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I

(Legislative acts)

DIRECTIVES

COUNCIL DIRECTIVE (EU) 2022/890

of 3 June 2022

amending Directive 2006/112/EC as regards the extension of the application period of the optional reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud and of the Quick Reaction Mechanism against VAT fraud

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 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 Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Tax fraud in the field of value added tax (VAT) leads to considerable budget losses and has an impact on the operation of the internal market.
- (2) Council Directive 2006/112/EC ⁽³⁾ provides for Member States to use, on an optional basis, the reverse charge mechanism (RCM) for the payment of VAT on supplies of pre-defined goods and services that are susceptible to fraud, in particular, Missing Trader Intra-Community (MTIC) fraud. That Directive also provides for the Quick Reaction Mechanism (QRM) special measure, which offers Member States, under certain strict conditions, a faster procedure that allows for the introduction of the RCM, resulting in a more adequate and effective response to sudden and massive fraud. The application period of both mechanisms expires on 30 June 2022.
- (3) The Commission adopted two legislative proposals for the introduction of the definitive VAT system, which aim to provide a comprehensive response to MTIC fraud. Those proposals, initially foreseen to enter into force on 1 July 2022, are still being negotiated in the Council and it is foreseeable that they will not be adopted before, nor enter into force on, that date.
- (4) In its report of 8 March 2018 on the effects of Articles 199a and 199b of Directive 2006/112/EC on combatting fraud, the Commission indicates that Member States and stakeholders generally considered the RCM as an effective, temporary tool in fighting VAT fraud. Furthermore, Member States considered the QRM as a useful tool and a precautionary measure against exceptional cases of VAT fraud. Since then, the legal conditions or practicalities for

⁽¹⁾ Opinion of 3 May 2022 (not yet published in the Official Journal).

⁽²⁾ Opinion of 23 March 2022 (not yet published in the Official Journal).

⁽³⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

the application of the RCM within the EU VAT system have not been altered. Also, Directive 2006/112/EC has not significantly been amended in order to tackle the issue of MTIC fraud in a more structural manner. It is therefore reasonable to assume that the findings and considerations in the report are still largely valid.

- (5) It therefore appears that the RCM and the QRM have been useful as temporary and targeted measures. Their expiration would deprive Member States of efficient tools to fight fraud. The application period of the RCM and the QRM should therefore be extended for another limited period of time so as to allow negotiations in the Council to take place on the definitive VAT system, and to allow for the continued development of tools to fight tax evasion and of modernised reporting rules to be adopted in the meantime.
- (6) Since the objective of this Directive, namely maintaining efficient tools to fight fraud, cannot be sufficiently achieved by the Member States but can rather, by reason of the 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 Directive does not go beyond what is necessary in order to achieve that objective.
- (7) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2006/112/EC is amended as follows:

- (1) Article 199a is amended as follows:

- (a) in paragraph 1, the introductory wording is replaced by the following:

‘Until 31 December 2026, Member States may provide that the person liable for the payment of VAT is the taxable person to whom any of the following supplies are made:’;

- (b) paragraphs 3, 4 and 5 are deleted;

- (2) in Article 199b, paragraph 6 is replaced by the following:

‘6. The QRM special measure as provided for in paragraph 1 shall apply until 31 December 2026.’.

Article 2

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

Article 3

This Directive is addressed to the Member States.

Done at Luxembourg, 3 June 2022.

For the Council
The President
F. RIESTER

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2022/891

of 1 April 2022

amending Delegated Regulation (EU) No 664/2014 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules

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 53(3), first subparagraph, thereof,

Whereas:

- (1) Regulation (EU) 2021/2117 of the European Parliament and of the Council ⁽²⁾ amended Article 53(2) of Regulation (EU) No 1151/2012 as regards the system of amendments to a product specification. As from 8 June 2022 'non-minor' and 'minor' amendments are replaced by 'Union' and 'standard' amendments, respectively, with different scope and procedures.
- (2) Commission Delegated Regulation (EU) No 664/2014 ⁽³⁾ contains provisions that supplement the rules on non-minor and minor amendments. In order to ensure the functioning of the new system of amendments, the existing rules on non-minor and minor amendments in that Regulation should be replaced by new rules.
- (3) For the efficiency of the procedure, rule on the admissibility of applications for approval of Union amendment should be established. For the same reasons, when an application for approval of a Union amendment also contains standard amendments, standard amendments should be deemed as not existing and should not be considered as approved in the context of the Union amendment.

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021, amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union (OJ L 435, 6.12.2021, p. 262).

⁽³⁾ Commission Delegated Regulation (EU) No 664/2014 of 18 December 2013 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules (OJ L 179, 19.6.2014, p. 17).

- (4) The procedure for the approval of a standard amendment and a temporary amendment should be established to allow Member States to carry out an appropriate assessment of the applications and to guarantee a consistent approach across Member States. The accuracy and exhaustiveness of the assessment by the Member States should be equivalent to the accuracy and exhaustiveness required for the assessment process within the procedure governing applications for registration of a geographical indication.
- (5) It is necessary to lay down rules to establish coordination between the procedures for amendments to a product specification in cases where applications concerning a Union amendment and a standard amendment are pending at the same time before the Commission and the Member State's competent authority, respectively. Since both applications amend the same product specification, while following two different parallel procedures having a different timing, rules should be laid down that avoid inconsistencies.
- (6) Transitional rules should be adopted to ensure smooth transition from the current rules of Delegated Regulation (EU) No 664/2014 to the rules set out in this regulation.
- (7) Since amendments to a product specification introduced by Regulation (EU) 2021/2117 apply from 8 June 2022, this Regulation should apply from the same date,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) No 664/2014

Delegated Regulation (EU) No 664/2014 is amended as follows:

- (1) Article 6 is replaced by the following:

'Article 6

Applications for Union amendments to a product specification

For the purposes of Article 53 of Regulation (EU) No 1151/2012, an application for approval of a Union amendment to a product specification shall contain Union amendments only. If an application for approval of a Union amendment also contains standard or temporary amendments, the procedure for a Union amendment shall apply only to the Union amendment. Standard or temporary amendments included in the application shall be deemed as not submitted.;

- (2) the following Articles 6a to 6d are inserted:

'Article 6a

Admissibility of applications for approval of Union amendments

1. Applications for approval of a Union amendment to a product specification shall be considered admissible if they have been submitted in accordance with Article 53 of Regulation (EU) No 1151/2012 and communicated to the Commission in accordance with Article 12(1) of Commission Implementing Regulation (EU) No 668/2014 (*) and comply with Article 10 of that Implementing Regulation.

The approval by the Commission of an application for approval of a Union amendment to a product specification shall only cover the Union amendments set out in the application.

2. If the Commission considers that an application is inadmissible, it shall inform the authorities of the Member State or the third country concerned or the applicant established in a third country, as the case may be, of the reasons for the inadmissibility.

*Article 6b***Standard amendments to the product specification of a protected designation of origin or protected geographical indication**

1. For the purposes of Article 53 of Regulation (EU) No 1151/2012, applications for approval of a standard amendment to a product specification shall be submitted to the authorities of the Member State in whose territory the geographical area of the product concerned is located. If the application for approval of a standard amendment to a product specification does not come from the applicant group that had submitted the application for protection of the name or names to which the product specification refers, the Member State shall give that applicant group the opportunity to comment on the application, if that applicant group still exists.

The application for approval of a standard amendment shall provide a description of the standard amendments and demonstrate that the proposed amendments qualify as standard in accordance with Article 53(2) of Regulation (EU) No 1151/2012. A summary of the reasons for which the amendments are required shall also be provided.

2. Where the Member State considers that the requirements of Regulation (EU) No 1151/2012 and of the provisions adopted pursuant to that Regulation are met, it may approve the standard amendment. The approval decision shall include the amended consolidated product specification and, where relevant, the amended consolidated single document or shall include the electronic reference to the published version of the consolidated product specification and, where relevant, single document.

The approval decision shall be made public. The approved standard amendment shall be applicable in the Member State concerned from the date on which the approval decision was made public. The Member State shall communicate approved standard amendments to the Commission not later than 1 month following the date on which the national approval decision was made public. The Member State shall communicate, without undue delay, to the Commission any final and unappealable national judgments annulling a decision approving a standard amendment.

3. Decisions approving standard amendments concerning products originating in third countries shall be communicated to the Commission by an applicant group having a legitimate interest, either directly or via the authorities of the third country concerned, not later than 1 month following the date on which the relevant decision was made public.

4. The communication of an approved standard amendment to the Commission shall be considered to be duly made when it complies with Article 10a of Implementing Regulation (EU) No 668/2014.

5. In the event that the standard amendment implies an amendment of the single document, the Commission shall publish the description of the standard amendment and the amended single document in the *Official Journal of the European Union*, C series, within 3 months from the date on which it has received the communication of that standard amendment.

In the event that the standard amendment does not imply an amendment of the single document, the Commission shall make public, via the digital systems referred to in Article 12(1), first subparagraph, point (a), of Implementing Regulation (EU) No 668/2014, the description of the standard amendment within 3 months from the date on which it has received the communication of that standard amendment.

The national authority referred to in paragraphs 2 and 3 or the applicant group referred to in paragraph 3 that communicated a standard amendment to the Commission shall remain responsible for its content.

6. Standard amendments shall be applicable in the territory of the Union from the date on which they were published pursuant to paragraph 5, first subparagraph, or made public pursuant to paragraph 5, second subparagraph.

7. Where the geographical area covers more than one Member State, each Member State concerned shall apply the procedure for standard amendments separately. The standard amendment shall be applicable in the territory of the Member States concerned only after the last national approval decision becomes applicable. The Member State being the last to approve the standard amendment shall send the Commission the relevant communication not later than 1 month following the date on which its approval decision was made public.

If one or more of the Member States concerned do not adopt the national approval decision referred to in the first subparagraph, any of the Member States concerned may submit that application under the Union amendment procedure.

8. Paragraph 7 shall apply *mutatis mutandis* where a part of the geographical area concerned is located in the territory of a third country.

