystems or marine species in a given area based on international standards such as the FAO International Guidelines and make recommendation for measures to avoid such impacts;
- (h) review any assessments, determinations and management measures and make any necessary recommendation in order to attain the objective of this Convention;
- (i) develop rules and standards, for adoption by the Commission, for the collection, verification, reporting, and the security of, exchange of, access to and dissemination of data on fisheries resources, species belonging to the same ecosystem, or dependent upon or associated with the target stocks and fishing activities in the Convention Area;
- (j) to the extent practicable, provide analysis to the Commission of alternative conservation and management measures that estimates the extent to which each alternative would achieve the objectives of any management strategy adopted or under consideration by the Commission; and
- (k) provide such other scientific advice to the Commission as it considers appropriate or as may be required by the Commission.

5. The Scientific Committee may exchange information on matters of mutual interest with other relevant scientific organizations or arrangements in accordance with the rules and standards adopted by the Commission pursuant to subparagraph 4(i) above and Article 21.

6. The Scientific Committee shall not duplicate the activities of other scientific organizations and arrangements that cover the Convention Area.

Article 11

Technical and Compliance Committee

1. The functions of the Technical and Compliance Committee shall be to:
 - (a) monitor and review compliance with conservation and management measures adopted by the Commission and make recommendations to the Commission as may be necessary; and
 - (b) review the implementation of cooperative measures for monitoring, control, surveillance and enforcement adopted by the Commission and make recommendations to the Commission as may be necessary.
2. The Commission shall decide when the Technical and Compliance Committee shall hold its initial meeting. Thereafter, the Technical and Compliance Committee shall meet, unless the Commission otherwise decides, at least once every two years, and prior to the regular meeting of the Commission.
3. The Technical and Compliance Committee shall make every effort to adopt its reports by consensus. If every effort to achieve consensus has failed, the report shall indicate the majority and minority views and may include the differing views of the representatives of the members on all or any part of the report.
4. In carrying out its functions, the Technical and Compliance Committee shall:
 - (a) provide a forum for exchange of information concerning the means by which members of the Commission are implementing the conservation and management measures adopted by the Commission in the Convention Area and complementary measures in adjacent waters as appropriate;
 - (b) provide a forum for the exchange of information on enforcement, including enforcement efforts, strategies and plans;
 - (c) receive reports from each member of the Commission relating to measures that the member has taken to monitor, investigate and penalize violations of provisions of this Convention and measures adopted pursuant to this Convention;

- (d) report to the Commission its findings or conclusions on the extent of compliance with conservation and management measures;
- (e) make recommendations to the Commission on matters relating to monitoring, control, surveillance and enforcement;
- (f) develop rules and procedures governing the use of data and other information for monitoring, control and surveillance purposes; and
- (g) consider and/or investigate any other matters as may be referred to it by the Commission.

5. The Technical and Compliance Committee shall exercise its functions in accordance with the procedures and guidelines as the Commission may adopt from time to time.

Article 12

Budget

1. Each member of the Commission shall meet its own expenses arising from attendance at meetings of the Commission and of its subsidiary bodies.
2. At each regular meeting, the Commission shall, by consensus, adopt an annual budget for each of the next two years. The Executive Secretary shall transmit draft budgets for each of those years to the members together with a schedule of contributions not later than sixty (60) days before the regular meeting of the Commission at which those budgets are to be considered. In the event that the Commission cannot reach consensus on the adoption of an annual budget for any given year, the Commission budget for the previous year shall carry forward for that year.
3. The budget shall be divided among members of the Commission in accordance with a formula to be adopted, by consensus, by the Commission. A member of the Commission that has become a member during the course of a financial year shall contribute to the budget an amount proportional to the number of complete months remaining in the year calculated from the day it became a member.
4. The Executive Secretary shall notify each member of the Commission of the amount of its contribution. Contributions shall be paid not later than four months after the date of this notification, in the currency of the State in which the Secretariat of the Commission is located. A member of the Commission that cannot meet the deadline shall explain to the Commission the reason it is unable to do so.
5. A member of the Commission that has not paid its contributions in full for two consecutive years shall not be entitled to participate in the making of decisions by the Commission, nor may it present objections to any decisions taken by the Commission, until it has discharged its financial obligations to the Commission.
6. The financial affairs of the Commission shall be audited annually by external auditors to be selected by the Commission.

Article 13

Flag State Duties

1. Each Contracting Party shall take such measures as may be necessary to ensure that fishing vessels entitled to fly its flag:
 - (a) operating in the Convention Area comply with the provisions of this Convention and measures adopted pursuant to this Convention and that such vessels do not engage in any activities that undermine the effectiveness of such measures; and
 - (b) do not conduct unauthorized fishing activities within areas under the national jurisdiction of another State adjacent to the Convention Area.
2. No Contracting Party shall allow any fishing vessel entitled to fly its flag to be used for fishing activities in the Convention Area unless it has been authorized to do so by the appropriate authority or authorities of that Contracting Party. Each Contracting Party shall authorize the use of vessels entitled to fly its flag for fishing activities in the Convention Area only where it is able to exercise effectively its responsibilities in respect of those vessels under this Convention, the 1982 Convention and the 1995 Agreement.

3. Each Contracting Party shall ensure that fishing activities by fishing vessels entitled to fly its flag undertaken in violation of the provisions of this Convention, as well as measures adopted pursuant to this Convention and the authorization in paragraph 2, constitute a violation under its legal framework.

4. Each Contracting Party shall require fishing vessels that are entitled to fly its flag and that are engaged in fishing activities in the Convention Area:

- (a) to use real-time satellite position-fixing transmitters while in the Convention Area in accordance with procedures developed pursuant to Article 7, subparagraph 2(e);
- (b) to notify the Commission of their intention to enter and exit the Convention Area in accordance with procedures developed pursuant to Article 7, subparagraph 2(f); and
- (c) to notify the Commission of the location of any transshipment of fisheries resources and products of fisheries resources taken in the Convention Area, pending the adoption by the Commission of procedures for the regulation and monitoring of transshipments pursuant to Article 7, subparagraph 2(a).

5. Each Contracting Party shall prohibit vessels entitled to fly its flag from engaging in directed fishing on the following orders: Alcyonacea, Antipatharia, Gorgonacea, and Scleractinia, as well as any other indicator species for vulnerable marine ecosystems as may be identified from time to time by the Scientific Committee and adopted by the Commission.

6. Each Contracting Party shall place observers on board fishing vessels entitled to fly its flag operating in the Convention Area in accordance with the Observer Program which shall be established in accordance with Article 7, subparagraph 2(b). Fishing vessels engaged in bottom fishing in the Convention Area shall have one hundred (100) percent coverage under the Observer Program. Fishing vessels engaged in other types of fishing activities in the Convention Area shall have a level of observer coverage as the Commission may decide.

7. Each Contracting Party shall ensure that fishing vessels entitled to fly its flag accept boarding by duly authorized inspectors in accordance with procedures for the boarding and inspection of fishing vessels in the Convention Area adopted by the Commission pursuant to Article 7, subparagraph 2(c). Duly authorized inspectors shall comply with these procedures.

8. For the purpose of the effective implementation of this Convention, each Contracting Party shall:

- (a) maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing activities in the Convention Area in accordance with the information requirements, rules, standards, and procedures adopted by the Commission;
- (b) provide annually to the Commission, in accordance with the procedures which shall be established by the Commission, information, as decided by the Commission, with respect to each fishing vessel entered in the record required to be maintained under this paragraph and shall promptly notify the Commission of any modifications to this information; and
- (c) provide to the Commission, as part of the annual report required pursuant to Article 16, the names of the fishing vessels entered in the record that conducted fishing activities during the previous calendar year.

9. Each Contracting Party shall also promptly inform the Commission of:

- (a) any additions to the record; and
- (b) any deletions from the record, specifying which of the following reasons is applicable:
 - (i) the voluntary relinquishment of the fishing authorization by the fishing vessel owner or operator;
 - (ii) the withdrawal or non-renewal of the fishing authorization issued in respect of the fishing vessel under paragraph 2;
 - (iii) the fact that the fishing vessel concerned is no longer entitled to fly its flag;
 - (iv) the scrapping, decommissioning or loss of the fishing vessel concerned; or
 - (v) any other grounds, with a specific explanation provided.

10. The Commission shall maintain its own record of fishing vessels, based on the information provided to it pursuant to paragraphs 8 and 9. The Commission shall make this record publicly available through agreed means, taking due account of the need to protect the confidentiality of personal information, consistent with the domestic practice of each Contracting Party. The Commission shall also provide to any Contracting Party, upon request, information about any vessel entered on the Commission record that is not otherwise publicly available.

11. Any Contracting Party that does not submit the data and information required under Article 16, paragraph 3 in respect of any year in which fishing occurred in the Convention Area by fishing vessels entitled to fly its flag shall not participate in the relevant fisheries until that data and information have been provided. The Rules of Procedure to be adopted by the Commission shall further guide the implementation of this paragraph.

Article 14

Port State Duties

1. A Contracting Party has the right and duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures.

2. Each Contracting Party shall:

- (a) give effect to port State measures adopted by the Commission in relation to the entry and use of its ports by fishing vessels that have engaged in fishing activities in the Convention Area including, *inter alia*, with respect to landing and transshipment of fisheries resources, inspection of fishing vessels, documents, catch and gear on board, and use of port services; and
- (b) provide assistance to flag States, as reasonably practicable and in accordance with its national law and international law, when a fishing vessel is voluntarily in its ports and the flag State of the vessel requests the Contracting Party to provide assistance in ensuring compliance with the provisions of this Convention and with the conservation and management measures adopted by the Commission.

3. In the event that a Contracting Party considers that a fishing vessel making use of its ports has violated a provision of this Convention or a conservation and management measure adopted by the Commission, it shall notify the flag State concerned, the Commission and other relevant States and appropriate international organizations. The Contracting Party shall provide the flag State and, as appropriate, the Commission with full documentation on the matter, including any record of inspection.

4. Nothing in this Article shall be construed to affect the exercise by Contracting Parties of their sovereignty over ports in their territory in accordance with international law, including their right to deny entry to ports in their territory as well as to adopt more stringent port State measures than those adopted by the Commission pursuant to this Convention.

Article 15

Duties of Fishing Entities

Article 13 and Article 14, paragraphs 2 and 3 apply *mutatis mutandis* to any fishing entity that has expressed its firm commitment in accordance with the Annex.

Article 16

Data Collection, Compilation and Exchange

1. The Commission shall, taking full account of Annex I of the 1995 Agreement as well as relevant provisions of Articles 10 and 11, develop standards, rules and procedures for, *inter alia*:

- (a) the collection, verification and timely reporting to the Commission of all relevant data by members of the Commission;

- (b) the compilation and management by the Commission of accurate and complete data to facilitate effective stock assessment for ensuring that the provision of the best scientific advice is enabled;
 - (c) the exchange of data among members of the Commission, and with other regional fisheries management organizations and arrangements, and other relevant organizations including data concerning vessels engaged in IUU fishing and, as appropriate, concerning the beneficial ownership of those vessels, with a view to consolidating that information into a centralized format for dissemination as appropriate;
 - (d) the facilitation of coordinated documentation and data-sharing between regional fisheries management organizations and arrangements, including procedures to exchange data on vessel registers, and market-related measures where applicable; and
 - (e) regular audits of Commission member compliance with data collection and exchange requirements, and for addressing any non-compliance identified in such audits.
2. The Commission shall ensure that data are publicly available concerning the number of fishing vessels operating in the Convention Area, the status of fisheries resources managed under this Convention, fisheries resources assessments, research programs in the Convention Area, and cooperative initiatives with regional and global organizations.
3. The Commission shall establish the format of an annual report to be submitted by each member of the Commission. Each member of the Commission shall submit without delay to the Commission its annual report in accordance with this format. The annual report shall include a description of how the member of the Commission has implemented the conservation and management measures and monitoring, control and surveillance and enforcement procedures adopted by the Commission, including the outcome of any actions the member has taken in respect of Article 17, as well as information on any additional topics as the Commission may decide.
4. The Commission shall establish rules to ensure the security of, access to and dissemination of data, including data reported via real-time satellite position-fixing transmitters, while maintaining confidentiality where appropriate and taking due account of the domestic practices of members of the Commission.

Article 17

Compliance and Enforcement

1. Each member of the Commission shall enforce the provisions of this Convention and any relevant decisions of the Commission.
2. Each member of the Commission shall, either on its own initiative or at the request of any other member of the Commission and when provided with the relevant information, investigate fully any allegation that fishing vessels entitled to fly its flag have violated any of the provisions of this Convention or any conservation and management measure adopted by the Commission.
3. Where sufficient information is available in respect of an alleged violation of the provisions of this Convention or of measures adopted pursuant to this Convention by a fishing vessel entitled to fly its flag:
- (a) the member of the Commission shall be notified promptly of the alleged violation; and
 - (b) the member of the Commission shall take appropriate actions in accordance with its laws and regulations, including instituting proceedings without delay and, where appropriate, detain the vessel concerned.
4. Where it has been established, in accordance with the laws of a member of the Commission, that a fishing vessel entitled to fly the flag of that member has been involved in the commission of a serious violation of the provisions of this Convention or of any conservation and management measures adopted by the Commission, that member of the Commission shall order the fishing vessel to cease operations and, in appropriate cases, shall order the fishing vessel to leave the Convention Area immediately. The member of the Commission shall ensure that the vessel concerned does not engage in fishing activities in the Convention Area for fisheries resources until such time as all outstanding sanctions imposed by that member in respect of the violation have been complied with.