Article 6c

Relationship between Union and standard amendments

1. Where a standard amendment implying an amendment of the single document is approved, while an application for approval of a Union amendment is pending with the Commission, the Member State concerned shall update the single document included in the application for approval of a Union amendment accordingly. If the pending Union amendment has been published in the *Official Journal of the European Union*, for opposition, the updated version of the single document shall be published in the *Official Journal of the European Union*, L series, as an annex to the implementing regulation approving the Union amendment.

2. Where the amended version of the single document included in an application for standard amendment approved at national level does not take into account the latest Union amendments that have been approved, that standard amendment shall not be published in the *Official Journal of the European Union*. The Member State that had approved that standard amendment shall send to the Commission the consolidated version of the single document as amended by both the Union and the standard amendments for publication in the *Official Journal of the European Union*.

Article 6d

Temporary amendments to a product specification of a protected designation of origin or protected geographical indication

1. Temporary amendments to a product specification shall be approved and made public by the Member State in whose territory the geographical area of the product concerned is located. Temporary amendments shall be communicated to the Commission together with the reasons supporting them not later than 1 month following the date on which the national approval decision was made public. A temporary amendment shall be applicable in the Member State concerned from the date on which the decision approving the amendment was made public.

2. Where the geographical area covers more than one Member State, each of the Member States concerned shall apply the procedure for temporary amendments referred to in paragraph 1 separately.

3. Temporary amendments concerning products originating in third countries shall be communicated to the Commission, together with the reasons supporting them, by an applicant group having a legitimate interest, either directly or via the authorities of that third country, not later than 1 month following their approval.

4. The communication of an approved temporary amendment to the Commission shall be considered to be duly made when it complies with Article 10b of Implementing Regulation (EU) No 668/2014.

5. The Commission shall make public the communication of temporary amendments via the digital systems referred to in Article 12(1), first subparagraph, point (a), of Implementing Regulation (EU) No 668/2014 within 3 months from the date on which it has received the communication of a temporary amendment. A temporary amendment shall be applicable in the territory of the Union from the date on which it was made public by the Commission.

The national authority referred to in paragraphs 1 and 3 or the applicant group referred to in paragraph 3 that communicated a temporary amendment to the Commission shall remain responsible for its content.

(*) 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).'

*Article 2***Transitional rules**

Article 6 of Delegated Regulation (EU) No 664/2014, in its version before the date of application of this Regulation, shall continue to apply to applications for non-minor and minor amendments, as well as to the communications of temporary amendments, to the product specification of protected designations of origin, protected geographical indications and traditional specialities guaranteed pending with the Commission before 8 June 2022.

*Article 3***Entry into force and application**

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

It shall apply from 8 June 2022.

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

Done at Brussels, 1 April 2022.

For the Commission

The President

Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2022/892**of 1 April 2022****amending Implementing Regulation (EU) No 668/2014 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**

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 Articles 49(7), second subparagraph, and 53(3), second subparagraph, thereof,

Whereas:

- (1) Regulation (EU) 2021/2117 of the European Parliament and of the Council ⁽²⁾ amended Article 53(2) of Regulation (EU) No 1151/2012 as regards the system of amendments to a product specification. As from 8 June 2022 'non-minor' and 'minor' amendments are replaced by 'Union' and 'standard' amendments, respectively, with different scope and procedures.
- (2) Commission Implementing Regulation (EU) No 668/2014 ⁽³⁾ sets out the uniform conditions of application of the non-minor and minor amendments. In order to ensure the functioning of the new system of amendments, the existing rules on non-minor and minor amendments in that Regulation should be replaced by new rules.
- (3) For the sake of legal certainty and efficient management of the system, detailed rules concerning requirements, the forms and deadlines for applications for the approval of Union amendments and communications of approved standard or temporary amendments should be provided.
- (4) In accordance with Regulation (EU) No 1151/2012, the procedures for amendments to the product specification of protected designations of origin and protected geographical indications in the food sector, as well as traditional specialities guaranteed, are carried out by the Commission and the Member States. The Commission and the Member States are responsible for distinct stages of each type of procedure. Member States process the applications for approval of a Union amendment to the product specification and submit them to the Commission. The Commission is responsible for scrutinising those applications and taking a decision on the Union amendment. In case of approval of a standard or temporary amendment the responsibility for the approval is with Member States. The approval of those amendments are communicated to the Commission, which has the obligation to make them public in the Union.
- (5) For the correct management of procedures for the Commission's approval of a Union amendment to the product specification of protected designations of origin and protected geographical indications as well as of traditional specialities guaranteed, it is necessary to process the references concerning the applicants for approval of Union amendments. The same need arises in the context of the management of the procedures for communication to the Commission of a standard or temporary amendment to the product specification of protected designations of origin or protected geographical indications as regards the authority, natural or legal persons communicating the approved standard or temporary amendment. Those procedures have public nature. Transparency is necessary to allow fair competition between the operators and to publicly identify the private and public economic interests linked to these procedures. The name of the applicant group submitting an application for approval of a Union

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021, amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union (OJ L 435, 6.12.2021, p. 262).

⁽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).

amendment in accordance with Article 53 of Regulation (EU) No 1151/2012, should be published in order to identify the entity which has activated the procedure of amendment and to allow potential opponents to challenge its legitimate interest. The name of the authority, natural or legal person communicating an approved standard or temporary amendment should be published in order to identify the responsibility for making that amendment notified to the Commission and consequently public in the Union. With a view to minimising the exposure of personal data, the documents to be submitted in the course of those procedures should as far as possible avoid requirements for submission of personal data. Nonetheless, the Commission and the Member States may need to process information that contain personal data such as personal names and contact details. In duly justified cases, such data may need to be disclosed or made public.

- (6) In the interest of effective administrative management and taking account of the experience acquired through the information systems put in place by the Commission, communications between the Member States and the Commission should be simplified and the information should be exchanged in accordance with Commission Delegated Regulation (EU) 2017/1183 ⁽⁴⁾ and Commission Implementing Regulation (EU) 2017/1185 ⁽⁵⁾.
- (7) The Commission has put in place the information system 'e-Ambrosia' for the management of the applications for protection of geographical indications in food, wine, spirit drinks and aromatised wines. Member States and the Commission are to exclusively use that system for the purpose of communication concerning the procedures related to applications for registration and for the approval of amendments to the product specification for designations of origin and geographical indications under Regulation (EU) No 1151/2012. However, owing to a strict system of accreditation, that system should not be used for communications with Member States concerning the procedure for oppositions and cancellation requests and, pending the requisite digital security guarantees, it should not be used for communications with third countries. Instead, for the procedures for oppositions and cancellation requests, Member States, the competent authorities and producers of third countries, as well as natural or legal persons who have a legitimate interest under that Regulation should communicate with the Commission via electronic mail.
- (8) To enhance transparency, efficiency and uniformity across Member States, the Register of protected designations of origin and protected geographical indications should be established in electronic form. The register should be an electronic database managed within digital systems made available by the Commission, should be accessible to the public and constantly updated by the Commission.
- (9) Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁶⁾ applies to the processing of personal data carried out by the Commission in the course of the procedures for amendments to the product specification of protected designations of origin and protected geographical indications in the food sector, as well as traditional specialities guaranteed. It is appropriate to clarify that the Commission is to be considered controller within the meaning of that Regulation in relation to the processing of personal data in the procedures for which it is responsible under Regulation (EU) No 1151/2012.
- (10) Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽⁷⁾ applies to the processing of personal data carried out by Member States in the course of the relevant procedures for amendments to the product specification of protected designations of origin and protected geographical indications in the food sector, as well as traditional specialities guaranteed. Therefore, it is appropriate to clarify that the competent authorities of the Member States are to be considered controllers within the meaning of that Regulation in relation to the processing of personal data in the procedures for which they are responsible under Regulation (EU) No 1151/2012.

⁽⁴⁾ Commission Delegated Regulation (EU) 2017/1183 of 20 April 2017 on supplementing Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council with regard to the notifications to the Commission of information and documents (OJ L 171, 4.7.2017, p. 100).

⁽⁵⁾ Commission Implementing Regulation (EU) 2017/1185 of 20 April 2017 laying down rules for the application of Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents and amending and repealing several Commission Regulations (OJ L 171, 4.7.2017, p. 113).

⁽⁶⁾ 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).

⁽⁷⁾ 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).

- (11) Regulation (EU) 2021/2117 amended the scope of Regulation (EU) No 1151/2012. Aromatised wines, other alcoholic beverages with the exclusion of spirit drinks and grapevine products and beeswax should therefore be added among the classes of products to which Regulation (EU) No 1151/2012 applies.
- (12) Provision should be made to ensure that there is sufficient time to facilitate a smooth transition from the rules provided for in Implementing Regulation (EU) No 668/2014 concerning the means of submission. Transitional arrangements should be put in place for applications for approval of non-minor or minor amendments of the product specification of protected designations of origin, protected geographical indications and traditional specialities guaranteed that have been submitted before 8 June 2022.
- (13) Since amendments to a product specification introduced by Regulation (EU) 2021/2117 apply from 8 June 2022, this Regulation should apply from the same date.
- (14) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Agricultural Product Quality Policy,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Implementing Regulation (EU) No 668/2014

Implementing Regulation (EU) No 668/2014 is amended as follows:

- (1) Article 6 is replaced by the following:

'Article 6

Procedural requirements for applications for registration of protected designations of origin, protected geographical indications and traditional specialities guaranteed

1. The single document of a protected designation of origin or a protected geographical indication referred to in Article 8(1), point (c), of Regulation (EU) No 1151/2012 shall include the information requested in Annex I to this Regulation

The reference to the publication of the product specification published with the single document shall lead to the version of the product specification as proposed.

2. Where the application is submitted to the Commission by a Member State, the single document shall be drawn up in accordance with the form made available in the digital systems referred to in Article 12(1), first subparagraph, point (a).

Where the application is submitted to the Commission by a third country authority or an applicant established in a third country, the single document shall be drawn up in accordance with the form set out in Annex I. The information so supplied may be entered by the Commission into its digital systems.

3. The single document shall be concise and not exceed 2 500 words, except in duly justified cases.

4. Paragraphs 1, 2 and 3 shall also apply to a single document covered by a request for publication in accordance with Article 8(1) of Delegated Regulation (EU) No 664/2014.

5. The product specification of a traditional speciality guaranteed referred to in Article 19 of Regulation (EU) No 1151/2012 shall include the information requested in Annex II to this Regulation. It shall be drawn up in accordance with the form provided for in that Annex.;

(2) in Article 8, the following subparagraph is added:

'The Member State, the authority of the third country or an applicant established in a third country which submits to the Commission a joint application as referred to in the first subparagraph shall be the addressee of any notification or decision issued by the Commission.';

(3) Article 10 is replaced by the following:

'Article 10

Applications for Union amendments to a product specification

1. An application for approval of a Union amendment to a product specification as referred to in Article 53(2) of Regulation (EU) No 1151/2012 shall contain:

- (a) the protected name to which the amendment relates;
- (b) the name and contact details of the applicant and a description of the legitimate interest of the applicant;
- (c) the headings in the product specification and, as regards protected designations of origin and protected geographical indications, in the single document relating to the matters affected by the amendment;
- (d) for protected designations of origin and protected geographical indications, an explanation that the amendment falls under the definition of a Union amendment as provided for in Article 53(2) of Regulation (EU) No 1151/2012;
- (e) a description of and the reasons for each of the amendments proposed;
- (f) for protected designations of origin and protected geographical indications, the consolidated single document as amended;
- (g) for applications submitted by a Member State concerning protected designations of origin and protected geographical indications, the electronic reference to the publication of the consolidated product specification as amended;
- (h) for applications submitted by a third country concerning protected designations of origin and protected geographical indications, the consolidated version of the product specification as published, or the reference to the publication of the product specification;
- (i) for applications for protected designations of origin and protected geographical indications from third countries only, proof that the requested amendment complies with the laws on protection of geographical indications in force in that third country;
- (j) for applications concerning traditional specialities guaranteed, the consolidated product specification as amended;
- (k) for all applications submitted by Member States, the declaration by the Member State that it considers that the application meets the requirements of Regulation (EU) No 1151/2012 and of provisions adopted pursuant to it.

The description and reasons referred in the first subparagraph, point (e), and the single document referred to in the first subparagraph, point (f), shall not exceed 2 500 words each, except in duly justified cases.

2. An application for approval of a Union amendment shall be concise and not exceed 5 000 words, except in duly justified cases.

3. An application for approval of a Union amendment to the product specification of a protected designation of origin or protected geographical indication from a Member State shall be drawn up in accordance with the form made available in the digital systems referred to in Article 12(1), first subparagraph, point (a). An application for approval of a Union amendment to the product specification of a traditional speciality guaranteed from a Member State shall be drawn up in accordance with the form set out in Annex VI. The information so supplied may be entered by the Commission into its digital systems.

Applicants from third countries shall use the form set out in Annex V for a Union amendment to the product specification of a protected designation of origin or protected geographical indication and the form set out in Annex VI for a Union amendment to the product specification of a traditional speciality guaranteed. The information so supplied may be entered by the Commission into its digital systems.

4. The amended single document of a protected designation of origin or protected geographical indication and the amended product specification of a traditional speciality guaranteed shall be drawn up in accordance with Article 6. An application for a Union amendment for a protected designation of origin or protected geographical indication from a third country may include the consolidated version of the product specification instead of the electronic reference to the published product specification.

5. For the purposes of Article 53(2), fifth subparagraph, of Regulation (EU) No 1151/2012, in conjunction with Article 50(2) of that Regulation, in addition to the documents and information referred thereto, as amended, the Commission shall publish in the *Official Journal of the European Union*, the application for approval of a Union amendment to the product specification.

In case personal data are included in the application they shall be published as part of that application.’;

(4) the following Articles 10a and 10b are inserted:

‘Article 10a

Communicating a standard amendment

1. The communication of an approved standard amendment to the product specification in accordance with Article 6b(2), second subparagraph, and Article 6b(3), (7) and (8) of Delegated Regulation (EU) No 664/2014 shall contain:

- (a) the reference to the protected name to which the standard amendment relates;
- (b) an explanation that the amendment falls under the definition of a standard amendment as provided for in Article 53(2) of Regulation (EU) No 1151/2012;
- (c) description of the approved amendment, indicating whether the amendment leads to an amendment to the single document;
- (d) the decision approving the standard amendment as referred to in Article 6b(2), first subparagraph, and (3) of Regulation (EU) No 664/2014;
- (e) where relevant, the consolidated single document as amended;
- (f) the electronic reference to the publication of the consolidated product specification, as amended.

2. Where the communication is made by a Member State, it shall include a declaration by that Member State that it considers that the amendment approved meets the requirements of Regulation (EU) No 1151/2012 and provisions adopted pursuant thereto.

3. In the case of applications concerning products originating in third countries, the communication from the authorities of the third country or by a third country applicant having a legitimate interest shall indicate the name of the third country or of the applicant sending the communication and shall include proof that the amendment is applicable in the third country. It may include the product specification as made public instead of the electronic reference to the publication thereto.

4. A communication of an approved standard amendment by a Member State shall be drawn up in accordance with the form made available in the digital systems referred to in Article 12(1), first subparagraph, point (a). For communications from third countries the form set out in Annex VI shall be used. The information so supplied shall be entered by the Commission into its digital systems.

5. For the purposes of Article 6b(5) of Delegated Regulation (EU) No 664/2014, the name of the Member State or of the third country or of the natural or legal person submitting a communication of an approved standard amendment to the product specification of a geographical indication shall be published as part of the communication.

*Article 10b***Communicating a temporary amendment**

1. The communication of an approved temporary amendment to the product specification in accordance with Article 6d(1) to (4) of Delegated Regulation (EU) No 664/2014 shall contain:

- (a) the reference to the protected name to which it relates;
- (b) a description of the approved temporary amendment together with the reasons supporting it, as referred to in Article 53(2) of Regulation (EU) No 1151/2012;
- (c) the decision of the competent authorities formally recognising the natural disaster or imposing obligatory sanitary and phytosanitary measures or the respective electronic publication references;
- (d) the decision approving the temporary amendment or the electronic publication reference.

2. Where the communication is made by a Member State, it shall include a declaration by that Member State that it considers that the amendment approved meets the requirements of Regulation (EU) No 1151/2012 and the provisions adopted pursuant thereto.

3. In the case of applications concerning products originating in third countries, the communication from the authorities of the third country or by the third country applicant having a legitimate interest shall indicate the name of the third country or of the applicant sending the communication and shall include proof that the amendment is applicable in the third country. It may include the national decision approving the temporary amendment as made public instead of the electronic reference to the publication reference thereto.

4. A communication of an approved temporary amendment by a Member State shall be drawn up in accordance with the form made available in the digital systems referred to in Article 12(1), first subparagraph, point (a). For communications from third countries the form set out in Annex VII shall be used. The information so supplied shall be entered by the Commission into its digital systems.

5. For the purposes of Article 6d(5) of Delegated Regulation (EU) No 664/2014, the name of the Member State or of the third country or of the natural or legal person submitting a communication of an approved temporary amendment to the product specification of a protected designation of origin or of a geographical indication shall be published as part of the communication.;

(5) Article 12 is replaced by the following:

*'Article 12***Communications between the Commission, the Member States, third countries and other operators**

1. The documents and information required for the implementation of Titles II and III of Regulation (EU) No 1151/2012 and the related provisions shall be communicated to the Commission as follows:

- (a) for the competent authorities of Member States, through the digital systems made available by the Commission, subject to paragraph 2 of this Article;
- (b) for the competent authorities and producers of third countries, as well as natural or legal persons having a legitimate interest under Regulation (EU) No 1151/2012, via electronic mail using the forms set out in Annexes I to IX to this Regulation.

Principles and requirements laid down in Commission Delegated Regulation (EU) 2017/1183 (*) and Commission Implementing Regulation (EU) 2017/1185 (**) shall apply to the communications made under the first subparagraph, point (a).

2. By way of derogation from paragraph 1, first subparagraph, point (a), the following documents shall be submitted via electronic mail by the competent authorities of the Member States:

- (a) the reasoned statement of opposition referred to in Article 9(1);
- (b) the notification of the result of the consultations referred to in Article 9(3);

- (c) the cancellation request referred to in Article 11;
- (d) the application for registration of a traditional speciality guaranteed referred to in Article 6(5);
- (e) the application for approval of a Union amendment to the product specification of a traditional speciality guaranteed referred to in Article 10.

3. Information shall be communicated and made available by the Commission to the competent authorities of Member States through the digital systems made available by the Commission in accordance with paragraph 1, first subparagraph, point (a). Information in the context of the procedures referred to in paragraph 1, first subparagraph, point (b), and in paragraph 2 shall be communicated by the Commission to the Member States, the competent authorities and applicant groups of third countries, as well as natural or legal persons who have a legitimate interest under Regulation (EU) No 1151/2012 via electronic mail.

4. For official technical communications concerning protected designations of origin, protected geographical indications and traditional specialities guaranteed, each Member State shall communicate to the Commission one contact point comprising a departmental and postal address, a functional electronic mail box address, and a departmental telephone number. The Member States shall keep these contact points up to date. This data shall only identify official functions, offices and departments. None of the data shall identify any natural persons nor personal details otherwise contained within addresses, contact numbers or other data items.

The Commission may keep, store, share, make public and periodically circulate the complete list of such contact points, including to its own services, other Union institutions and bodies, and to all contact points on the list. The Commission may require this data to be submitted through digital systems made available by the Commission.

(*) Commission Delegated Regulation (EU) 2017/1183 of 20 April 2017 on supplementing Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council with regard to the notifications to the Commission of information and documents (OJ L 171, 4.7.2017, p. 100).

(**) Commission Implementing Regulation (EU) 2017/1185 of 20 April 2017 laying down rules for the application of Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents and amending and repealing several Commission Regulations (OJ L 171, 4.7.2017, p. 113).;

- (6) the following Article 12a is inserted:

'Article 12a

Submission and receipt of communications

1. The communications and submissions referred to in Article 12 shall be deemed to have been made on the date on which they are received by the Commission.