5. For the purposes of this Article, a serious violation shall include any of the violations specified in Article 21, subparagraphs 11 (a) to (h) of the 1995 Agreement and such other violations as may be determined by the Commission.

6. If, within three (3) years of the entry into force of this Convention, the Commission is not able to agree on procedures for boarding and inspection of fishing vessels in the Convention Area, Articles 21 and 22 of the 1995 Agreement shall be applied as if they were part of this Convention. Boarding and inspection of fishing vessels in the Convention Area, as well as any subsequent enforcement action, shall be conducted in accordance with the procedures set out in those Articles and any such additional practical procedures decided by the Commission.

7. Without prejudice to the primacy of the responsibility of the flag State, each member of the Commission, in accordance with its laws, shall:

- (a) to the greatest extent possible, take measures and cooperate to ensure compliance by its nationals, and fishing vessels owned, operated or controlled by its nationals, with the provisions of this Convention and any conservation and management measures adopted by the Commission; and
- (b) either on its own initiative or at the request of any other member of the Commission and when provided with the relevant information, promptly investigate any alleged violation by its nationals, or fishing vessels owned, operated or controlled by its nationals, of the provisions of this Convention or any conservation and management measures adopted by the Commission.

8. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions provided for in the relevant laws and regulations of the members of the Commission shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur, and shall deprive offenders of the benefits accruing from their illegal activities.

9. A report on the progress of any investigation conducted pursuant to paragraphs 2, 3, 4 or 7, including details of any action taken or proposed to be taken in relation to the alleged violation, shall be provided to the member of the Commission making the request and to the Commission as soon as practicable and in any case within two months of the request. A report on the outcome of the investigation shall be provided to the member of the Commission making the request and to the Commission when the investigation is completed.

10. The provisions of this Article are without prejudice to:

- (a) the rights of any of the members of the Commission in accordance with their laws and regulations relating to fisheries; and
- (b) the rights of any of the Contracting Parties in relation to any provision relating to compliance and enforcement contained in any relevant bilateral or multilateral agreement not inconsistent with the provisions of this Convention, the 1982 Convention or the 1995 Agreement.

Article 18

Transparency

The Commission shall promote transparency in its decision-making processes and other activities. Representatives from intergovernmental organizations and non-governmental organizations concerned with matters relevant to the implementation of this Convention shall be afforded the opportunity to participate in the meetings of the Commission and its subsidiary bodies as observers or otherwise as members of the Commission deem appropriate and as provided for in the Rules of Procedure that the Commission shall adopt. The procedures shall not be unduly restrictive in this respect. The intergovernmental organizations and non-governmental organizations shall be given timely access to pertinent information subject to the rules and procedures that the Commission may adopt. Any conservation, management and other measures or matters that are decided by the Commission or subsidiary bodies shall be made publicly available unless otherwise decided by the Commission.

Article 19

Settlement of Disputes

The provisions relating to the settlement of disputes set out in Part VIII of the 1995 Agreement apply, *mutatis mutandis*, to any dispute between Contracting Parties, whether or not they are also Parties to the 1995 Agreement.

Article 20

Cooperation with Non-Contracting Parties

1. The members of the Commission shall exchange information on the activities of fishing vessels in the Convention Area entitled to fly the flags of non-Contracting Parties to this Convention.
2. The Commission shall draw the attention of any non-Contracting Party to this Convention to any activity undertaken by its nationals or fishing vessels entitled to fly its flag which, in the opinion of the Commission, affects the attainment of the objective of this Convention.
3. The Commission shall request the non-Contracting Party identified in paragraph 2 to cooperate fully with the Commission either by becoming a Contracting Party or by agreeing to apply the conservation and management measures adopted by the Commission. Subject to such terms and conditions as the Commission may establish, such a cooperating non-Contracting Party to this Convention may enjoy benefits from participation in the fisheries commensurate with, *inter alia*, its commitment to comply with and its record of compliance with conservation and management measures in respect of the relevant fisheries resources and any financial contribution it makes to the Commission.
4. Each member of the Commission shall take measures consistent with this Convention, the 1982 Convention, the 1995 Agreement and other relevant international law to deter the activities of fishing vessels entitled to fly the flags of non-Contracting Parties to this Convention that undermine the effectiveness of conservation and management measures adopted by the Commission.
5. Each member of the Commission shall take appropriate measures, in accordance with its laws, aimed at preventing vessels entitled to fly its flag from transferring their registration to non-Contracting Parties to this Convention for the purpose of avoiding compliance with the provisions of this Convention.

Article 21

Cooperation with Other Organizations or Arrangements

1. The Commission shall cooperate, as appropriate, on matters of mutual interest with FAO, with other specialized agencies of the United Nations and with relevant regional organizations or arrangements, especially with those regional fisheries management organizations or arrangements with responsibility for fisheries in marine areas near or adjacent to the Convention Area.
2. The Commission shall take into account the conservation and management measures or recommendations adopted by regional fisheries management organizations and arrangements and other relevant intergovernmental organizations that have competence in relation to areas adjacent to the Convention Area or in respect of fisheries resources not covered by this Convention, species belonging to the same ecosystem or dependent upon or associated with the target stocks, and that have objectives that are consistent with and supportive of the objective of this Convention.
3. The Commission shall seek to develop cooperative working relationships and may enter into agreements for this purpose with intergovernmental organizations that can contribute to its work and have competence for ensuring the long-term conservation and sustainable use of living resources and their ecosystems. It may invite these organizations to send observers to its meetings or those of any of its subsidiary bodies. It may also seek to participate in meetings of these organizations as appropriate.

4. The Commission shall seek to make suitable arrangements for consultation, cooperation and collaboration with other regional fisheries management organizations or arrangements in order to utilize, to the maximum extent possible, existing institutions to achieve the objective of this Convention. In this regard, the Commission shall seek to establish cooperation on enforcement activities with those organizations and arrangements carrying out these activities in the Convention Area.

Article 22

Review

1. The Commission shall organize regular reviews of the effectiveness of its adopted conservation and management measures and compliance therewith in meeting the objective of this Convention. These reviews may include examination of the effectiveness of the provisions of the Convention itself.
2. The Commission shall determine the terms of reference and methodology of these reviews which shall:
 - (a) take into account the practice of other regional fisheries management organizations in conducting performance reviews;
 - (b) include contributions from the subsidiary bodies as appropriate; and
 - (c) include the participation of a person or persons of recognized competence who shall be independent of the members of the Commission.
3. The Commission shall take account of the recommendations arising from any such review and take actions, as appropriate, including the appropriate amendment of its conservation and management measures and the mechanisms for their implementation. Any proposals for amendment to the provisions of this Convention arising from any such review shall be dealt with in accordance with Article 29.
4. The results of any such review and subsequent assessment by the Commission shall be made publicly available as soon as possible following their submission to the Commission.

Article 23

Signature, Ratification, Acceptance and Approval

1. This Convention shall be open for signature at Seoul on 1 April 2012 by the States that participated in the Multilateral Meetings on the Management of High Seas Fisheries in the North Pacific Ocean and shall remain open for signature for twelve (12) months.
2. This Convention shall be subject to ratification, acceptance or approval by the Signatories. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Republic of Korea, which shall be the Depositary. The Depositary shall inform all Signatories and all Contracting Parties of all ratifications, acceptances or approvals deposited and perform such other functions as are provided for in the 1969 *Vienna Convention on the Law of Treaties* and customary international law.

Article 24

Accession

1. This Convention shall be open for accession by the States referred to in Article 23, paragraph 1.
2. After the entry into force of this Convention, the Contracting Parties may, by consensus, invite to accede to this Convention:
 - (a) other States or regional economic integration organizations whose fishing vessels wish to conduct fishing activities for fisheries resources in the Convention Area; and
 - (b) other coastal States of the Convention Area.

3. Any Contracting Party that does not join the consensus in relation to paragraph 2 shall present to the Commission in writing its reasons for not doing so.
4. Instruments of accession shall be deposited with the Depositary. The Depositary shall inform all Signatories and all Contracting Parties of all accessions.

Article 25

Entry into Force

1. This Convention shall enter into force one hundred and eighty (180) days from the date of receipt by the Depositary of the fourth instrument of ratification, acceptance, approval or accession.
2. For Contracting Parties that have deposited an instrument of ratification, acceptance, approval or accession in respect of this Convention after the requirements for entry into force have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of this Convention or thirty (30) days after the date of deposit of the instrument, whichever is the later date.
3. For Contracting Parties that have deposited an instrument of ratification, acceptance, approval or accession after the date on which this Convention entered into force, this Convention shall become effective thirty (30) days after the date of deposit of the instrument.

Article 26

Reservations and Exceptions

No reservations or exceptions may be made to this Convention.

Article 27

Declarations and Statements

Article 26 does not preclude a State or regional economic integration organization, when signing, ratifying, accepting, approving or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, *inter alia*, to the harmonization of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Convention in their application to that State or regional economic integration organization.

Article 28

Relation to Other Agreements

1. This Convention shall not alter the rights and obligations of Contracting Parties that arise from other agreements compatible with this Convention and that do not affect the enjoyment by other Contracting Parties of their rights or the performance of their obligations under this Convention.
2. Nothing in this Convention shall prejudice the rights, jurisdiction and duties of Contracting Parties under the 1982 Convention or the 1995 Agreement. This Convention shall be interpreted and applied in the context of and in a manner consistent with the 1982 Convention and the 1995 Agreement.

Article 29

Amendments

1. Any proposal to amend this Convention shall be sent in writing to the Chairperson of the Commission at least ninety (90) days prior to the meeting at which it is proposed to be considered, and the Chairperson of the Commission shall promptly transmit the proposal to all members of the Commission. Proposed amendments to this Convention shall be

considered at the regular meeting of the Commission, unless a majority of the members of the Commission requests a special meeting to discuss the proposed amendment. A special meeting may be convened with not less than ninety (90) days notice.

2. Amendments to this Convention by the Commission shall be adopted by the Contracting Parties by consensus. The text of any amendments so adopted shall be transmitted by the Depositary to all Contracting Parties.

3. An amendment shall take effect for all Contracting Parties one hundred and twenty (120) days after the date of transmittal specified in the notification by the Depositary of receipt of written notification of approval by all Contracting Parties.

4. Any State or regional economic integration organization that becomes a Contracting Party to this Convention after an amendment has been adopted in accordance with paragraph 2 shall be deemed to have approved that amendment.

Article 30

Annex

The Annex shall form an integral part of this Convention and, unless expressly provided otherwise, a reference to this Convention includes a reference to the Annex.

Article 31

Withdrawal

1. Any Contracting Party may withdraw from the Convention on 31 December of any year by giving notice on or before the preceding 30 June to the Depositary, which shall communicate copies of such notice to other Contracting Parties.

2. Any other Contracting Party may then withdraw from the Convention on the same 31 December by giving notice to the Depositary within one month of receipt of a copy of a notice of withdrawal given pursuant to paragraph 1.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Convention.

DONE at Tokyo, on this twenty-fourth day of February 2012, in the English and French languages, each text being equally authentic.

ANNEX

FISHING ENTITIES

1. After the entry into force of this Convention, any fishing entity whose vessels have fished or intend to fish for fisheries resources may, by a written instrument delivered to the Depositary, express its firm commitment to abide by the terms of this Convention and comply with any conservation and management measures adopted pursuant to this Convention. Such commitment shall become effective thirty (30) days from the date of receipt of the instrument. Any such fishing entity may withdraw such commitment on December 31 of any year by written notification on or before the preceding June 30 to the Depositary.
 2. Any fishing entity referred to in paragraph 1 may, by a written instrument delivered to the Depositary, express its firm commitment to abide by the terms of this Convention as it may be amended pursuant to Article 29, paragraph 3. This commitment shall be effective from the dates referred to in Article 29, paragraph 3 or on the date of receipt of the written communication referred to in this paragraph, whichever is later.
 3. A fishing entity that has expressed its firm commitment to abide by the terms of this Convention and comply with conservation and management measures adopted pursuant to this Convention in accordance with paragraph 1 must abide by the obligations of members of the Commission and may participate in the work, including decision-making, of the Commission in accordance with the provisions of this Convention. For the purposes of this Convention, references to the Commission or members of the Commission include such fishing entity.
 4. If a dispute involves a fishing entity that has expressed its commitment to be bound by the terms of this Convention in accordance with this Annex and cannot be settled by amicable means, the dispute shall, at the request of any party to the dispute, be submitted to final and binding arbitration in accordance with the relevant rules of the Permanent Court of Arbitration.
 5. The provisions of this Annex relating to the participation of a fishing entity are only for the purposes of this Convention.
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REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2022/315

of 17 December 2021

amending Delegated Regulation (EU) 2016/161 as regards the derogation from the obligation of wholesalers to decommission the unique identifier of medicinal products exported to the United Kingdom

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use ⁽¹⁾, and in particular Article 54a(2), point (d), thereof,

Whereas:

- (1) Pursuant to Article 22(a) of Commission Delegated Regulation (EU) 2016/161 ⁽²⁾, a wholesaler is to decommission the unique identifier of medicinal products which he intends to distribute outside of the Union.
- (2) On 1 February 2020, the United Kingdom withdrew from the European Union and from the European Atomic Energy Community. Pursuant to Articles 126 and 127 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (the 'Withdrawal Agreement'), Union law was applicable to and in the United Kingdom during a transition period that ended on 31 December 2020 ('the 'transition period').
- (3) In accordance with Article 185 of the Withdrawal Agreement and Article 5(4) of the Protocol on Ireland/Northern Ireland, Union legislation on medicinal products continued to apply in Northern Ireland after the end of the transition period.
- (4) The withdrawal of the United Kingdom from the Union would, in the absence of a derogation from the applicable rules, have had the effect that unique identifiers must be decommissioned for medicinal products intended to be distributed in the United Kingdom except Northern Ireland.
- (5) On 13 January 2021, Delegated Regulation (EU) 2016/161 was amended by Commission Delegated Regulation (EU) 2021/457 ⁽³⁾ to provide a derogation from the requirement to decommission unique identifiers of products exported to the United Kingdom until 31 December 2021. This derogation was intended to ensure the supply of medicinal products to small markets historically dependent on the United Kingdom, i.e. Northern Ireland, Cyprus, Ireland and Malta. In those small markets historically dependent on the United Kingdom, many medicinal products were and continue to be purchased from the United Kingdom by wholesalers not holding manufacturing and importation authorisations and therefore unable to meet the importation requirements laid down in Directive 2001/83/EC and Delegated Regulation (EU) 2016/161.

⁽¹⁾ OJ L 311, 28.11.2001, p. 67.

⁽²⁾ Commission Delegated Regulation (EU) 2016/161 of 2 October 2015 supplementing Directive 2001/83/EC of the European Parliament and of the Council by laying down detailed rules for the safety features appearing on the packaging of medicinal products for human use (OJ L 32, 9.2.2016, p. 1).

⁽³⁾ Commission Delegated Regulation (EU) 2021/457 of 13 January 2021 amending Delegated Regulation (EU) 2016/161 as regards a derogation from the obligation of wholesalers to decommission the unique identifier of products exported to the United Kingdom (OJ L 91, 17.3.2021, p. 1).

- (6) In order to ensure that medicinal products continue to be marketed with a unique identifier in Northern Ireland, Cyprus, Ireland and Malta, it is necessary to further extend the temporary derogation from the requirement to decommission unique identifiers of products exported to the United Kingdom. An additional three-year period is needed to allow industry sufficient time to adapt the supply chains of medicines destined for Northern Ireland, Cyprus, Ireland and Malta. The derogation should, however, be limited to medicinal products solely intended for the United Kingdom market or for the United Kingdom market jointly with Cyprus, Ireland or Malta. It should not apply to medicinal products intended for markets other than the United Kingdom or packaged in EU-wide or global labelling. This derogation should not affect the application of Union law to and in the United Kingdom in respect of Northern Ireland in accordance with Article 5(4) of the Protocol on Ireland/Northern Ireland to the Withdrawal Agreement in conjunction with Annex 2 to that Protocol.
- (7) In order to accommodate the specific characteristics of national supply chains, Article 23 of Delegated Regulation (EU) 2016/161 allows Member States to require wholesalers to verify and decommission unique identifiers on behalf of a list of persons or institutions referred to in that Article. In many cases, this would mean that wholesalers established in parts of the United Kingdom other than Northern Ireland should verify and decommission the unique identifiers of medicines supplied to those persons or institutions in Northern Ireland. Since those wholesalers are not connected to the Union repository system, it is necessary to grant an exceptional derogation from the requirement to decommission the unique identifiers of a medicinal product in order to allow these wholesalers time to move the verification and decommissioning operations to Northern Ireland.
- (8) The purpose of Delegated Regulation (EU) 2016/161 is to set out the specifications of the unique identifier, the safety features and the repositories system with a view to establishing a reliable authentication system for medicinal products in the Union. This mutual trust is undermined if repositories outside the Union can upload and access sensitive content in the system, in particular in light of the limited means to supervise such repositories.
- (9) In order to ensure that medicinal products re-imported into the Union are not placed on the market elsewhere than Northern Ireland, Cyprus, Ireland and Malta, it is necessary to ensure that the repositories system provide an alert when the medicinal product is verified elsewhere in the Union. Wholesalers in Northern Ireland, Cyprus, Ireland and Malta should also perform checks of shipments of medicinal products intended for the United Kingdom market received from manufacturers, marketing authorisation holders and wholesalers designated by the marketing authorisation holder to ensure the products they receive comply with the rules on safety features.
- (10) Delegated Regulation (EU) 2016/161 should therefore be amended accordingly.
- (11) Having regard to the imminent end of the current derogation, this Regulation should enter into force as a matter of urgency. As the current derogation ends on 31 December 2021, this Regulation should apply from 1 January 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2016/161 is amended as follows:

- (1) in Article 3(2), point (d) is replaced by the following:

‘(d) ‘active unique identifier’ means a unique identifier which has not been decommissioned or which is no longer decommissioned, and which has not been identified as a ‘non-Union pack’ as referred to in Article 36, point (p);’

- (2) Article 20 is replaced by the following:

'Article 20

Verification of the authenticity of the unique identifier by wholesalers

A wholesaler shall verify the authenticity of the unique identifier of at least the following medicinal products in his physical possession:

- (a) medicinal products returned to him by persons authorised or entitled to supply medicinal products to the public or by another wholesaler;
- (b) medicinal products he receives from a wholesaler who is neither the manufacturer nor the wholesaler holding the marketing authorisation nor a wholesaler who is designated by the marketing authorisation holder, by means of a written contract, to store and distribute the products covered by his marketing authorisation on his behalf.

A wholesaler established in Northern Ireland, Cyprus, Ireland or Malta shall perform adequate verifications to ensure that shipments of medicinal products manufactured and labelled for the United Kingdom market comply with the requirement to bear safety features under Article 54a(1) of Directive 2001/83/EC when received from the manufacturer, the marketing authorisation holder or a wholesaler who is designated by the marketing authorisation holder, by means of a written contract, to store and distribute the products covered by his marketing authorisation on his behalf.'

- (3) in Article 22, the final paragraph is replaced by the following:

'By way of derogation from point (a), until 31 December 2024, the obligation to decommission the unique identifier of medicinal products which the wholesaler intends to distribute outside of the Union shall not apply to medicinal products manufactured and labelled for the United Kingdom market or for the United Kingdom market and the markets of Cyprus, Ireland or Malta, which he intends to distribute in the United Kingdom.'

- (4) in Article 26, the following paragraph 4 is added:

'4. Until 31 December 2024, the authorities of the United Kingdom in respect of Northern Ireland may waive the obligation to verify the safety features and decommission the unique identifier of a medicinal product supplied to the persons or institutions listed in Article 23 for products for the market of the United Kingdom in respect of Northern Ireland supplied from wholesalers located in other parts of the United Kingdom.'

- (5) in Article 32(1), point (b), a final sentence is added:

'Repositories which serve territories outside of the Union shall not be connected to the hub.'

- (6) in Article 36, the following point (p) is added:

'(p) the triggering of an alert identified as a 'non-Union pack' in the repositories system and in the terminal where the verification of the authenticity of a unique identifier in accordance with Article 11 takes place when both of the following conditions are met:

- (i) the verification finds that the medicinal product bearing the unique identifier is manufactured and labelled for the United Kingdom market or for the United Kingdom market and the markets of Cyprus, Ireland or Malta;
- (ii) the verification does not take place in Northern Ireland, Cyprus, Ireland or Malta.'

Article 2

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

It shall apply from 1 January 2022.

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

Done at Brussels, 17 December 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2022/316**of 21 February 2022****approving amendments to the specification for a Protected Designation of Origin or a Protected Geographical Indication ('Tarragona' (PDO))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ⁽¹⁾, and in particular Article 99 thereof,

Whereas:

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 21 February 2022.

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

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ C 402, 5.10.2021, p. 14.

COMMISSION IMPLEMENTING REGULATION (EU) 2022/317**of 21 February 2022****conferring protection under Article 99 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council on the name 'Dehesa Peñalba' (PDO)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ⁽¹⁾, and in particular Article 99 thereof,

Whereas:

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

HAS ADOPTED THIS REGULATION:

Article 1

The name 'Dehesa Peñalba' (PDO) is hereby protected.

*Article 2*This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 21 February 2022.

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

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ C 398, 1.10.2021, p. 28.

COMMISSION IMPLEMENTING REGULATION (EU) 2022/318**of 21 February 2022****entering a name in the register of protected designations of origin and protected geographical indications ('Nijolės Šakočienės šakotis' (PGI))**

THE EUROPEAN COMMISSION,

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

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

Whereas:

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

HAS ADOPTED THIS REGULATION:

Article 1

The name 'Nijolės Šakočienės šakotis' (PGI) is hereby entered in the register.

The name specified in the first paragraph denotes a product in Class 2.3 – Bread, pastry, cakes, confectionery, biscuits and other baker's wares, as listed in Annex XI to Commission Implementing Regulation (EU) No 668/2014 ⁽³⁾.*Article 2*This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 21 February 2022.

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

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ OJ C 446, 3.11.2021, p. 38.

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

COMMISSION IMPLEMENTING REGULATION (EU) 2022/319**of 21 February 2022****approving non-minor amendments to the product specification for a name entered in the register of protected designations of origin and protected geographical indications [‘Trote del Trentino’ (PGI)]**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Pursuant to the first subparagraph of Article 53(1) of Regulation (EU) No 1151/2012, the Commission has examined Italy’s application for the approval of amendments to the specification for the protected geographical indication ‘Trote del Trentino’, registered under Commission Implementing Regulation (EU) No 910/2013 ⁽²⁾.
- (2) Since the amendments in question are not minor within the meaning of Article 53(2) of Regulation (EU) No 1151/2012, the Commission published the amendment application in the *Official Journal of the European Union* ⁽³⁾ as required by Article 50(2)(a) of that Regulation.
- (3) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the amendment to the specification should be approved,

HAS ADOPTED THIS REGULATION:

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

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

Done at Brussels, 21 February 2022.

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

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) No 910/2013 of 16 September 2013 entering a name in the register of protected designations of origin and protected geographical indications (Trote del Trentino (PGI)) (OJ L 252, 24.9.2013, p. 1).

⁽³⁾ OJ C 446, 3.11.2021, p. 43.

COMMISSION IMPLEMENTING REGULATION (EU) 2022/320**of 25 February 2022****concerning the authorisation of expressed mandarin essential oil as a feed additive for poultry, pigs, ruminants, horses, rabbits and salmonids****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such an authorisation. Article 10(2) of that Regulation provides for the re-evaluation of additives authorised pursuant to Council Directive 70/524/EEC ⁽²⁾.
- (2) Mandarin essential oil was authorised without a time limit in accordance with Directive 70/524/EEC as a feed additive for all animal species. This additive was subsequently entered in the Register of feed additives as an existing product, in accordance with Article 10(1)(b) of Regulation (EC) No 1831/2003.
- (3) In accordance with Article 10(2) of Regulation (EC) No 1831/2003 in conjunction with Article 7 thereof, an application was submitted for the re-evaluation of expressed mandarin essential oil for all animal species.
- (4) The applicant requested expressed mandarin essential oil to be authorised for use also in water for drinking. However, Regulation (EC) No 1831/2003 does not allow the authorisation of flavouring compounds for use in water for drinking. Therefore, the use of expressed mandarin essential oil in water for drinking should not be allowed.
- (5) The applicant requested the additive to be classified in the additive category 'sensory additives' and in the functional group 'flavouring compounds'. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (6) The European Food Safety Authority ('the Authority') concluded in its opinion of 5 May 2021 ⁽³⁾ that, under the proposed conditions of use, expressed mandarin essential oil does not have adverse effects on animal health, consumer health or the environment. However, no conclusions could be drawn for companion animals and ornamental fish not normally exposed to citrus by-products. The Authority also concluded that expressed mandarin essential oil should be considered as a skin sensitiser and as an irritant to skin, eyes and the respiratory tract. Therefore, the Commission considers that appropriate protective measures should be taken to prevent adverse effects on human health, in particular as regards the users of the additive.
- (7) The Authority also concluded, that expressed mandarin essential oil is recognised to flavour food and its function in feed would be essentially the same as that in food, therefore, no further demonstration of efficacy is considered necessary. It also verified the report on the methods of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs (OJ L 270, 14.12.1970, p. 1).

⁽³⁾ EFSA Journal 2021;19(6):6625.

- (8) The assessment of expressed mandarin essential oil shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of the substance should be authorised as specified in the Annex to this Regulation.
- (9) The fact that expressed mandarin essential oil is not authorised for use as a flavouring in water for drinking, does not preclude its use in compound feed which is administered via water.
- (10) Since safety reasons do not require the immediate application of the modifications to the conditions of authorisation of the substance concerned, it is appropriate to allow a transitional period for interested parties to prepare themselves to meet the new requirements resulting from the authorisation.
- (11) 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

Authorisation

The substance specified in the Annex, belonging to the additive category 'sensory additives' and to the functional group 'flavouring compounds', is authorised as feed additive in animal nutrition, subject to the conditions laid down in that Annex.