2. The Commission shall confirm receipt of all communications received and all files submitted through the digital systems referred to in Article 12(1), first subparagraph, point (a), to the competent authorities of the Member States through the digital systems.

The Commission shall attribute a file number to each new application for registration, application for approval of a Union amendment, communication concerning approved standard amendments and communication concerning approved temporary amendments.

The confirmation of receipt shall include at least the following elements:

- (a) the file number;
- (b) the product name concerned;
- (c) the date of receipt.

The Commission shall notify and make available information and remarks regarding such communications and submissions through the digital systems referred to in Article 12(1), first subparagraph, point (a).

3. For communications and submissions of files made via electronic mail, the Commission shall confirm receipt via electronic mail.

It shall attribute a file number to each new application for registration, application for approval of a Union amendment, communication concerning approved standard amendments and communication concerning approved temporary amendments.

The confirmation of receipt shall include at least the following elements:

- (a) the file number;
- (b) the product name concerned;
- (c) the date of receipt.

The Commission shall notify and make available information and remarks regarding such communications and submission via electronic mail.

4. Article 4 of Delegated Regulation (EU) 2017/1183 and Articles 1 to 5 of Implementing Regulation (EU) 2017/1185 shall apply *mutatis mutandis* to the notification and making available of information as referred to in paragraphs 1 and 2 of this Article.;

(7) in Article 14, the following paragraph 5 is added:

‘5. The Register of protected designations of origin and protected geographical indications referred to in paragraph 1 shall be publicly accessible and established in electronic form. It shall be based on digital systems managed by the Commission and shall be updated in accordance with this Article.’;

(8) the following Article 14a is inserted:

‘Article 14a

Data protection

1. The Commission and the Member States shall process and make public the personal data received in the course of the procedures for approval of Union amendments and for communication of standard and temporary amendments, pursuant to this Regulation, in accordance with Regulations of the European Parliament and of the Council (EU) 2018/1725 (*) and (EU) 2016/679 (**).

2. The Commission shall be considered controller within the meaning of Regulation (EU) 2018/1725 in relation to the processing of personal data in the procedure it is competent for in accordance with Regulation (EU) No 1151/2012, Delegated Regulation (EU) No 664/2014 and this Regulation.

3. The competent authorities of the Member States shall be considered controllers within the meaning of Regulation (EU) 2016/679 in relation to the processing of personal data in the procedures they are competent for in accordance with Regulation (EU) No 1151/2012, Delegated Regulation (EU) No 664/2014 and this Regulation.

(*) 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).

(**) 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).;

(9) Annexes V to VIII and XI are amended in accordance with Annex I to this Regulation.

*Article 2***Transitional rules**

1. Article 10 of Implementing Regulation (EU) No 668/2014 in its version before the date of application of this Regulation, shall continue to apply to the applications for non-minor and minor amendments, as well as to the communications of temporary amendment, to the product specification of protected designations of origin, protected geographical indications and traditional specialties guaranteed pending with the Commission before 8 June 2022.
2. Article 12 of Implementing Regulation (EU) No 668/2014 in its version before the date of application of this Regulation, shall continue to apply to Member States until 7 December 2022 for applications for registration and for approval of Union amendments, as well as for communications of standard and temporary amendments, to the product specification of protected designations of origin and protected geographical indications.
3. Until 7 December 2022, Member States that continue to communicate in accordance with Article 12 of Implementing Regulation (EU) No 668/2014 in its version before the date of application of this Regulation, shall use:
 - (a) Annex I to Implementing Regulation (EU) No 668/2014 for applications for registration of protected designations of origin and protected geographical indications;
 - (b) Annex II to this Regulation for applications for approval of Union amendments to the product specification of protected designations of origin and protected geographical indications;
 - (c) Annex III to this Regulation for communications of standard amendment to the product specification of protected designations of origin and protected geographical indications;
 - (d) Annex IV to this Regulation for temporary amendment to the product specification of protected designations of origin and protected geographical indications.

*Article 3***Entry into force and application**

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

It shall apply from 8 June 2022.

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

Done at Brussels, 1 April 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Annexes V to VIII and XI to Implementing Regulation (EU) No 668/2014 are amended as follows:

(1) Annexes V to VIII are replaced by the following:

'ANNEX V

**Application for a union amendment to the product specification of a protected designation of origin
or protected geographical indication**

(Regulation (EU) No 1151/2012)

1. Name of product

[as registered]

2. Geographical Indication type

[Mark "X" in the appropriate box] PDO ☐ PGI ☐

3. Applicant and legitimate interest

[Provide name, address, telephone and email address of the applicant proposing the amendment. In case address, telephone and email address concern a natural person they shall not be included in this form and shall be sent to the Commission separately.]

Provide also a statement setting out the legitimate interest of the applicant group.]

4. Third country to which the geographical area belongs

...

5. Heading in the product specification and in the single document relating to the amendment(s)

- ☐ Name of product
- ☐ Link
- ☐ Marketing restrictions

6. Type of amendment(s)

[Provide a statement explaining why the amendment(s) fall under the definition of "Union amendment" as provided for in Article 53(2) of Regulation (EU) No 1151/2012.]

7. Amendment(s)

[Provide a description of and the reasons for each amendment as provided for in Article 6a(1) of Delegated Regulation (EU) No 664/2014 and Article 10 of Implementing Regulation (EU) No 668/2014.]

8. Annexes

- 8.1. The consolidated single document as amended, drawn up in accordance with the form set out in Annex I to Implementing Regulation (EU) No 668/2014.
- 8.2. The consolidated version of the product specification as published, or the reference to the publication of the product specification.
- 8.3. Proof that the amended documents correspond to the geographical indication in force in the third country.

ANNEX VI

Application for a union amendment to the product specification of a traditional speciality guaranteed**(Regulation (EU) No 1151/2012)****1. Name of product**

[as registered]

2. Applicant and legitimate interest

[Provide name, address, telephone and email address of the applicant proposing the amendment. In case address, telephone and email address concern a natural person they shall not be included in this form and shall be sent to the Commission separately.]

Provide also a statement setting out the legitimate interest of the applicant group.]

3. Member State or third country to which the geographical area belongs

...

4. Heading in the product specification relating to the amendment(s)

- ☐ Name of product
- ☐ Description of the product
- ☐ Method of production
- ☐ Other [to be specified]

5. Amendment(s)

[Provide a description of and the reasons for each amendment as provided for in Article 6a(1) of Delegated Regulation (EU) No 664/2014 and Article 10 of Implementing Regulation (EU) No 668/2014.]

6. Annexes**6.1. (Member States)**

- (a) The consolidated version of the product specification, as published, drawn up in accordance with the form set out in Annex II to Implementing Regulation (EU) No 668/2014.
- (b) The declaration that the application meets the requirements of Regulation (EU) No 1151/2012 and provisions adopted pursuant thereto.

6.2. (Third countries)

The consolidated version of the product specification as published, drawn up in accordance with the form set out in Annex II to Implementing Regulation (EU) No 668/2014.

ANNEX VII

Communicating the approval of a standard amendment**(Regulation (EU) No 1151/2012)****1. Name of product**

[as registered]

2. Third country to which the geographical area belongs

...

3. National authority or applicant group communicating the standard amendment

[Names, and references, of the single producer or group of producers having a legitimate interest or of the authorities of the third country, to which the geographical area belongs, communicating the amendment (see Article 49(5) of Regulation (EU) No 1151/2012). Names and references concerning natural persons shall not be included in this form and shall be sent to the Commission separately.]

4. Description of the approved amendment(s)

[Provide a description of the standard amendment(s) and a statement explaining why the amendment(s) fall under the definition of standard amendment as provided for in Article 53(2) of Regulation (EU) No 1151/2012. Indicate whether the amendment leads or not to an amendment of the single document.]

5. Annexes

- 5.1. The decision approving the standard amendment.
- 5.2. The proof that the amendment is applicable in the third country.
- 5.3. The consolidated single document, as amended, where relevant.
- 5.4. A copy of the consolidated version of the product specification as published or the reference to the publication of the product specification.

ANNEX VIII

Communicating the approval of a temporary amendment**(Regulation (EU) No 1151/2012)****1. Name of product**

[as registered]

2. Third country to which the geographical area belongs

...

3. National authority or applicant group communicating the temporary amendment

[Names, and references, of the single producer or group of producers having a legitimate interest or of the authorities of the third country, to which the geographical area belongs, communicating the amendment (see Article 49(5) of Regulation (EU) No 1151/2012). Names and references concerning natural persons shall not be included in this form and shall be sent to the Commission separately.]

4. Description of the approved amendment(s)

[Provide a description of and the specific reasons for the temporary amendment(s) including the reference of the formal recognition of the natural disaster or adverse weather conditions by the competent authorities or of the imposition of obligatory sanitary and phytosanitary measures. Provide also a statement explaining why the amendment(s) fall under the definition of "temporary amendment" as provided for in Article 53(2) of Regulation (EU) No 1151/2012.]

5. Annexes

- 5.1. The decision of the competent authorities formally recognising the natural disaster or imposing obligatory sanitary and phytosanitary measures or the respective electronic publication references.
- 5.2. The decision approving the temporary amendment or the electronic publication reference.
- 5.3. The proof that the amendment is applicable in the third country;

(2) Section 2 of Annex XI is amended as follows:

(a) in part I, the following indents are added:

- ‘— Class 2.21. aromatised wines as defined in Article 3(2) of Regulation (EU) No 251/2014 of the European Parliament and of the Council (*),
- Class 2.22. other alcoholic beverages,
- Class 2.23. beeswax.