Article 2

Transitional measures

1. The substance specified in the Annex and premixtures containing this substance, which are produced and labelled before 20 September 2022 in accordance with the rules applicable before 20 March 2022 may continue to be placed on the market and used until the existing stocks are exhausted.
2. Compound feed and feed materials containing the substance as specified in the Annex which are produced and labelled before 20 March 2023 in accordance with the rules applicable before 20 March 2022 may continue to be placed on the market and used until the existing stocks are exhausted if they are intended for food-producing animals.

Article 3

Entry into force

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, 25 February 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method.	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						mg active substance/kg of complete feed with a moisture content of 12 %			

Category: Sensory additives. Functional group: Flavouring compounds

2b142-eo	-	Expressed mandarin essential oil	<i>Additive composition</i>	Poultry Rabbits Salmonids	-	-	15	- The additive shall be incorporated into the feed in the form of a premixture. - In the directions for use of the additive and premixtures, the storage conditions and stability to heat treatment shall be indicated. - Mixture of expressed mandarin essential oil with other botanical additives is permitted provided that the amounts of perillaldehyde in feed materials and compound feed are lower than the one resulting from the use of a single additive at the maximum or recommended level for the species or animal category. - For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks by inhalation, dermal contact or eyes contact. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including skin, eye and breathing protection.	20 March 2032
			Mandarin essential oil obtained from fruit peel of <i>Citrus reticulata</i> Blanco.				33		
			Liquid form	Pigs	-	-	33		
			<i>Characterisation of the active substance</i>	Ruminants	-	-	30		
			Expressed mandarin essential oil obtained by cold expression from fruit peel of <i>Citrus reticulata</i> Blanco as defined by the Council of Europe ⁽¹⁾ . d-Limonene: 65-80 % γ-Terpinene: 13-22 % α-Pinene (pin-2(3)-ene): 1-3,5 % Myrcene: 1-2 % β-Pinene (pin-2(10)-ene): 1-2 % Methyl N-methyl anthranilate: 0,15-0,7 % Perillaldehyde: ≤ 0,063 % CAS number: 8008-31-9 FEMA number: 2657 CoE number: 142	Horses	-	-	40		

			<i>Analytical method</i> ⁽²⁾ For the quantification of phytochemical marker <i>d-limonene</i> in the feed additive or in mixture of flavouring compounds: — Gas chromatography coupled with flame ionisation detection (GC-FID) (based on ISO 3528)						
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⁽¹⁾ Natural sources of flavourings – Report No 2 (2007).

⁽²⁾ Details of the analytical methods are available at the following address of the Reference Laboratory: <https://ec.europa.eu/jrc/en/eurl/feed-additives/evaluation-reports>

DECISIONS

COUNCIL DECISION (EU) 2022/321

of 24 February 2022

further extending the temporary derogation from the Council's Rules of Procedure introduced by Decision (EU) 2020/430, in view of the travel difficulties caused by the COVID-19 pandemic in the Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 240(3) thereof,

Whereas:

- (1) Council Decision (EU) 2020/430 ⁽¹⁾ introduced a one-month derogation from the first subparagraph of Article 12(1) of the Council's Rules of Procedure ⁽²⁾ as regards decisions to use the ordinary written procedure, where those decisions are taken by the Committee of the Permanent Representatives of the Governments of the Member States (Coreper). That derogation was foreseen to last until 23 April 2020.
- (2) Decision (EU) 2020/430 provides that, if justified by continued exceptional circumstances, the Council may renew that Decision. On 21 April 2020, the Council, by means of Decision (EU) 2020/556 ⁽³⁾, extended the derogation provided for in Article 1 of Decision (EU) 2020/430 for a further period of one month from 23 April 2020. That extension of the derogation was foreseen to last until 23 May 2020. On 20 May 2020, the Council, by means of Decision (EU) 2020/702 ⁽⁴⁾, extended the derogation provided for in Article 1 of Decision (EU) 2020/430 until 10 July 2020. On 3 July 2020, the Council, by means of Decision (EU) 2020/970 ⁽⁵⁾, extended that derogation until 10 September 2020.

On 4 September 2020, the Council, by means of Decision (EU) 2020/1253 ⁽⁶⁾, extended that derogation until 10 November 2020. On 6 November 2020, the Council, by means of Decision (EU) 2020/1659 ⁽⁷⁾, extended that derogation until 15 January 2021. On 12 January 2021, the Council, by means of Decision (EU) 2021/26 ⁽⁸⁾,

⁽¹⁾ Council Decision (EU) 2020/430 of 23 March 2020 on a temporary derogation from the Council's Rules of Procedure in view of the travel difficulties caused by the COVID-19 pandemic in the Union (OJ L 88 I, 24.3.2020, p. 1).

⁽²⁾ Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).

⁽³⁾ Council Decision (EU) 2020/556 of 21 April 2020 extending the temporary derogation from the Council's Rules of Procedure introduced by Decision (EU) 2020/430 in view of the travel difficulties caused by the COVID-19 pandemic in the Union (OJ L 128 I, 23.4.2020, p. 1).

⁽⁴⁾ Council Decision (EU) 2020/702 of 20 May 2020 further extending the temporary derogation from the Council's Rules of Procedure introduced by Decision (EU) 2020/430 and extended by Decision (EU) 2020/556 in view of the travel difficulties caused by the COVID-19 pandemic in the Union (OJ L 165, 27.5.2020, p. 38).

⁽⁵⁾ Council Decision (EU) 2020/970 of 3 July 2020 further extending the temporary derogation from the Council's Rules of Procedure introduced by Decision (EU) 2020/430 and extended by Decisions (EU) 2020/556 and (EU) 2020/702, in view of the travel difficulties caused by the COVID-19 pandemic in the Union (OJ L 216, 7.7.2020, p. 1).

⁽⁶⁾ Council Decision (EU) 2020/1253 of 4 September 2020 further extending the temporary derogation from the Council's Rules of Procedure introduced by Decision (EU) 2020/430 and extended by Decisions (EU) 2020/556, (EU) 2020/702 and (EU) 2020/970, in view of the travel difficulties caused by the COVID-19 pandemic in the Union (OJ L 294, 8.9.2020, p. 1).

⁽⁷⁾ Council Decision (EU) 2020/1659 of 6 November 2020 further extending the temporary derogation from the Council's Rules of Procedure introduced by Decision (EU) 2020/430 and extended by Decisions (EU) 2020/556, (EU) 2020/702, (EU) 2020/970 and (EU) 2020/1253, in view of the travel difficulties caused by the COVID-19 pandemic in the Union (OJ L 376, 10.11.2020, p. 3).

⁽⁸⁾ Council Decision (EU) 2021/26 of 12 January 2021 further extending the temporary derogation from the Council's Rules of Procedure introduced by Decision (EU) 2020/430 and extended by Decisions (EU) 2020/556, (EU) 2020/702, (EU) 2020/970, (EU) 2020/1253 and (EU) 2020/1659, in view of the travel difficulties caused by the COVID-19 pandemic in the Union (OJ L 11, 14.1.2021, p. 19).

extended that derogation until 19 March 2021. On 12 March 2021, the Council, by means of Decision (EU) 2021/454 ⁽⁹⁾, extended that derogation until 21 May 2021. On 20 May 2021, the Council, by means of Decision (EU) 2021/825 ⁽¹⁰⁾, extended that derogation until 16 July 2021.

On 12 July 2021, the Council, by means of Decision (EU) 2021/1142 ⁽¹¹⁾, extended that derogation until 30 September 2021. On 24 September 2021, the Council, by means of Decision (EU) 2021/1725 ⁽¹²⁾, extended that derogation until 30 November 2021. On 25 November 2021, the Council, by means of Decision (EU) 2021/2098 ⁽¹³⁾, extended that derogation until 28 February 2022.

- (3) Given that the exceptional circumstances caused by the COVID-19 pandemic continue, with a number of extraordinary preventive and containment measures taken by Member States still in place, it is necessary to extend the derogation provided for in Article 1 of Decision (EU) 2020/430, as extended by Decisions (EU) 2020/556, (EU) 2020/702, (EU) 2020/970, (EU) 2020/1253, (EU) 2020/1659, (EU) 2021/26, (EU) 2021/454, (EU) 2021/825, (EU) 2021/1142, (EU) 2021/1725 and (EU) 2021/2098, for a further limited period until 30 June 2022,

HAS ADOPTED THIS DECISION:

Article 1

The derogation provided for in Article 1 of Decision (EU) 2020/430 is further extended until 30 June 2022.

Article 2

This Decision shall take effect on the date of its adoption.

It shall be published in the *Official Journal of the European Union*.

Done at Brussels, 24 February 2022.

For the Council
The President
A. PANNIER-RUNACHER

⁽⁹⁾ Council Decision (EU) 2021/454 of 12 March 2021 further extending the temporary derogation from the Council's Rules of Procedure introduced by Decision (EU) 2020/430, in view of the travel difficulties caused by the COVID-19 pandemic in the Union (OJ L 89, 16.3.2021, p. 15).

⁽¹⁰⁾ Council Decision (EU) 2021/825 of 20 May 2021 further extending the temporary derogation from the Council's Rules of Procedure introduced by Decision (EU) 2020/430, in view of the travel difficulties caused by the COVID-19 pandemic in the Union (OJ L 183, 25.5.2021, p. 40).

⁽¹¹⁾ Council Decision (EU) 2021/1142 of 12 July 2021 further extending the temporary derogation from the Council's Rules of Procedure introduced by Decision (EU) 2020/430, in view of the travel difficulties caused by the COVID-19 pandemic in the Union (OJ L 247, 13.7.2021, p. 91).

⁽¹²⁾ Council Decision (EU) 2021/1725 of 24 September 2021 further extending the temporary derogation from the Council's Rules of Procedure introduced by Decision (EU) 2020/430, in view of the travel difficulties caused by the COVID-19 pandemic in the Union (OJ L 344, 29.9.2021, p. 5).

⁽¹³⁾ Council Decision (EU) 2021/2098 of 25 November 2021 further extending the temporary derogation from the Council's Rules of Procedure introduced by Decision (EU) 2020/430, in view of the travel difficulties caused by the COVID-19 pandemic in the Union (OJ L 427, 30.11.2021, p. 194).

COUNCIL DECISION (EU) 2022/322**of 18 February 2022****on the position to be taken on behalf of the European Union within the Council of the International Civil Aviation Organization (ICAO) as regards the adoption of amendments to Annexes 1, 6 to 10, 14 and 17 to the Convention on International Civil Aviation**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Convention on International Civil Aviation (the Chicago Convention), which regulates international air transport, entered into force on 4 April 1947. It established the International Civil Aviation Organization (ICAO).
- (2) The Member States of the Union are Contracting States to the Chicago Convention and members of the ICAO, while the Union has observer status in certain ICAO bodies. There are currently seven Member States represented in the Council of the ICAO ('ICAO Council').
- (3) Pursuant to Article 54 of the Chicago Convention, the ICAO Council is to adopt international standards and recommended practices ('SARPs') and designate them as Annexes to the Chicago Convention.
- (4) During its 225th session, the ICAO Council is to adopt Amendment 178 to Annex 1, Amendment 47 to Part I of Annex 6, Amendment 40 to Part II of Annex 6, Amendment 24 to Part III of Annex 6, Amendment 7 to Annex 7, Amendment 109 to Annex 8, Amendment 29 to Annex 9, Amendment 91 to Volume IV of Annex 10, Amendment 17 to Volume I of Annex 14 and Amendment 18 to Annex 17 to the Chicago Convention, as set out in State Letters AN 12/1.1.25-20/112, AN 11/1.1.34-20/75, AN 3/45-20/85, AN 3/1.2-20/76, AN 7/1.3.105-20/42, SP 55/4-20/94, AS 8/2.1-21/48 Confidential, and EC 6/3 – 21/67.
- (5) The main purpose of Amendment 178 to Annex 1 to the Chicago Convention is to enable the implementation of an electronic personnel licensing system with a view to improving efficiency.
- (6) The main purpose of Amendments 47, 40 and 24 to Parts I, II and III, respectively, of Annex 6 to the Chicago Convention is to strengthen the legal framework for the continued serviceability of flight recorders, to clarify the provisions relating to extended diversion time operations (EDTO) and infant life jackets, to mandate ground proximity warning systems (GPWS) on certain aeroplanes, to add a new standard to equip aeroplanes under certain conditions with runway overrun awareness and alerting systems (ROAAS), to provide operational credit in the context of performance-based aerodrome operating minima (PBAOM), to ensure that adequate rescue and firefighting (RFF) facilities and services are available at the intended aerodrome of operation, to update the provisions relating to offshore alternates for long-range helicopter operations and to add provisions related to the transport of dangerous goods by helicopter and update related training provisions.
- (7) The main purpose of Amendment 7 to Annex 7 to the Chicago Convention is to facilitate the transfer of an aircraft from one State to another by adapting the template for the certificate of registration and introducing a template for the certificate of deregistration.