(*) Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91 (OJ L 84, 20.3.2014, p. 14).;

(b) part II is replaced by the following:

‘II. Traditional specialities guaranteed

- Class 2.24. prepared meals,
 - Class 2.25. beer,
 - Class 2.26. chocolate and derived products,
 - Class 2.27. bread, pastry, cakes, confectionery, biscuits and other baker’s wares,
 - Class 2.28. beverages made from plant extracts,
 - Class 2.29. pasta,
 - Class 2.30. salt.’
-

ANNEX II

Application for a Union amendment to the product specification of a protected designation of origin or protected geographical indication originating in a Member State**(Regulation (EU) No 1151/2012)**

(to be used only between 8 June 2022 and 7 December 2022)

1. Name of product

[as registered]

2. Geographical Indication type[Mark 'X' in the appropriate box] PDO ☐ PGI ☐**3. Applicant group and legitimate interest***[Provide name, address, telephone and email address of the applicant group proposing the amendment. In case address, telephone and email address concern a natural person they shall not be included in this form and shall be sent to the Commission separately.**Provide also a statement setting out the legitimate interest of the applicant group.]***4. Member State to which the geographical area belongs**

...

5. Heading in the product specification and in the single document relating to the amendment(s)

- ☐ Name of product
- ☐ Link
- ☐ Marketing restrictions

6. Type of amendment(s)*[Provide a statement explaining why the amendment(s) fall under the definition of 'Union amendment' as provided for in Article 53(2) of Regulation (EU) No 1151/2012.]***7. Amendment(s)***[Provide a description of and the reasons for each amendment as provided for in Article 6a(1) of Delegated Regulation (EU) No 664/2014 and Article 10 of Implementing Regulation (EU) No 668/2014.]***8. Annexes**

- 8.1. The consolidated single document as amended, drawn up in accordance with the form set out in Annex I to Implementing Regulation (EU) No 668/2014.
 - 8.2. The electronic reference to the consolidated version of the product specification as published.
 - 8.3. The declaration that the application meets the requirements of Regulation (EU) No 1151/2012 and provisions adopted pursuant thereto.
-

ANNEX III

Communicating the approval of a standard amendment to the product specification of a protected designation of origin or protected geographical indication originating in a Member State**(Regulation (EU) No 1151/2012)**

(to be used only between 8 June 2022 and 7 December 2022)

1. Name of product

[as registered]

2. Member State to which the geographical area belongs

...

3. Member State authority communicating the standard amendment*[Names and references concerning natural persons shall not be included in this form and shall be sent to the Commission separately.]***4. Description of the approved amendment(s)***[Provide a description of the standard amendment(s) and a statement explaining why the amendment(s) fall under the definition of standard amendment as provided for in Article 53(2) of Regulation (EU) No 1151/2012. Indicate whether the amendment leads or not to an amendment of the single document.]***5. Annexes**

5.1. The decision approving the standard amendment.

5.2. The consolidated single document, as amended, where relevant.

5.3. The electronic reference to the publication of the consolidated product specification, as amended.

5.4. The declaration that the approved standard amendment meets the requirements of Regulation (EU) No 1151/2012 and provisions adopted pursuant thereto.

ANNEX IV

Communicating the approval of a temporary amendment to the product specification of a protected designation of origin or protected geographical indication originating in a Member State**(Regulation (EU) No 1151/2012)**

(to be used only between 8 June 2022 and 7 December 2022)

1. Name of product

[as registered]

2. Member State to which the geographical area belongs

...

3. Member State authority communicating the temporary amendment*[Names and references concerning natural persons shall not be included in this form and shall be sent to the Commission separately.]***4. Description of the approved amendment(s)***[Provide a description of and the specific reasons for the temporary amendment(s) including the reference of the formal recognition of the natural disaster or adverse weather conditions by the competent authorities or of the imposition of obligatory sanitary and phytosanitary measures. Provide also a statement explaining why the amendment(s) fall under the definition of 'temporary amendment' as provided for in Article 53(2) of Regulation (EU) No 1151/2012.]***5. Annexes**

- 5.1. The decision of the competent authorities formally recognising the natural disaster or imposing obligatory sanitary and phytosanitary measures or the respective electronic publication references.
 - 5.2. The decision approving the temporary amendment or the electronic publication reference.
 - 5.3. The declaration that the approved temporary amendment meets the requirements of Regulation (EU) No 1151/2012 and provisions adopted pursuant thereto.
-

COMMISSION IMPLEMENTING REGULATION (EU) 2022/893**of 7 June 2022****amending Annex VI to Regulation (EC) No 152/2009 as regards the methods of analysis for the detection of constituents of terrestrial invertebrates for the official control of feed****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) ⁽¹⁾, and in particular Article 34(6), first subparagraph, point (a), thereof,

Whereas:

- (1) Commission Regulation (EC) No 152/2009 ⁽²⁾ establishes testing methods used to support official controls to enforce the ban on the use of processed animal protein in feed for food producing animals. This includes methods of analysis for the determination of constituents of animal origin for the official control of feed, which are described in Annex VI to that Regulation and performed by light microscopy or polymerase chain reaction (PCR).
- (2) The use of processed animal protein derived from farmed insects has been authorised in the feed of aquaculture animals by Commission Regulation (EU) 2017/893 ⁽³⁾, and in the feed of porcine animals and poultry by Commission Regulation (EU) 2021/1372 ⁽⁴⁾, but is still prohibited under Regulation (EC) No 999/2001 of the European Parliament and of the Council ⁽⁵⁾ in certain feed, notably in the feed of ruminants.
- (3) The European Union reference laboratory for animal proteins in feedingstuffs has developed and validated a special protocol, including a double sedimentation step, which ensures the detection of particles from terrestrial invertebrates, including insects, if present in feed materials, compound feed and premixtures submitted to laboratory testing. With this additional step, that protocol should be used in the framework of official controls to verify the correct enforcement of the ban on the use of processed animal protein of insects in certain feed for food producing animals.

⁽¹⁾ OJ L 95, 7.4.2017, p. 1.

⁽²⁾ Commission Regulation (EC) No 152/2009 of 27 January 2009 laying down the methods of sampling and analysis for the official control of feed (OJ L 54, 26.2.2009, p. 1).

⁽³⁾ Commission Regulation (EU) 2017/893 of 24 May 2017 amending Annexes I and IV to Regulation (EC) No 999/2001 of the European Parliament and of the Council and Annexes X, XIV and XV to Commission Regulation (EU) No 142/2011 as regards the provisions on processed animal protein (OJ L 138, 25.5.2017, p. 92).

⁽⁴⁾ Commission Regulation (EU) 2021/1372 of 17 August 2021 amending Annex IV to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards the prohibition to feed non-ruminant farmed animals, other than fur animals, with protein derived from animals (OJ L 295, 18.8.2021, p. 1).

⁽⁵⁾ Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1).

- (4) The description of the light microscopy method set out in Annex VI to Regulation (EC) No 152/2009 should therefore be adjusted in order to include a double sedimentation step in the protocol for the preparation of samples to be tested for detecting constituents of terrestrial invertebrates.
- (5) Annex VI to Regulation (EC) No 152/2009 should therefore be amended accordingly.
- (6) 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

Annex VI to Regulation (EC) No 152/2009 is amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 7 June 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Annex VI to Regulation (EC) No 152/2009 is amended as follows:

(1) point 1 is replaced by the following:

‘1. PURPOSE AND SCOPE

The determination of constituents of animal origin in feed shall be performed by light microscopy or polymerase chain reaction (PCR) in accordance with the provisions laid down in this Annex.

These two methods make it possible to detect the presence of constituents of animal origin in premixtures, feed materials and compound feed. However, they do not make it possible to calculate the amount of such constituents in premixtures, feed materials and compound feed. Both methods have a limit of detection below 0,1 % (w/w).

The PCR method makes it possible to identify the taxonomic group of constituents of animal origin present in premixtures, feed materials and compound feed.

These methods shall apply for the control of the application of the prohibitions laid down in Article 7(1) of Regulation (EC) No 999/2001 of the European Parliament and of the Council (*), Annex IV to that Regulation and Article 11(1) of Regulation (EC) No 1069/2009 of the European Parliament and of the Council (**).

Depending on the type of feed being tested, these methods may be used, within one single operational protocol, either on their own or combined together in accordance with the standard operating procedures (“SOPs”) established by the EU reference laboratory for animal proteins in feedingstuffs (EURL-AP) and published on its website (***).

- (*) Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1).
- (**) Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) (OJ L 300, 14.11.2009, p. 1).
- (***) <https://www.eurl.craw.eu/legal-sources-and-sops/method-of-reference-and-sops/>;

(2) point 2.1 is replaced by the following:

‘2.1. **Light microscopy**

2.1.1. *Principle*

The constituents of animal origin which may be present in premixtures, feed materials and compound feed sent for analysis are identified on the basis of typical and microscopically identifiable characteristics such as muscle fibres and other meat particles, cartilage, bones, horn, hair, bristles, invertebrates cuticular fragments, insect tracheal structures, blood products, milk globules, lactose crystals, feathers, egg shells, fish bones and scales.

Microscopic examinations shall be performed after preparation of samples by sedimentation.

Samples shall be subject to a sedimentation step as follows:

- (a) for the detection of constituents of animal origin other than terrestrial invertebrates, a single Tetrachloroethylene (TCE) sedimentation step as detailed in point 2.1.3.4.3;
- (b) for the detection of constituents of terrestrial invertebrates, a double Petroleum ether/Tetrachloroethylene (PE/TCE) sedimentation step as detailed in point 2.1.3.4.4.

2.1.2. *Reagents and equipment*

2.1.2.1. *Reagents*

2.1.2.1.1. *Concentrating agent*

- Tetrachloroethylene (specific gravity 1,62).
- Petroleum ether (PE) boiling point 40– 60 °C (specific gravity 0,65).

2.1.2.1.2. Staining reagent

- Alizarin Red solution (dilute 2,5 ml 1M hydrochloric acid in 100 ml water and add 200 mg Alizarin Red to this solution).

2.1.2.1.3. Mounting media

- Lye (NaOH 2,5 % w/v or KOH 2,5 % w/v).
- Glycerol (undiluted, viscosity: 1 490 cP) or a mounting medium with equivalent properties for non-permanent slide preparation.
- Norland ® Optical Adhesive 65 (viscosity: 1 200 cP) or a resin with equivalent properties for permanent slide preparation.