- (8) The main purpose of Amendment 109 to Annex 8 to the Chicago Convention is to improve clarity and ensure that States approving any modification and repair have a clear understanding of their continuing airworthiness responsibility and to clarify the design capabilities of cargo compartment fire suppression in large aeroplanes, helicopters and small aeroplanes.
- (9) The main purpose of Amendment 29 to Annex 9 to the Chicago Convention is to enhance the preparedness of States for future pandemics by learning from the lessons of the COVID-19 pandemic and setting out adequate mitigation measures for future pandemics. Amendment 29 also addresses the combating of human trafficking through SARPs. Furthermore, it contains minor but useful amendments to the provisions of Annex 9 to the Chicago Convention concerning repatriation flights and the air transport of passengers with disabilities, and an amendment to the notes in the passenger name record (PNR) data section concerning the term 'push'.
- (10) The main purpose of Amendment 91 to Volume IV of Annex 10 to the Chicago Convention is to introduce Airborne Collision Avoidance System (ACAS) X and to reduce the occurrence of false ACAS alerts.
- (11) The main purpose of Amendment 17 to Volume I of Annex 14 to the Chicago Convention is to exclude general aviation from the rescue and firefighting (RFF) provisions.
- (12) The main purpose of Amendment 18 to Annex 17 to the Chicago Convention is to introduce new SARPs and amend existing SARPs related to security culture, aircraft operator security programmes, methods of detecting explosives in hold baggage, and national civil aviation security quality-control programmes.
- (13) It is appropriate to establish the position to be taken on the Union's behalf within the ICAO Council, as Amendment 178 to Annex 1, Amendment 47 to Part I of Annex 6, Amendment 40 to Part II of Annex 6, Amendment 24 to Part III of Annex 6, Amendment 7 to Annex 7, Amendment 109 to Annex 8, Amendment 29 to Annex 9, Amendment 91 to Volume IV of Annex 10, Amendment 17 to Volume I of Annex 14 and Amendment 18 to Annex 17 to the Chicago Convention are capable of decisively influencing the content of Union law, namely Commission Regulations (EU) No 1178/2011 ⁽¹⁾, (EU) No 1332/2011 ⁽²⁾, (EU) No 965/2012 ⁽³⁾, (EU) No 139/2014 ⁽⁴⁾ and (EU) 2015/640 ⁽⁵⁾, Commission Implementing Regulation (EU) 2015/1998 ⁽⁶⁾ and Regulation of the European Parliament and of the Council (EU) 2018/1139 ⁽⁷⁾.
- (14) The Union's position in the 225th session of the ICAO Council or any subsequent session with regard to the adoption of Amendment 178 to Annex 1, Amendment 47 to Part I of Annex 6, Amendment 40 to Part II of Annex 6, Amendment 24 to Part III of Annex 6, Amendment 7 to Annex 7, Amendment 109 to Annex 8, Amendment 29 to Annex 9, Amendment 91 to Volume IV of Annex 10, Amendment 17 to Volume I of Annex 14 and Amendment 18 to Annex 17 to the Chicago Convention should be to support those Amendments in their entirety. That position should be expressed by the Member States of the Union that are members of the ICAO Council, acting jointly on behalf of the Union.

⁽¹⁾ Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 311, 25.11.2011, p. 1).

⁽²⁾ Commission Regulation (EU) No 1332/2011 of 16 December 2011 laying down common airspace usage requirements and operating procedures for airborne collision avoidance (OJ L 336, 20.12.2011, p. 20).

⁽³⁾ Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1).

⁽⁴⁾ Commission Regulation (EU) No 139/2014 of 12 February 2014 laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 44, 14.2.2014, p. 1).

⁽⁵⁾ Commission Regulation (EU) 2015/640 of 23 April 2015 on additional airworthiness specifications for a given type of operations and amending Regulation (EU) No 965/2012 (OJ L 106, 24.4.2015, p. 18).

⁽⁶⁾ Commission Implementing Regulation (EU) 2015/1998 of 5 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security (OJ L 299, 14.11.2015, p. 1).

⁽⁷⁾ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1).

- (15) The Union's position after the adoption by the ICAO Council of Amendment 178 to Annex 1, Amendment 47 to Part I of Annex 6, Amendment 40 to Part II of Annex 6, Amendment 24 to Part III of Annex 6, Amendment 7 to Annex 7, Amendment 109 to Annex 8, Amendment 29 to Annex 9, Amendment 91 to Volume IV of Annex 10, Amendment 17 to Volume I of Annex 14 and Amendment 18 to Annex 17 to the Chicago Convention, to be announced by the ICAO Secretary-General by means of an ICAO State-letter procedure, should be not to register disapproval and to notify compliance, provided that those Amendments are adopted without substantial changes. It is also appropriate to lay down the procedure to be followed for the notification of differences to the ICAO in the event that Union legislation deviates from the newly adopted SARPs after the envisaged date of application of those SARPs. With respect to differences with the standards contained in Annexes 1, 6, 8 and 14 to the Chicago Convention falling within Union exclusive competence, Council Decision (EU) 2021/1092 ⁽⁸⁾ applies. That position should be expressed by all Member States of the Union,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on the Union's behalf in the 225th session of the Council of the International Civil Aviation Organization, or in any subsequent session, shall be to support the proposed Amendment 178 to Annex 1, Amendment 47 to Part I of Annex 6, Amendment 40 to Part II of Annex 6, Amendment 24 to Part III of Annex 6, Amendment 7 to Annex 7, Amendment 109 to Annex 8, Amendment 29 to Annex 9, Amendment 91 to Volume IV of Annex 10, Amendment 17 to Volume I of Annex 14, and Amendment 18 to Annex 17 to the Convention on International Civil Aviation in their entirety.

2. The position to be taken on the Union's behalf, provided that the ICAO Council adopts without substantial changes the Amendments referred to in paragraph 1, shall be not to register disapproval and to notify compliance with each adopted amendment in reply to the respective ICAO State letter.

In the event that Union legislation differs from the standards contained in the Annexes to the Chicago Convention referred to in paragraph 1, as amended by the ICAO, after they become applicable, thus requiring the notification of differences with those Annexes in accordance with Article 38 of the Chicago Convention, the Commission shall, in due time and at least two months before any deadline set by the ICAO for the notification of differences, submit to the Council, for discussion and approval, a preparatory document setting out the detailed differences to be notified to the ICAO on the Union's behalf by the Member States.

Notwithstanding the second subparagraph of this paragraph, in the event that Union legislation differs from the standards contained in Annexes 1, 6, 8 and 14 to the Chicago Convention as amended by the ICAO, insofar as such standards fall within Union exclusive competence, after they become applicable, thus requiring the notification of differences with those Annexes in accordance with Article 38 of the Chicago Convention, the position to be adopted on behalf of the Union within the ICAO as regards the notification of such differences shall be established on the basis of Decision (EU) 2021/1092.

Article 2

The position referred to in Article 1(1) shall be expressed by the Member States of the Union that are members of the ICAO Council, acting jointly.

The position referred to in Article 1(2) shall be expressed by all Member States of the Union.

Article 3

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

⁽⁸⁾ Council Decision (EU) 2021/1092 of 11 June 2021 establishing the criteria and procedure for the notification of differences with respect to international standards adopted by the International Civil Aviation Organization in the field of aviation safety (OJ L 236, 5.7.2021, p. 51).

Done at Brussels, 18 February 2022.

For the Council
The President
J.-Y. LE DRIAN

COMMISSION IMPLEMENTING DECISION (EU) 2022/323**of 22 February 2022****on the unresolved objections regarding the conditions for granting an authorisation for the biocidal product Sojet in accordance with Regulation (EU) No 528/2012 of the European Parliament and of the Council***(notified under document C(2022) 973)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ⁽¹⁾, and in particular Article 36(3) thereof,

Whereas:

- (1) On 8 April 2020, the company Sharda Cropchem España S.L. ('the applicant') submitted an application to France for the mutual recognition in sequence in accordance with Article 33 of Regulation (EU) No 528/2012, of a national authorisation of the biocidal product Sojet ('the biocidal product') already granted in Germany. The biocidal product is an insecticide of product-type 18 to be used by professionals for indoor application in industrial or commercial premises, households or private areas, public areas and animal housings for the control of flies. The biocidal product is dispersed in water and applied on cardboard sheets by brushing and contains as active substances imidacloprid and cis-Tricos-9-ene.
- (2) On 6 October 2020, pursuant to Article 35(2) of Regulation (EU) No 528/2012, France referred objections to the coordination group, indicating that the conditions of the authorisation set by Germany do not ensure that the biocidal product meets the requirement laid down in Article 19(1), point (b)(iii), of that Regulation. France considers that in order to ensure the safe handling of the biocidal product, wearing of personal protective equipment, consisting of protective chemical resistant gloves (glove material to be specified by the authorisation holder within the product information) and single-use coverall of at least type-6 EN 13034, is required. According to France, the application of technical and organisational measures in accordance with Council Directive 98/24/EC ⁽²⁾, as set out in the authorisation granted by Germany, as a possible replacement for wearing personal protective equipment does not ensure an adequate protection if those measures are not specified and evaluated in the assessment of the biocidal product.
- (3) Germany considers that Directive 98/24/EC establishes the order of preference of different risk mitigation measures for protection of workers and prioritises the application of technical and organisational measures over wearing personal protection equipment for the use of the biocidal product. According to Germany, pursuant to that Directive the employer is to decide which technical and organisational measures are to be applied, and as there is a broad range of such measures, it is not feasible to describe and evaluate the measures in the authorisation of the biocidal product.
- (4) As no agreement was reached by the coordination group, on 3 March 2021 Germany referred the unresolved objection to the Commission pursuant to Article 36(1) of Regulation (EU) No 528/2012. It thereby provided the Commission with a detailed statement of the matter on which Member States were unable to reach agreement and the reasons for their disagreement. That statement was forwarded to the Member States concerned and the applicant.

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.

⁽²⁾ Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 131, 5.5.1998, p. 11).

- (5) Article 2(3), points (b) and (c), of Regulation (EU) No 528/2012 provides that that Regulation is to be without prejudice to Council Directive 89/391/EEC ⁽⁷⁾ and Directive 98/24/EC.
- (6) Article 19(1), point (b)(iii), of Regulation (EU) No 528/2012 indicates as one of the criterion for granting an authorisation that the biocidal product has no unacceptable effects itself, or as a result of its residues, on the health of humans.
- (7) Point 9 of Annex VI to Regulation (EU) No 528/2012 states that the application of the common principles laid down in that Annex for the evaluation of dossiers for biocidal products referred to in Article 19(1), point (b), of that Regulation, when taken together with the other conditions set out in its Article 19, is to lead to the competent authorities or the Commission deciding whether or not a biocidal product can be authorised. Such authorisation may include restrictions on the use of the biocidal product or other conditions.
- (8) Point 18(d) of Annex VI to Regulation (EU) No 528/2012 states that the risk assessment conducted for the product is to determine the measures necessary to protect humans, animals and the environment, both during the proposed normal use of the biocidal product and in a realistic worst-case situation.
- (9) Point 56(2) of Annex VI to Regulation (EU) No 528/2012 indicates that in establishing compliance with the criteria set out in Article 19(1), point (b), one of the conclusions to which the evaluating body is to make, is that subject to specific conditions/restrictions the biocidal product can comply with the criteria.
- (10) Point 62 of Annex VI to Regulation (EU) No 528/2012 states that the evaluating body is, where appropriate, to conclude that the criterion under Article 19(1), point (b)(iii), of that Regulation can only be complied with by application of prevention and protection measures including the design of work processes, engineering controls, use of adequate equipment and materials, application of collective protection measures and, where exposure cannot be prevented by other means, application of individual protection measures including the wearing of personal protective equipment such as respirators, breathing-masks, overalls, gloves and goggles, in order to reduce exposure for professional operators.
- (11) However, point 62 of Annex VI to Regulation (EU) No 528/2012 does not provide that the assessment leading to the conclusion that the criterion under Article 19(1), point (b)(iii), of that Regulation can only be complied with by application of prevention and protection measures is to be done in accordance with Directive 98/24/EC. It also does not explicitly provide that that Directive would not apply. Therefore, it should not be inferred from those provisions that Directive 98/24/EC does not apply. In addition, the relevant obligations under Directive 98/24/EC are imposed on employers, not on the authorities of Member States.
- (12) Article 4 of Directive 98/24/EC provides that for the assessment of any risk to the safety and health of workers arising from the presence of chemical agents, employers are to obtain additional information needed from the supplier or from other readily available sources and that where appropriate, that information is to comprise the specific assessment concerning the risk to users established on the basis of Union legislation on chemical agents.
- (13) Article 6 of Directive 98/24/EC lays down prioritisation of the measures to be taken by the employer for the protection of workers from the risks related to chemical agents at work. Priority is to be given to replacement of the hazardous substance and when this is not possible, the risk from a hazardous chemical agent to the safety and health of workers at work needs to be reduced to a minimum by application of protection and prevention measures. If it is not possible to prevent exposure to the hazardous substance by other means, protection of the workers is to be ensured by applying individual protection measures including personal protective equipment.

⁽⁷⁾ Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989, p. 1).