2.1.2.1.4. Mounting media with staining properties

- Lugol solution (dissolve 2 g potassium iodide in 100 ml water and add 1 g iodine while frequently shaking).
- Cystine reagent (2 g lead acetate, 10 g NaOH/100 ml water).
- Fehling's reagent (prepared before use from equal parts (1/1) of two-stock solutions A and B: solution A (dissolve 6,9 g copper (II) sulphate pentahydrate in 100 ml water); solution B (dissolve 34,6 g potassium sodium tartrate tetrahydrate and 12 g NaOH in 100 ml water).
- Tetramethylbenzidine/Hydrogen peroxide (dissolve 1 g 3,3',5,5' tetramethylbenzidine (TMB) in 100 ml glacial acetic acid and 150 ml water. Before use, mix 4 parts of this TMB solution with 1 part 3 % hydrogen peroxide).

2.1.2.1.5. Rinsing agents

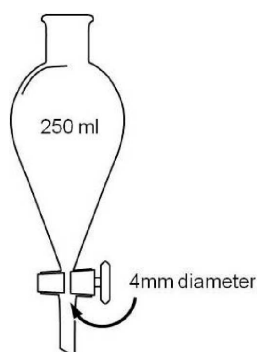
- Ethanol ≥ 96 % (technical grade).
- Acetone (technical grade).

2.1.2.1.6. Bleaching reagent

- Commercial sodium hypochlorite solution (9 – 14 % active chlorine).

2.1.2.2. Equipment

- Analytical balance with an accuracy of 0,001 g.
- Grinding equipment: knife or rotor mill. If a rotor mill is used, mill sieves $\leq 0,5$ mm shall be prohibited.
- Sieves with square meshes of 0,25 mm and 1 mm width. With the exception of sample pre-sieving, the diameter of the sieves shall not exceed 10 cm to avoid loss of materials. Calibration of sieves is not required.
- Conical glass separation funnel with a content of 250 ml with Teflon or ground glass stopcock at the base of the cone. Stopcock opening diameter shall be ≥ 4 mm. Alternatively, for single TCE sedimentation only, a conical bottomed settling beaker may be used provided the laboratory has demonstrated that detection levels are equivalent to that obtained using the conical glass separation funnel.



Separation funnel

- Stereomicroscope covering at least a 6,5x to 40x final magnification range.
- Compound microscope covering at least a 100x to 400x final magnification range with transmitted light bright field. Polarised light, differential interferential contrast can additionally be used.
- Standard laboratory glassware.
- Equipment for slide preparation: classical microscope slides, hollow slides, coverslips (20x20 mm), tweezers, fine spatula.
- Laboratory oven.
- Centrifuge.
- Filter paper: qualitative cellulose filter (pore size 4-11 µm).

2.1.3. *Sampling and sample preparation*

2.1.3.1. Sampling

A representative sample, taken in accordance with Annex I shall be used.

2.1.3.1.1. Sample drying

Samples with a moisture content > 14 % shall be dried prior to handling in accordance with Annex III.

2.1.3.1.2. Sample pre-sieving

In order to collect information on possible environmental contamination of the feed, it is recommended to pre-sieve at 1 mm pelleted feeds and kernels and to subsequently prepare, analyse, and report separately on the two resulting fractions, which must be considered as distinct samples.

2.1.3.2. Precautions to be taken

In order to avoid laboratory cross-contamination, all reusable equipment shall be carefully cleaned before use. Separation funnel pieces shall be disassembled before cleaning. Separation funnel pieces and glassware shall be pre-washed manually and then washed in a washing machine. Sieves shall be cleaned by using a brush with stiff synthetic hairs. A final cleaning of sieves with acetone and compressed air is recommended after sieving of fatty material like fishmeal.

2.1.3.3. Preparation of samples consisting of fat or oil

The following protocol shall be followed for the preparation of samples consisting of fat:

- If the fat is solid, it shall be warmed in an oven until it is liquid.
- By using a pipette, 40 ml of fat shall be transferred from the bottom of the sample to a centrifugation tube.
- The sample shall be centrifuged during 10 min at 4 000 r.p.m.
- If the fat is solid after centrifugation, it shall be warmed in an oven until it is liquid.
- The centrifugation shall be repeated during 5 min at 4 000 r.p.m.
- By using a small spoon or a spatula, one half of the decanted impurities shall be transferred to microscopic slides for examination. Glycerol is recommended as mounting medium.
- The remaining impurities shall be used for preparing the sediment as described in point 2.1.3.4.3, first indent.

The same protocol, with the exception of the first and fourth indents, shall be applied for the preparation of samples consisting of oil.

2.1.3.4. Preparation of samples other than fat or oil

2.1.3.4.1. Sub-sampling and grinding: at least 50 g of the sample shall be sub-sampled for analysis and subsequently ground.

2.1.3.4.2. Preparation of raw material: a portion of at least 5 g of the ground sub-sample shall be prepared. It shall be sieved at 0,25 mm and the two resulting fractions shall be examined.

2.1.3.4.3. Single TCE sedimentation for the detection of constituents of animal origin other than terrestrial invertebrates.

— Extraction and preparation of the sediment:

A portion of 10 g (accurate to 0,01 g) of the ground sub-sample shall be transferred into the separation funnel or conical bottomed settling beaker and 50 ml of TCE shall be added. The portion transferred into the funnel shall be limited to 3 g in case of fishmeal or other pure animal products, mineral ingredients or premixtures which generate more than 10 % of sediment. The mixture shall be vigorously shaken for at least 30 s and 50 ml more of TCE shall be added cautiously while washing down the inside surface of the funnel to remove any adhering particles. The resulting mixture shall be left to stand for at least 5 min before the sediment is separated off by opening the stopcock.

If a conical bottomed settling beaker is used then the mixture shall be vigorously stirred for at least 15 s and any particles adhering to the side of the beaker shall be carefully washed down the inside surface with at least 10 ml of clean TCE. The mixture shall be left to stand for 3 min and then stirred again for 15 s and any particles adhering to the side of the beaker shall be carefully washed down the inside surface with at least 10 ml of clean TCE. The resulting mixture shall be left to stand for at least 5 min and then the liquid fraction is removed and discarded by careful decanting, taking care not to lose any of the sediment.

The sediment shall be collected on a filter paper placed into a funnel to allow the separation of the remaining TCE while avoiding fat deposition into the sediment. The sediment shall be dried. It is recommended to subsequently weigh the sediment (accurate to 0,001 g) to control the sedimentation step. Lastly, the sediment shall be sieved at 0,25 mm and the two resulting fractions shall be examined, unless sieving is not deemed necessary.

— Extraction and preparation of the flotage:

After recovery of the sediment with the method described above, two phases shall remain in the separation funnel: a liquid one consisting of TCE and a solid one made of floating material. This solid phase is the flotage and shall be recovered by pouring off completely TCE from the funnel by opening the stopcock. By inverting the separation funnel, the flotage shall be transferred into a large petri dish and air dried in a fume hood. It shall be sieved at 0,25 mm and the two resulting fractions shall be examined.

— Use of staining reagents:

In order to facilitate the correct identification of the constituents of animal origin, the operator may use staining reagents during the sample preparation in accordance with guidelines issued by the EURL-AP and published on its website.

In case Alizarin Red solution is used to colour the sediment, the following protocol shall apply:

- The dried sediment shall be transferred into a glass test tube and rinsed twice with approximately 5 ml of ethanol (each time a vortex of 30 s shall be used, the solvent shall be let settle about 1 min 30 s and poured off).
- The sediment shall be bleached by adding at least 1 ml sodium hypochlorite solution. The reaction shall be allowed to continue for 10 min. The tube shall be filled with water, the sediment shall be let settle 2-3 min, and the water and the suspended particles shall be poured off gently.
- The sediment shall be rinsed twice more with about 10 ml of water (a vortex shall be used for 30 s, let settle, and pour off the water each time).
- 2 to 10 drops of the Alizarin Red solution shall be added and the mixture shall be vortexed. The reaction shall be let occur for 30 s and the coloured sediment shall be rinsed twice with approximately 5 ml ethanol followed by one rinse with acetone (each time a vortex of 30 s shall be used, the solvent shall be let settle about 1 min and poured off).
- The coloured sediment shall be dried.

2.1.3.4.4. Double PE/TCE sedimentation for the detection of terrestrial invertebrate constituents.

All steps shall be realised in a conical glass separation funnel of 250 ml as described in point 2.1.2.2, fourth indent.

- A portion of 10 g (accurate to 0,01 g) of the ground sub-sample shall be transferred into the separation funnel and submitted first to a single TCE sedimentation as described in point 2.1.3.4.3 including the recovery of the sediment on a filter paper placed on a funnel. This sediment may be used as the one obtained from point 2.1.3.4.3.
- The small volume of TCE drained together with the sediment shall be transferred into a graduated cylinder. By opening the stopcock of the separation funnel the graduated cylinder has to be filled further until obtaining 30 ml of TCE. Once this volume is achieved, the stopcock shall be closed.
- This collected volume of TCE shall be substituted by adding a volume of 30 ml of petroleum ether boiling point 40– 60 °C into the separation funnel. The content of the separation funnel shall be mixed thoroughly to obtain a 30 % PE/70 % TCE mixture (with a density of approximately 1,26 g.cm⁻³). Allow the material to settle down for 10 min. Two new fractions will segregate: a second sediment and a final flotote (< 1,26 g.cm⁻³). The second sediment is to recover in a petri dish (or a filter paper placed on a funnel) by opening the stopcock until only a few solvent mixture and the final flotote remain in the separation funnel. The remaining liquid and the final flotote shall be collected separately on a filter paper placed on a funnel. The wall of the separation funnel shall be rinsed with a flush of PE to collect all material from the final flotote. The final flotote shall be allowed to dry. The final flotote shall be sieved at 0,25 mm and the two resulting fractions shall be examined for the detection of terrestrial invertebrate constituents, unless sieving is not deemed necessary.

2.1.4. *Microscopic examination*

2.1.4.1. Slide preparation

Microscopic slides shall be prepared from the sediment and, depending on operator's choice, from either the flotote or the raw material. When appropriate, for the detection of terrestrial invertebrate constituents only, slides shall also be prepared from the final flotote obtained as described in point 2.1.3.4.4. The two resulting fractions (the fine and the coarse one) shall be prepared. Test portions of fractions spread on slides shall be representative of the whole fraction.

A sufficient number of slides shall be prepared in order to ensure that a complete examination protocol as laid down in point 2.1.4.2 can be carried-out.

Microscopic slides shall be mounted with the adequate mounting medium in accordance with the SOP established by the EURL-AP and published on its website. The slides shall be covered with coverslips.

2.1.4.2. Observation flowchart for the detection of animal particles in compound feed, feed material and premixtures.

The prepared microscopic slides shall be observed in accordance with the observation flowcharts in Diagrams 1 and 2.

The microscopic observations shall be conducted using the compound microscope on the sediment and, depending on the operator's choice, either on the flotote or on the raw material. Additionally, for the detection of terrestrial invertebrate constituents, observations shall also be conducted on the final flotote obtained as described in point 2.1.3.4.4 in accordance with Diagram 3. The stereomicroscope may be used in addition to the compound microscope for the coarse fractions. Each slide shall be screened entirely at various magnifications. Precise explanations on how to use the flowcharts are detailed by a SOP established by the EURL-AP and published on its website.

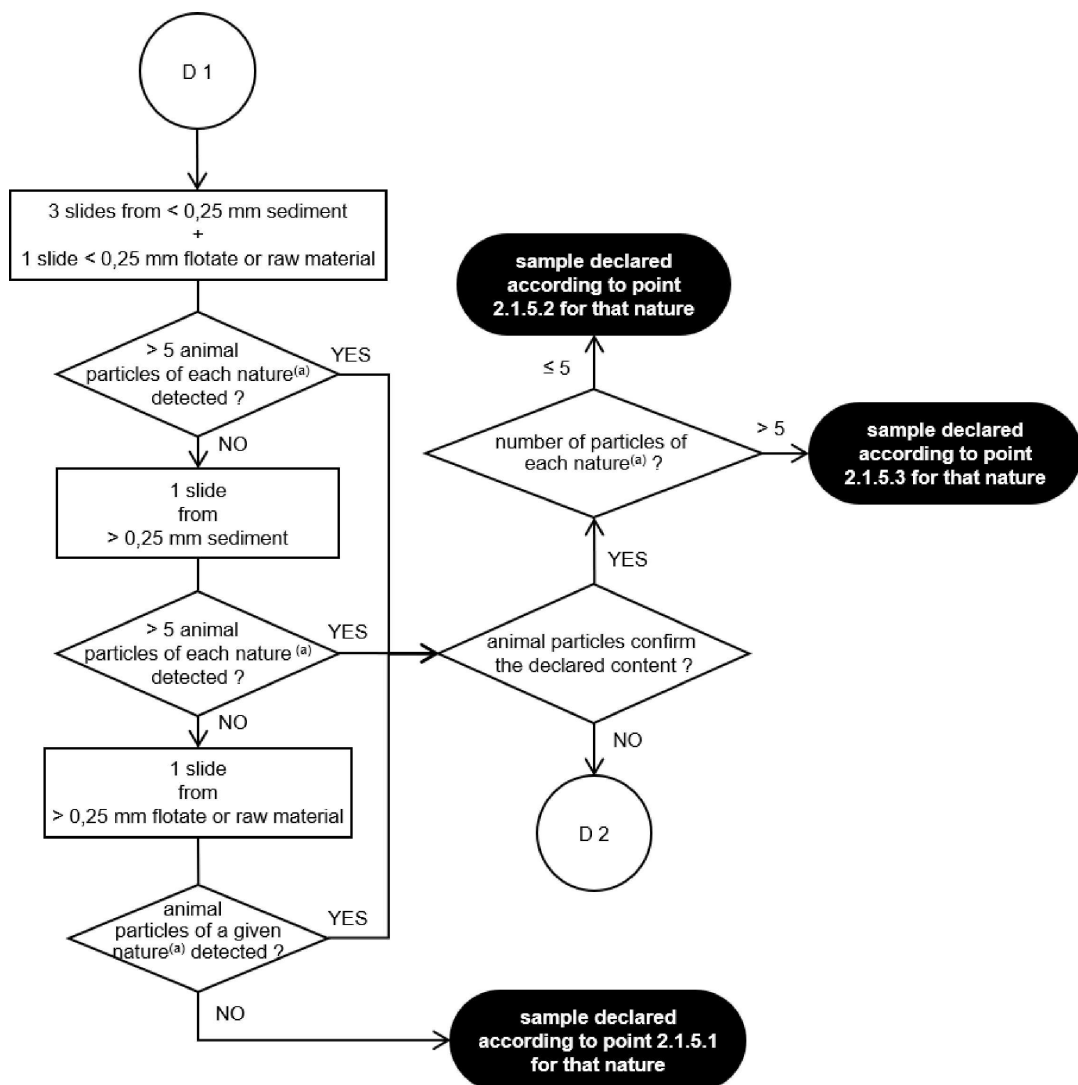
The minimum numbers of slides to be observed at each step of the observation flowcharts shall be strictly respected unless the entire fraction material does not permit to reach the stipulated slide number, for instance when no sediment is obtained. No more than 6 slides per determination shall be used for recording of the number of particles.

When additional slides are prepared using a more specific mounting medium with staining properties, as described in point 2.1.2.1.4, on the flotata or the raw material to further characterise structures (e.g. feathers, hairs, muscle or blood particles), which have been detected on slides prepared by other mounting media, as described in point 2.1.2.1.3, the number of particles shall be counted based on a number of slides per determination not exceeding 6, including the additional slides with a more specific mounting medium. The additional slides prepared from the final flotata obtained, as described in point 2.1.3.4.4, for the detection of terrestrial invertebrate constituents shall not be considered for the identification of other natures (terrestrial vertebrates and fish).

In order to facilitate the identification of the particles' nature and origin, the operator may use support tools like decision support systems, image libraries and reference samples.

Diagram 1

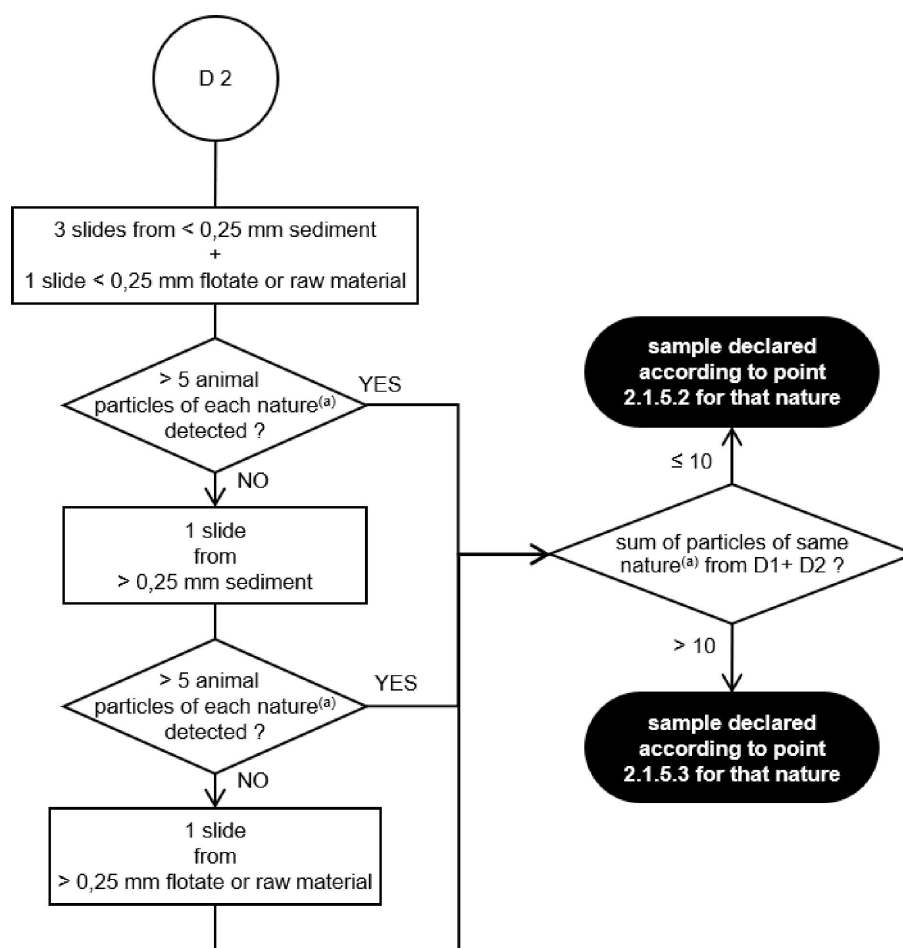
Observation flowchart after single TCE sedimentation for the detection of animal particles other than from terrestrial invertebrates in compound feed, feed materials and premixtures for the first determination



("D1" and "D2" refer to the first and second determinations; ^(a): terrestrial vertebrates, fish)

Diagram 2

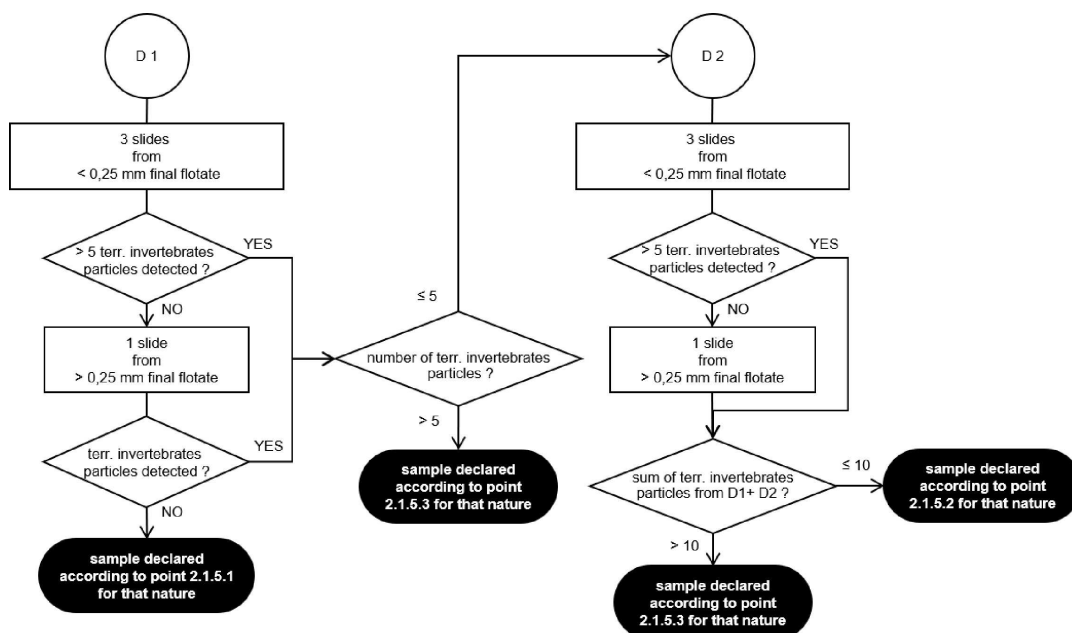
Observation flowchart after single TCE sedimentation for the detection of animal particles other than from terrestrial invertebrates in compound feed, feed materials and premixtures for the second determination