- (14) Taking into account the method of application of the biocidal product and the available information from the evaluating body, no such technical or organisational measures have been identified in the application for authorisation of the biocidal product, nor during the evaluation of that application.
- (15) The Commission therefore considers that the biocidal product meets the criterion laid down in Article 19(1), point (b)(iii), of Regulation (EU) No 528/2012, provided that the following condition regarding its use is included in the authorisation and on the label of the biocidal product: 'The wearing of protective chemical resistant gloves (glove material to be specified by the authorisation holder within the product information) and single-use protective coverall of at least type-6 EN 13034 or equivalent is required for the handling of the product. This is without prejudice to the application by employers of Council Directive 98/24/EC and other Union legislation in the area of health and safety at work'.
- (16) However, if the applicant for authorisation or the authorising authority identify effective technical or organisational measures leading to an equivalent or higher level of exposure reduction, those measures should replace the wearing of personal protective equipment and should be specified in the authorisation and on the label of the biocidal product.
- (17) On 23 November 2021, the Commission provided the applicant with the opportunity to provide written comments in accordance with Article 36(2) of Regulation (EU) No 528/2012. The applicant provided comments which the Commission, subsequently, took into account.
- (18) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

Article 1

The biocidal product identified by the case number BC-RW058475-96 in the Register for Biocidal Products meets the condition laid down in Article 19(1), point (b)(iii), of Regulation (EU) No 528/2012 provided that the following condition regarding its use is included in the authorisation and on the label of the biocidal product: 'The wearing of protective chemical resistant gloves (glove material to be specified by the authorisation holder within the product information) and single use protective coverall of at least type-6 EN 13034 or equivalent is required for the handling of the product. This is without prejudice to the application by employers of Council Directive 98/24/EC and other Union legislation in the area of health and safety at work.'

However, where the applicant for authorisation or the authorising authority identify technical or organisational measures that achieve a level of exposure reduction equivalent to or higher than the reduction achieved by wearing the protective equipment referred to in the first paragraph, those measures shall be used instead of that personal protective equipment and shall be specified in the authorisation and on the label of the biocidal products. In that case the obligation to include the condition regarding the use of the biocidal product laid down in the first paragraph shall not apply.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 22 February 2022.

For the Commission
Stella KYRIAKIDES
Member of the Commission

COMMISSION IMPLEMENTING DECISION (EU) 2022/324**of 24 February 2022****amending Implementing Decision (EU) 2021/973 to take into account certain eco-innovation CO₂ savings for the calculation of the CO₂ emissions of Daimler AG and the Daimler AG pool***(notified under document C(2022) 690)***(Only the Czech, German, Estonian, English, French, Irish, Italian, Hungarian, Dutch, and Swedish texts are authentic)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO₂ emission performance standards for new passenger cars and for new light commercial vehicles and repealing Regulation (EC) No 443/2009 and (EU) No 510/2011 ⁽¹⁾, and in particular Article 7(5), second subparagraph, thereof,

Whereas:

- (1) In its judgement in case T-359/19 ⁽²⁾, the General Court annulled Commission Implementing Decision (EU) 2019/583 ⁽³⁾ as regards the calculation for the calendar year 2017 of the average specific CO₂ emissions, and the recorded CO₂ savings from eco-innovations for the manufacturer Daimler AG and the Daimler AG pool.
- (2) Since the average specific CO₂ emissions and the eco-innovation CO₂ savings specified in Commission Implementing Decision (EU) 2021/973 ⁽⁴⁾ were determined in the same way as in Implementing Decision (EU) 2019/583, it is appropriate to adjust the values set out in that Decision.
- (3) The eco-innovation CO₂ savings certified in accordance with Commission Implementing Decision (EU) 2015/158 ⁽⁵⁾, as reported by Member States and verified by Daimler AG and the Daimler AG pool, should be taken into account for the calculation of the average specific emissions of those entities in calendar year 2019.
- (4) The eco-innovation CO₂ savings recorded in Implementing Decision (EU) 2021/973 should therefore be increased by 0,102 g CO₂/km for Daimler AG and by 0,101 g CO₂/km for the Daimler AG pool.
- (5) The average specific emissions of CO₂ and the distance to target determined for Daimler AG and the Daimler AG pool in Implementing Decision (EU) 2021/973 have been recalculated taking into account the increase in the eco-innovation savings. It is therefore necessary to adapt the relevant entries.
- (6) Implementing Decision (EU) 2021/973 should therefore be amended accordingly,

⁽¹⁾ OJ L 111, 25.4.2019, p. 13.

⁽²⁾ OJ C 452, 8.11.2021, p. 21.

⁽³⁾ Commission Implementing Decision (EU) 2019/583 of 3 April 2019 confirming or amending the provisional calculation of the average specific emission of CO₂ and specific emissions targets for manufacturers of passenger cars for the calendar year 2017 and for certain manufacturers belonging to the Volkswagen pool for the calendar years 2014, 2015 and 2016 pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council (OJ L 100, 11.4.2019, p. 66).

⁽⁴⁾ Commission Implementing Decision (EU) 2021/973 of 1 June 2021 confirming or amending the provisional calculation of the average specific emissions of CO₂ and specific emissions targets for manufacturers of passenger cars and light commercial vehicles for the calendar year 2019, and, for the passenger car manufacturer Dr Ing. h.c. F. Porsche AG and the Volkswagen pool, for the calendar years 2014 to 2018 pursuant to Regulation (EU) 2019/631 of the European Parliament and of the Council, (OJ L 215, 17.6.2021, p. 1).

⁽⁵⁾ Commission Implementing Decision (EU) 2015/158 of 30 January 2015 on the approval of two Robert Bosch GmbH high efficient alternators as the innovative technologies for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council, (OJ L 26, 31.1.2015, p. 31).

HAS ADOPTED THIS DECISION:

Article 1

Amendment to Implementing Decision (EU) 2021/973

Annex I to Implementing Decision (EU) 2021/973 is amended as follows:

(1) in Table 1, the entry for Daimler AG is replaced by the following:

A	B	C	D	E	F	G	H	I	J
Manufacturer name	Pools and derogations	Number of registrations	Average mass	Average specific emissions of CO ₂	Specific emissions target	Distance to target	CO ₂ savings from eco-innovations	Correction factor	Error margin
'DAIMLER AG	P2	979 292	1 589,41	135,985	139,576	- 3,593	0,753	1	0,002';

(2) in Table 2, the entry for Daimler AG is replaced by the following:

A	B	C	D	E	F	G	H	I	J
Pool name	Pool	Number of registrations	Average mass	Average specific emissions of CO ₂	Specific emissions target	Distance to target	CO ₂ savings from eco-innovations	Correction factor	Error margin
'DAIMLER AG	P2	985 163	1 591,60	136,648	139,676	- 3,030	0,748	1	0,002'.

Article 2

Addressees

This Decision is addressed to the following individual manufacturers and pools formed in accordance with Article 6 of Regulation (EU) 2019/631:

- (1) ADAM OPEL GMBH
Bahnhofplatz 1 IPC 39-13
65423 Rüsselsheim
Germany
- (2) ADIDOR VOITURES SAS
2/4 Rue Hans List
78290 Croissy-sur-Seine
France
- (3) ALFA ROMEO SPA
C.so Settembrini, 40
Gate 8 – Building 6 – 1st floor – B15N Colonna N47
10135 Torino
Italy

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- (4) ALKE SRL
via Vigonovese 123
35127 Padova
Italy
- (5) ALPINA BURKARD BOVENSIEPEN GMBH E CO KG
Alpenstraße 35-37
86807 Buchloe
Germany
- (6) ANHUI JIANGHUAI AUTOMOBILE
Via Lanzo 27
10071 Borgaro Torinese
Italy
- (7) ASTON MARTIN LAGONDA LIMITED
Represented in the Union by:
Aston Martin Lagonda of Europe GmbH,
Unterschweinstiege 2-14
60549 Frankfurt am Main
Germany
- (8) AUDI AG
Letter box 011/1882
38436 Wolfsburg
Germany
- (9) AUDI HUNGARIA MOTOR KFT
Letter box 011/1882
38436 Wolfsburg
Germany
- (10) AUDI SPORT GMBH
Letter box 011/1882
38436 Wolfsburg
Germany
- (11) AUTOMOBILE DACIA SA
1 Avenue du Golf
78280 Guyancourt Cedex
France
- (12) AUTOMOBILES CITROEN
7, rue Henri Sainte-Claire Deville
92500 Rueil-Malmaison
France
- (13) AUTOMOBILES PEUGEOT
7, rue Henri Sainte-Claire Deville
92500 Rueil-Malmaison
France

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- (14) AUTOMOBILI LAMBORGHINI SPA
via Modena 12
40019 Sant'Agata Bolognese (BO)
Italy
- (15) AVTOVAZ JSC
Represented in the Union by:
CS AUTOLADA
211 Konevova
130 00 Prague 3
Czech Republic
- (16) BAYERISCHE MOTOREN WERKE AG
Petuelring 130
80788 München
Germany
- (17) BEIJING BORGWARD AUTOMOTIVE CO LTD
Kriegsbergstraße 11
70174 Stuttgart
Germany
- (18) BENTLEY MOTORS LTD
Pyms Lane
CW1 3PL
Crewe Cheshire
United Kingdom
- (19) BLUECAR SAS
31-32 quai de Dion Bouton
92800 Puteaux
France
- (20) BMW M GMBH
Petuelring 130
80788 München
Germany
- (21) BMW Pool
Petuelring 130
80788 München
Germany
- (22) BUGATTI AUTOMOBILES SAS
Letter box 011/1882
38436 Wolfsburg
Germany
- (23) CATERHAM CARS LIMITED
2 Kennet Road
DA1 4QN Dartford
United Kingdom

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- (24) CNG-TECHNIK GMBH
Niehl Plant, building, Imbert 479
Henry Ford Strasse 1
50735 Köln
Germany
- (25) DAIMLER AG
Building 120, Mercedesstrasse 120
70546 Stuttgart-Untertuerkheim
Germany
- (26) DAIMLER Pool (M1)
Represented in the Union by:
DAIMLER AG
Building 120, Mercedesstrasse 120
70546 Stuttgart-Untertuerkheim
Germany
- (27) DAIMLER Pool (N1)
Represented in the Union by:
DAIMLER AG
Building 120, Mercedesstrasse 120
70546 Stuttgart-Untertuerkheim
Germany
- (28) DFSK MOTOR CO LTD
Represented in the Union by:
Giotti Victoria Sr.l. Pisana Road, 11/a
50021 Barberino, Val D' Elsa (FI)
Italy
- (29) DONKERVOORT AUTOMOBIELEN BV
Pascallaan 96
8218 NJ Lelystad
The Netherlands
- (30) DR AUTOMOBILES SRL
Zona Industriale, Snc
86070 Macchia d'Isernia
Italy
- (31) DR ING HCF PORSCHE AG
Letter box 011/1882
38436 Wolfsburg
Germany
- (32) DR MOTOR COMPANY SRL
S S 85 Venafrana km 37500
86070 Macchia d'Isernia
Italy

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- (33) E-GO MOBILE AG
AG Campus-Boulevard 30 D
52074 Aachen
Germany
- (34) FABBRICA DALLARA SRL
Via Guglielmo Marconi, 18
43040 Varano de' Melegari (PR)
Italy
- (35) FCA ITALY SPA
C.so Settembrini, 40
Gate 8 – Building 6 – 1st floor – B1 5N Colonna N47
10135 Torino
Italy
- (36) FCA TESLA Pool
Represented in the Union by:
FCA Italy SpA
C.so Settembrini, 40
Gate 8 – Building 6 – 1st floor – B1 5N Colonna N47
10135 Torino
Italy
- (37) FCA US LLC
C.so Settembrini, 40
Gate 8 – Building 6 – 1st floor – B1 5N Colonna N47
10135 Torino
Italy
- (38) FIAT GROUP Pool (N1)
C.so Settembrini, 40
Gate 8 – Building 6 – 1st floor – B1 5N Colonna N47
10135 Torino
Italy
- (39) ESAGONO ENERGIA SRL
Via Puecher 9
20060 Pozzuolo Martesana (MI)
Italy
- (40) FERRARI SPA
Via Emilia Est 1163
41122 Modena
Italy
- (41) FORD INDIA PRIVATE LIMITED
Niehl Plant, building, Imbert 479
Henry Ford Strasse 1
50735 Köln
Germany

- (42) FORD MOTOR COMPANY
Niehl Plant, building, Imbert 479
Henry Ford Strasse 1
50735 Köln
Germany
- (43) FORD MOTOR COMPANY OF AUSTRALIA LIMITED
Niehl Plant, building, Imbert 479
Henry Ford Strasse 1
50735 Köln
Germany
- (44) FORD-WERKE GMBH
Niehl Plant, building, Imbert 479
Henry Ford Strasse 1
50735 Köln
Germany
- (45) FORD Pool (M1)
Represented in the Union by:
Ford-Werke Gmbh
Niehl Plant, building, Imbert 479
Henry Ford Strasse 1
50735 Köln
Germany
- (46) FORD Pool (N1)
Represented in the Union by:
Ford-Werke Gmbh
Niehl Plant, building, Imbert 479
Henry Ford Strasse 1
50735 Köln
Germany
- (47) FUSO
Represented in the Union by:
Daimler AG, Building 120, Mercedesstrasse 120
70546
Stuttgart-Untertuerkheim
Germany
- (48) GAZ
Poe 2
60502 Lähte Tartumaa
Estonia
- (49) GENERAL MOTORS HOLDINGS LLC
Bouwhuispad 1
8121 PX Olst
The Netherlands

-
- (50) GONOW AUTO CO LTD
Via della Muratella, 797
00054 Maccarese (RM)
Italy
- (51) GOUPIL INDUSTRIE SA
Route de Villeneuve
47320 Bourran
France
- (52) GREAT WALL MOTOR COMPANY LIMITED
Great Wall Motor Europe Technical Center
Otto-Hahn-Str. 5
63128 Dietzenbach
Germany
- (53) GUMPERT AIWAYS AUTOMOBILE GMBH
Carl-Hahn-Straße 5
85053 Ingolstadt
Germany
- (54) HONDA MOTOR CO LTD
Represented in the Union by:
Honda Motor Europe Ltd
Wijngaardveld 1 (Noord V)
9300 Aalst
Belgium
- (55) HONDA Pool
Represented in the Union by:
Honda Motor Europe Ltd
Wijngaardveld 1 (Noord V)
9300 Aalst
Belgium
- (56) HONDA OF THE UK MANUFACTURING LTD
Represented in the Union by:
Honda Motor Europe Ltd
Wijngaardveld 1 (Noord V)
9300 Aalst
Belgium
- (57) HYUNDAI ASSAN OTOMOTIV SANAYI VE TICARET AS
Represented in the Union by:
Hyundai Motor Europe Technical Centre GmbH
Hyundai Platz
65428 Russelsheim
Germany

- (58) HYUNDAI Pool (M1)
Represented in the Union by:
Hyundai Motor Europe Technical Centre GmbH
Hyundai Platz
65428 Russelsheim
Germany
- (59) HYUNDAI Pool (N1)
Represented in the Union by:
Hyundai Motor Europe Technical Centre GmbH
Hyundai Platz
65428 Russelsheim
Germany
- (60) HYUNDAI MOTOR COMPANY
Represented in the Union by:
Hyundai Motor Europe Technical Centre GmbH
Hyundai Platz
65428 Russelsheim
Germany
- (61) HYUNDAI MOTOR EUROPE GMBH
Represented in the Union by:
Hyundai Motor Europe Technical Centre GmbH
Hyundai Platz
65428 Russelsheim
Germany
- (62) HYUNDAI MOTOR MANUFACTURING CZECH SRO
Represented in the Union by:
Hyundai Motor Europe Technical Centre GmbH
Hyundai Platz
65428 Russelsheim
Germany
- (63) ISUZU MOTORS LIMITED
Bist 12
2630 Aartselaar
Belgium
- (64) IVECO SPA
Via Puglia 35
10156 Torino
Italy
- (65) JAGUAR LAND ROVER LIMITED
Represented in the Union by:
JLR Ireland (Services) Ltd, Software Engineering Centre,
Three Airport Avenue, Shannon Industrial Estate
V14 YH92 Shannon (Co. Clare)
Ireland

-
- (66) KIA Pool (M1)
Theodor-Heuss-Allee 11
60486 Frankfurt/M
Germany
- (67) KIA Pool (N1)
Theodor-Heuss-Allee 11
60486 Frankfurt/M
Germany
- (68) KIA MOTORS CORPORATION
Theodor-Heuss-Allee 11
60486 Frankfurt/M
Germany
- (69) KIA MOTORS SLOVAKIA SRO
Theodor-Heuss-Allee 11
60486 Frankfurt/M
Germany
- (70) KOENIGSEGG AUTOMOTIVE AB
Valhall Park
262 74 Angelholm
Sweden
- (71) KTM-SPORTMOTORCYCLE AG
Stallhofnerstrasse 3
5230 Mattighofen
Austria
- (72) LADA AUTOMOBILE GMBH
Erlengrund 7
21614 Buxtehude
Germany
- (73) LIGIER GROUP
Route d'Hauterive 105
3200 Abrest
France
- (74) LONDON EV COMPANY
Represented in the Union by:
Cina-Euro Vehicle Technology (CEVT), Theres Svenssons Gata 7
41755 Goteborg
Sweden
- (75) LOTUS CARS LIMITED
Represented in the Union by:
Cina-Euro Vehicle Technology (CEVT), Theres Svenssons Gata 7
41755 Goteborg
Sweden

-
- (76) MAGYAR SUZUKI CORPORATION LTD
Schweidel Jozsef U52
2500 Esztergom
Hungary
- (77) MAHINDRA & MAHINDRA LTD
Via Cancelliera 35
00072 Ariccia (Roma)
Italy
- (78) MAN TRUCK & BUS AG
Letter box 011/1882
38436 Wolfsburg
Germany
- (79) MARUTI SUZUKI INDIA LTD
Schweidel Jozsef U52
2500 Esztergom
Hungary
- (80) MASERATI SPA
Viale Ciro Menotti 322
41122 Modena
Italy
- (81) MAZDA MOTOR CORPORATION
European R & D Centre
Hiroshimastr. 1
61440 Oberursel/Taunus
Germany
- (82) MCLAREN AUTOMOTIVE LIMITED
Chertsey Road Woking
GU21 4YH Surrey
United Kingdom
- (83) MERCEDES-AMG GMBH
Represented in the Union by:
Daimler AG, Building 120, Mercedesstrasse 120
70546 Stuttgart-Untertuerkheim
Germany
- (84) MFTBC
F403, EA/R
70546 Stuttgart
Germany

- (85) MG MOTOR UK LIMITED
Represented in the Union by:
SAIC Motor Europe B.V.
Professor W.H. Keesomlaan 12
1183 Amstelveen
The Netherlands
- (86) MG SAIC Pool
Represented in the Union by:
SAIC MOTOR CORPORATION
Dyapason Building, rue Robert Stumper 4
L2557 Luxembourg -Cloche d'Or
Luxembourg
- (87) MITSUBISHI MOTORS Pool (M1)
Represented in the Union by:
Mitsubishi Motors Europe BV
Mitsubishi Avenue 21
6121 SH Born
The Netherlands
- (88) MITSUBISHI MOTORS Pool (N1)
Represented in the Union by:
Mitsubishi Motors Europe BV
Mitsubishi Avenue 21
6121 SH Born
The Netherlands
- (89) MITSUBISHI MOTORS CORPORATION MMC
Represented in the Union by:
Mitsubishi Motors Europe BV
Mitsubishi Avenue 21
6121 SH Born
The Netherlands
- (90) MITSUBISHI MOTORS THAILAND CO LTD MMTH
Represented in the Union by:
Mitsubishi Motors Europe BV
Mitsubishi Avenue 21
6121 SH Born
The Netherlands
- (91) MORGAN TECHNOLOGIES LTD
Pickersleigh Road Malvern Link
WR14 2LL Worcestershire
United Kingdom
- (92) NISSAN INTERNATIONAL SA
Renault Nissan Representation Office
Avenue des Arts 40
1040 Brussels
Belgium

-
- (93) OPEL AUTOMOBILE GMBH
Bahnhofsplatz 1 IPC 39-13
65423 Rüsselsheim
Germany
- (94) PAGANI AUTOMOBILI SPA
Via dell' Artigianato 5
41018 San Cesario sul Panaro (Modena)
Italy
- (95) PIAGGIO & C SPA
Viale Rinaldo Piaggio, 25
56025 Pontedera (PI)
Italy
- (96) GROUPE PSA Pool (N1)
Route de Gisy
78943 Velizy-Villacoublay Cedex
France
- (97) PSA AUTOMOBILES SA
2-10 boulevard de l'Europe
78300 Poissy
France
- (98) PSA OPEL Pool (M1)
Route de Gisy
78943 Guyancourt Cedex
France
- (99) RENAULT Pool (M1)
1 avenue du Golf
78288 Guyancourt Cedex
France
- (100) RENAULT Pool (N1)
1 avenue du Golf
78288 Guyancourt Cedex
France
- (101) RENAULT SAS
1 avenue du Golf
78288 Guyancourt Cedex
France
- (102) RENAULT TRUCKS
99 Route de Lyon TER L10 0 01
69806 Saint Priest Cedex
France

-
- (103) ROLLS-ROYCE MOTOR CARS LTD
Petuelring 130
80788 München
Germany
- (104) ROMANITAL SRL
Via delle Industrie, 107
90040 Isola delle Femmine PA
Italy
- (105) SAIC MOTOR CORPORATION
Dyapason Building, rue Robert Stumper 4
L2557 Luxembourg Luxembourg -Cloche d'Or
Luxembourg
- (106) SAIC MAXUS AUTOMOTIVE CO LTD
Dyapason Building, rue Robert Stumper 4
L2557 Luxembourg Luxembourg -Cloche d'Or
Luxembourg
- (107) SEAT SA
Letter box 011/1882
38436 Wolfsburg
Germany
- (108) SECMA SAS
Rue Denfert Rochereau
59580 Aniche
France
- (109) SKODA AUTO AS
Letter box 011/1882
38436 Wolfsburg
Germany
- (110) SOCIETE DES AUTOMOBILES ALPINE
1 Avenue du Golf
78280 Guyancourt Cedex
France
- (111) SSANGYONG MOTOR COMPANY
SsangYong Motor Europe Office c/o Business center
Otto-Volger-Straße 15
65843 Sulzbach
Germany
- (112) STREETSCOOTER GMBH
Jülicher Straße 191
52070 Aachen
Germany

- (113) SUBARU CORPORATION
Leuvensesteenweg 555 B/8
1930 Zaventem
Belgium
- (114) SUZUKI MOTOR CORPORATION
Schweidel Jozsef U52
2500 Esztergom
Hungary
- (115) SUZUKI MOTOR THAILAND CO LTD
Schweidel Jozsef U52
2500 Esztergom
Hungary
- (116) SUZUKI Pool
Schweidel Jozsef U52
2500 Esztergom
Hungary
- (117) TATA JAGUAR LAND ROVER Pool
Represented in the Union by:
JLR Ireland (Services) Ltd, Software Engineering Centre,
Three Airport Avenue, Shannon Industrial Estate
V14 YH92 Shannon (Co. Clare)
Ireland
- (118) TECNO MECCANICA IMOLA SPA
Represented in the Union by:
Artega GmbH, Arttegastraße 1
33129 Delbrück
Germany
- (119) TESLA MOTORS LTD
Represented in the Union by:
Tesla Motors Netherlands B.V.,
Burgemeester Stramanweg 122
1101 EN Amsterdam
The Netherlands
- (120) TOYOTA MAZDA Pool
Represented in the Union by:
Toyota Motor Europe Nv Sa
Avenue du Bourget 60
1140 Brussels
Belgium
- (121) TOYOTA MOTOR EUROPE NV SA
Avenue du Bourget 60
1140 Brussels
Belgium

- (122) UAZ
Moskovskoye shosse, 92
432034 Ulyanovsk
Russia
- (123) VOLKSWAGEN AG
Letter box 011/1882
38436 Wolfsburg
Germany
- (124) VOLKSWAGEN Pool (M1)
Represented in the Union by:
VW GROUP PC
Letter box 011/1882
38436 Wolfsburg
Germany
- (125) VOLKSWAGEN Pool (N1)
Represented in the Union by:
VOLKSWAGEN GROUP LCV
Letter box 011/1882
38436 Wolfsburg
Germany
- (126) VOLVO CAR CORPORATION
Regulatory Affairs Environment (Dep 58832)
PV3A1, PVE Reception, Assar Gabrielssons väg
40531 Göteborg
Sweden

Done at Brussels, 24 February 2022.

For the Commission
Frans TIMMERMANS
Executive Vice-President

COMMISSION IMPLEMENTING DECISION (EU) 2022/325**of 24 February 2022****amending Implementing Decisions (EU) 2015/698, (EU) 2017/2448, (EU) 2017/2452, (EU) 2018/1109, (EU) 2018/1110, (EU) 2019/1304, (EU) 2019/1306 and (EU) 2021/1388 as regards the authorisation holder and its representative in the Union for the placing on the market of products containing, consisting of, or produced from certain genetically modified organisms***(notified under document C(2022) 1049)***(Only the Dutch text is authentic)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed ⁽¹⁾, and in particular to Article 9(2) and Article 21(2) thereof,

Whereas:

- (1) Pioneer Overseas Corporation, based in Belgium, is the representative in the Union of Pioneer Hi-Bred International Inc., based in the United States, as regards the authorisations for the placing on the market of products containing, consisting of, or produced from certain genetically modified organisms, granted by Commission Implementing Decisions (EU) 2015/698 ⁽²⁾, (EU) 2017/2448 ⁽³⁾, (EU) 2017/2452 ⁽⁴⁾, (EU) 2018/1109 ⁽⁵⁾, (EU) 2018/1110 ⁽⁶⁾, (EU) 2019/1304 ⁽⁷⁾, (EU) 2019/1306 ⁽⁸⁾ and (EU) 2021/1388 ⁽⁹⁾.

⁽¹⁾ OJ L 268, 18.10.2003, p. 1.

⁽²⁾ Commission Implementing Decision (EU) 2015/698 of 24 April 2015 authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean 305423 (DP-3Ø5423-1) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 112, 30.4.2015, p. 71).

⁽³⁾ Commission Implementing Decision (EU) 2017/2448 of 21 December 2017 authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean 305423 × 40-3-2 (DP-3Ø5423-1 × MON-Ø4Ø32-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ L 346, 28.12.2017, p. 6).

⁽⁴⁾ Commission Implementing Decision (EU) 2017/2452 of 21 December 2017 renewing the authorisation for the placing on the market of products containing, consisting of, or produced from genetically modified maize 1507 (DAS-Ø15Ø7-1) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 346, 28.12.2017, p. 25).

⁽⁵⁾ Commission Implementing Decision (EU) 2018/1109 of 1 August 2018 renewing the authorisation for the placing on the market of products containing, consisting of, or produced from genetically modified maize 59122 (DAS-59122-7) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 203, 10.8.2018, p. 7).

⁽⁶⁾ Commission Implementing Decision (EU) 2018/1110 of 3 August 2018 authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize 1507 × 59122 × MON 810 × NK603, and genetically modified maize combining two or three of the single events 1507, 59122, MON 810 and NK603, and repealing Decisions 2009/815/EC, 2010/428/EU and 2010/432/EU (OJ L 203, 10.8.2018, p. 13).

⁽⁷⁾ Commission Implementing Decision (EU) 2019/1304 of 26 July 2019 authorising the placing on the market of products containing, consisting of or produced from genetically modified maize 4114 (DP-ØØ4114-3), pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 204, 2.8.2019, p. 65).

⁽⁸⁾ Commission Implementing Decision (EU) 2019/1306 of 26 July 2019 renewing the authorisation for the placing on the market of products containing, consisting of or produced from genetically modified maize 1507 × NK603 (DAS-Ø15Ø7-1 × MON-ØØ6Ø3-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 204, 2.8.2019, p. 75).

⁽⁹⁾ Commission Implementing Decision (EU) 2021/1388 of 17 August 2021 authorising the placing on the market of products containing, consisting of or produced from genetically modified maize 1507 × MIR162 × MON810 × NK603 and genetically modified maize combining two or three of the single events 1507, MIR162, MON810 and NK603, pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 300, 24.8.2021, p. 22).

- (2) Dow AgroSciences Distribution S.A.S., based in France, is the representative in the Union of Dow AgroSciences LLC, based in the United States, as regards the authorisations for the placing on the market of products containing, consisting of, or produced from certain genetically modified organisms, granted by Implementing Decisions (EU) 2017/2452, (EU) 2018/1109 and (EU) 2019/1306.
- (3) By letter dated 22 March 2021, Corteva Agriscience LLC informed the Commission that, as of 1 January 2021, Dow AgroSciences LLC had changed its name to Corteva Agriscience LLC.
- (4) By letter dated 1 November 2021, Pioneer Hi-Bred International, Inc. requested that the Commission transfers the rights and obligations of Pioneer Hi-Bred International, Inc. pertaining to all authorisations and pending applications for genetically modified products, to Corteva Agriscience LLC.
- (5) By letter dated 1 November 2021, Corteva Agriscience LLC informed the Commission that, as of 1 November 2021, its representative in the Union is Corteva Agriscience Belgium BV, based in Belgium.
- (6) The requested changes are purely administrative in nature and therefore do not entail a new assessment of the products concerned.
- (7) Implementing Decisions (EU) 2015/698, (EU) 2017/2448, (EU) 2017/2452, (EU) 2018/1109, (EU) 2018/1110, (EU) 2019/1304, (EU) 2019/1306 and (EU) 2021/1388 should therefore be amended accordingly.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

Amendments to Implementing Decision (EU) 2015/698

Implementing Decision (EU) 2015/698 is amended as follows:

- (1) Article 7 is replaced by the following:

'Article 7

Authorisation holder

The authorisation holder shall be Corteva Agriscience LLC, United States, represented in the Union by Corteva Agriscience Belgium BV.'

- (2) Article 9 is replaced by the following:

'Article 9

Addressee

This Decision is addressed to Corteva Agriscience LLC, 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States, represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

- (3) in the Annex, point (a) is replaced by the following:

'(a) Applicant and authorisation holder

Name: Corteva Agriscience LLC

Address: 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States,

represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

*Article 2***Amendments to Implementing Decision (EU) 2017/2448**

Implementing Decision (EU) 2017/2448 is amended as follows:

- (1) Article 7 is replaced by the following:

'Article 7

Authorisation holder

The authorisation holder shall be Corteva Agriscience LLC, United States, represented in the Union by Corteva Agriscience Belgium BV.'

- (2) Article 9 is replaced by the following:

'Article 9

Addressee

This Decision is addressed to Corteva Agriscience LLC, 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States, represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

- (3) in the Annex, point (a) is replaced by the following:

'(a) Applicant and authorisation holder

Name: Corteva Agriscience LLC

Address: 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States,

represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

*Article 3***Amendments to Implementing Decision (EU) 2017/2452**

Implementing Decision (EU) 2017/2452 is amended as follows:

- (1) Article 7 is replaced by the following:

'Article 7

Authorisation holder

The authorisation holder shall be Corteva Agriscience LLC, United States, represented in the Union by Corteva Agriscience Belgium BV.'

- (2) Article 9 is replaced by the following:

'Article 9

Addressee

This Decision is addressed to Corteva Agriscience LLC, 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States, represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

- (3) in the Annex, point (a) is replaced by the following:

'(a) Authorisation holder

Name: Corteva Agriscience LLC

Address: 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States,

represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

*Article 4***Amendments to Implementing Decision (EU) 2018/1109**

Implementing Decision (EU) 2018/1109 is amended as follows:

- (1) Article 7 is replaced by the following:

'Article 7

Authorisation holder

The authorisation holder shall be Corteva Agriscience LLC, United States, represented in the Union by Corteva Agriscience Belgium BV.'

- (2) Article 9 is replaced by the following:

'Article 9

Addressee

This Decision is addressed to Corteva Agriscience LLC, 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States, represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

- (3) in the Annex, point (a) is replaced by the following:

'(a) Applicant and authorisation holder

Name: Corteva Agriscience LLC

Address: 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States,

represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

*Article 5***Amendments to Implementing Decision (EU) 2018/1110**

Implementing Decision (EU) 2018/1110 is amended as follows:

- (1) Article 7 is replaced by the following:

'Article 7

Authorisation holder

The authorisation holder shall be Corteva Agriscience LLC, United States, represented in the Union by Corteva Agriscience Belgium BV.'

- (2) Article 10 is replaced by the following:

'Article 10

Addressee

This Decision is addressed to Corteva Agriscience LLC, 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States, represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

- (3) in the Annex, point (a) is replaced by the following:

'(a) Applicant and authorisation holder

Name: Corteva Agriscience LLC

Address: 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States,

represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

*Article 6***Amendments to Implementing Decision (EU) 2019/1304**

Implementing Decision (EU) 2019/1304 is amended as follows:

- (1) Article 7 is replaced by the following:

'Article 7

Authorisation holder

The authorisation holder shall be Corteva Agriscience LLC, United States, represented in the Union by Corteva Agriscience Belgium BV.'

- (2) Article 9 is replaced by the following:

'Article 9

Addressee

This Decision is addressed to Corteva Agriscience LLC, 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States, represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

- (3) in the Annex, point (a) is replaced by the following:

'(a) Applicant and authorisation holder

Name: Corteva Agriscience LLC

Address: 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States,

represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

*Article 7***Amendments to Implementing Decision (EU) 2019/1306**

Implementing Decision (EU) 2019/1306 is amended as follows:

- (1) Article 7 is replaced by the following:

'Article 7

Authorisation holder

The authorisation holder shall be Corteva Agriscience LLC, United States, represented in the Union by Corteva Agriscience Belgium BV.'

- (2) Article 9 is replaced by the following:

'Article 9

Addressee

This Decision is addressed to Corteva Agriscience LLC, 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States, represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

- (3) in the Annex, point (a) is replaced by the following:

'(a) Applicant and authorisation holder

Name: Corteva Agriscience LLC

Address: 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States,

represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

*Article 8***Amendments to Implementing Decision (EU) 2021/1388**

Implementing Decision (EU) 2021/1388 is amended as follows:

- (1) Article 7 is replaced by the following:

'Article 7

Authorisation holder

The authorisation holder shall be Corteva Agriscience LLC, United States, represented in the Union by Corteva Agriscience Belgium BV.'

- (2) Article 9 is replaced by the following:

'Article 9

Addressee

This Decision is addressed to Corteva Agriscience LLC, 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States, represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

- (3) in the Annex, point (a) is replaced by the following:

*'(a) **Applicant and authorisation holder***

Name: Corteva Agriscience LLC

Address: 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States,

represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.'

*Article 9***Addressee**

This Decision is addressed to Corteva Agriscience LLC, 9330 Zionsville Road Indianapolis, Indiana 46268-1054, United States, represented in the Union by Corteva Agriscience Belgium BV, Bedrijvenlaan 9, 2800 Mechelen, Belgium.

Done at Brussels, 24 February 2022.

For the Commission
Stella KYRIAKIDES
Member of the Commission

COMMISSION IMPLEMENTING DECISION (EU) 2022/326**of 24 February 2022**

amending Implementing Decision (EU) 2019/961 authorising a provisional measure taken by the French Republic in accordance with Article 129 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) to restrict the use and the placing on the market of certain wood treated with creosote and other creosote-related substances

*(notified under document C(2022) 1074)***(Only the French text is authentic)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC ⁽¹⁾, and in particular Article 129(2) thereof,

Whereas:

- (1) On 7 June 2019, the Commission adopted Implementing Decision (EU) 2019/961 ⁽²⁾ ('the Decision') authorising a provisional measure taken by France in accordance with Article 129 of Regulation (EC) No 1907/2006 to restrict the use and the placing on the market of certain wood treated with creosote and other creosote-related substances.
- (2) Pursuant to Article 1(1) of the Decision, the provisional measure was authorised for a duration of 27 months from the date of effect of the Decision, ending thus on 7 September 2021.
- (3) The duration of 27 months was intended to provide sufficient time to conclude the restriction procedure which Article 129(3) of Regulation (EC) No 1907/2006 obliged France to initiate by submitting to the European Chemicals Agency (the Agency) a dossier in accordance with Annex XV thereto ('Annex XV dossier'), within three months of the Decision.
- (4) By Commission Implementing Decision (EU) 2021/1839 ⁽³⁾, the expiry date of approval of creosote for use in biocidal products of product-type 8 was postponed to 31 October 2022. That was done in order to take into account the time necessary for the preparation and submission of the opinion of the Agency as well as the time necessary to decide if at least one of the conditions of Article 5(2), first subparagraph, of Regulation (EU) No 528/2012 of the European Parliament and of the Council ⁽⁴⁾ is fulfilled and whether the approval of creosote may therefore be renewed.
- (5) France did not initiate the restriction procedure within three months of the Decision. France argues that the scope and content of the Annex XV dossier to be submitted is closely linked to the conclusions from the discussions on the renewal or non-renewal of the approval of creosote under Regulation (EU) No 528/2012, so as to ensure the legal consistency of a possible restriction under Regulation (EC) No 1907/2006 with the conclusions of those discussions. It has undertaken to submit the Annex XV dossier by 1 February 2022, so as to be able to take into account the conclusions from those discussions.

⁽¹⁾ OJ L 396, 30.12.2006, p. 1.

⁽²⁾ Commission Implementing Decision (EU) 2019/961 of 7 June 2019 authorising a provisional measure taken by the French Republic in accordance with Article 129 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) to restrict the use and the placing on the market of certain wood treated with creosote and other creosote-related substances (OJ L 154, 12.6.2019, p. 44).

⁽³⁾ Commission Implementing Decision (EU) 2021/1839 of 15 October 2021 postponing the expiry date of approval of creosote for use in biocidal products of product-type 8 (OJ L 372, 20.10.2021, p. 27).

⁽⁴⁾ Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167 27.6.2012, p. 1).

- (6) The duration for which the provisional measure is authorised should allow for the restriction procedure to be concluded. Considering the timelines involved in the restriction procedure, the duration for which the provisional measure is authorised should therefore be extended by the same period as the one calculated in the Decision, that is 27 months from the date of submission of the Annex XV dossier.
- (7) The reasons for authorising the provisional measure as described in Implementing Decision (EU) 2019/961 remain unchanged. Consequently, the provisional measure should continue to be authorised.
- (8) In order to avoid the legal uncertainty that would result from the expiry of the authorisation of the French provisional measure before the conclusion of the restriction procedure, it is necessary to extend, with retroactive effect, the duration for which the provisional measure is authorised. The duration should therefore be calculated from 8 September 2021 rather than from the expected date of submission of the Annex XV dossier, and an additional five months should accordingly be added, bringing the total extension of the duration to 32 months.
- (9) Implementing Decision (EU) 2019/961 should therefore be amended accordingly.
- (10) This Decision is in accordance with the opinion of the Committee established under Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS DECISION:

Article 1

In Article 1(1) of Implementing Decision (EU) 2019/961 '27 months' is replaced by '59 months'.

Article 2

This Decision shall apply from 8 September 2021.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 24 February 2022.

For the Commission
Thierry BRETON
Member of the Commission

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