("D1" and "D2" refer to the first and second determinations; ^(a): terrestrial vertebrates, fish)

Diagram 3

Observation flowchart after double PE/TCE sedimentation for the detection of terrestrial invertebrates' constituents in compound feed, feed materials and premixtures



("D1" and "D2" refer to the first and second determinations)

2.1.4.3. Number of determinations

Determinations shall be performed on different sub-samples of 50 g each.

If, following the first determination carried out in accordance with the observation flowchart in Diagram 1, or Diagram 3 when appropriate, no animal particles are detected, no additional determination shall be necessary and the result of the analysis shall be reported using the wording set out in point 2.1.5.1.

If, following the first determination carried out in accordance with the observation flowchart in Diagram 1, one or more animal particles of a given nature (i.e. terrestrial vertebrates or fish) are detected and the nature of the particles found confirms the declared content of the sample, no second determination shall be necessary. If the number of the animal particles of a given nature detected during this first determination is higher than 5, the result of the analysis shall be reported per animal nature using the wording set out in point 2.1.5.3. Otherwise, the result of the analysis shall be reported per animal nature using the wording set out in point 2.1.5.2.

If, following the first determination carried out in accordance with the observation flowchart in Diagram 3, more than 5 particles of terrestrial invertebrates are detected, no second determination shall be necessary and the result of the analysis shall be reported using the wording set out in point 2.1.5.3 for this nature.

In all other cases, including when no declaration of content has been provided to the laboratory, a second determination shall be carried out from a new sub-sample. If, following the second determination carried out in accordance with the observation flowchart in Diagram 2, or Diagram 3 when appropriate, the sum of the animal particles of a given nature detected over the two determinations is higher than 10, the result of the analysis shall be reported per animal nature using the wording set out in point 2.1.5.3. Otherwise, the result of the analysis shall be reported per animal nature using the wording set out in point 2.1.5.2.

2.1.5. *Expression of the results*

When reporting the results, the laboratory shall indicate on which type of material the analysis has been carried out (sediment, flotage, final flotage or raw material). The reporting shall clearly indicate how many determinations have been carried out and if sieving of the fractions prior to slide preparation, in accordance with point 2.1.3.4.3, first indent, third paragraph, or point 2.1.3.4.4, third indent, was not performed.

The laboratory report shall at least contain information on the presence of constituents derived from terrestrial vertebrates and from fish.

The different situations shall be reported in the following ways.

2.1.5.1. No animal particle of a given nature is detected:

- “As far as was discernible using a light microscope, no particle derived from terrestrial vertebrates was detected in the submitted sample.”
- “As far as was discernible using a light microscope, no particle derived from fish was detected in the submitted sample.”
- “As far as was discernible using a light microscope, no particle derived from terrestrial invertebrates was detected in the submitted sample.”

2.1.5.2. Between 1 and 5 animal particles of a given nature are detected when only one determination has been performed, or between 1 and 10 particles of a given nature are detected in case of two determinations (the number of detected particles is below the decision limit established in the SOP of the EURL-AP and published on its website):

When only one determination has been performed:

- “As far as was discernible using a light microscope, no more than 5 particles derived from terrestrial vertebrates were detected in the submitted sample. The particles were identified as ... [bone, cartilage, muscle, hair, horn, other (please specify as appropriate)]. This low level presence is below the decision limit established for this microscopic method.”
- “As far as was discernible using a light microscope, no more than 5 particles derived from fish were detected in the submitted sample. The particles were identified as ... [fishbone, fish scale, cartilage, muscle, otolith, gill, other (please specify as appropriate)]. This low level presence is below the decision limit established for this microscopic method.”

When two determinations have been performed:

- “As far as was discernible using a light microscope, no more than 10 particles derived from terrestrial vertebrates were detected over the two determinations in the submitted sample. The particles were identified as ... [bone, cartilage, muscle, hair, horn, other (please specify as appropriate)]. This low level presence is below the decision limit established for this microscopic method.”
- “As far as was discernible using a light microscope, no more than 10 particles derived from fish were detected over the two determinations in the submitted sample. The particles were identified as ... [fishbone, fish scale, cartilage, muscle, otolith, gill, other (please specify as appropriate)]. This low level presence is below the decision limit established for this microscopic method.”
- “As far as was discernible using a light microscope, no more than 10 particles derived from terrestrial invertebrates were detected over the two determinations in the submitted sample. The particles were identified as ... [cuticle fragments, mouthparts, muscles, tracheal structures, other (please specify as appropriate)]. This low level presence is below the decision limit established for this microscopic method.”

Additionally:

- In case of sample pre-sieving, the laboratory report shall mention in which fraction (sieved fraction, pelleted fraction or kernels) the animal particles have been detected insofar as the detection of animal particles only in the sieved fraction may be the sign of an environmental contamination.

- When only animal particles which cannot be categorised as either terrestrial vertebrates or fish are detected (e.g. muscle fibres), the report shall mention that only such animal particles were detected and that it cannot be excluded that they originate from terrestrial vertebrates.

2.1.5.3. More than 5 animal particles of a given nature are detected when only one determination has been performed, or more than 10 particles of a given nature are detected in case of two determinations:

When only one determination has been performed:

- “As far as was discernible using a light microscope, more than 5 particles derived from terrestrial vertebrates were detected in the submitted sample. The particles were identified as ... [bone, cartilage, muscle, hair, horn, other (please specify as appropriate)].”
- “As far as was discernible using a light microscope, more than 5 particles derived from fish were detected in the submitted sample. The particles were identified as ... [fishbone, fish scale, cartilage, muscle, otolith, gill, other (please specify as appropriate)].”
- “As far as was discernible using a light microscope, more than 5 particles derived from terrestrial invertebrates were detected in the submitted sample. The particles were identified as ... [cuticle fragments, mouthparts, muscles, tracheal structures, other (please specify as appropriate)].”

When two determinations have been performed:

- “As far as was discernible using a light microscope, more than 10 particles derived from terrestrial vertebrates were detected over the two determinations in the submitted sample. The particles were identified as ... [bone, cartilage, muscle, hair, horn, other (please specify as appropriate)].”
- “As far as was discernible using a light microscope, more than 10 particles derived from fish were detected over the two determinations in the submitted sample. The particles were identified as ... [fishbone, fish scale, cartilage, muscle, otolith, gill, other (please specify as appropriate)].”
- “As far as was discernible using a light microscope, more than 10 particles derived from terrestrial invertebrates were detected over the two determinations in the submitted sample. The particles were identified as ... [cuticle fragments, mouthparts, muscles, tracheal structures, other (please specify as appropriate)].”

Additionally:

- In case of sample pre-sieving, the laboratory report shall mention in which fraction (sieved fraction, pelleted fraction or kernels) the animal particles have been detected insofar as the detection of animal particles only in the sieved fraction may be the sign of an environmental contamination.
 - When only animal particles which cannot be categorised as either terrestrial vertebrates or fish are detected (e.g. muscle fibres), the report shall mention that only such animal particles were detected and that it cannot be excluded that they originate from terrestrial vertebrates.’
-

COMMISSION IMPLEMENTING REGULATION (EU) 2022/894**of 7 June 2022**

initiating an investigation concerning possible circumvention of the anti-dumping measures imposed by Implementing Regulation (EU) 2017/141 on imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China by imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, consigned from Malaysia, whether declared as originating in Malaysia or not, and making such imports subject to registration

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾, and in particular Articles 13(3) and 14(5) thereof,

After having informed the Member States,

Whereas:

A. REQUEST

- (1) The European Commission ('the Commission') has received a request pursuant to Articles 13(3) and 14(5) of Regulation (EU) 2016/1036 ('the basic Regulation'), to investigate the possible circumvention of the anti-dumping measures imposed on imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China by imports consigned from Malaysia, whether declared as originating in Malaysia or not, and to make such imports subject to registration.
- (2) The request was lodged on 25 April 2022 by the Defence Committee of the Stainless steel butt-welding Fittings industry of the European Union ('the applicant').

B. PRODUCT

- (3) The product concerned by the possible circumvention is tube and pipe butt-welding fittings, of austenitic stainless steel grades, corresponding to AISI types 304, 304L, 316, 316L, 316Ti, 321 and 321H and their equivalent in the other norms, with a greatest external diameter not exceeding 406,4 mm and a wall thickness of 16 mm or less, with a roughness average (Ra) of the internal surface not less than 0,8 micrometres, not flanged, whether or not finished, classified on the date of entry into force of Commission Implementing Regulation (EU) 2017/141 ⁽²⁾ under CN codes ex 7307 23 10 and ex 7307 23 90 (TARIC codes 7307 23 10 15, 7307 23 10 25, 7307 23 90 15, 7307 23 90 25) and originating in the People's Republic of China ('PRC') ('the product concerned'). This is the product to which the measures that are currently in force apply.
- (4) The product under investigation is the same as that defined in the previous recital, but consigned from Malaysia, whether declared as originating in Malaysia or not, currently falling under the same CN codes as the product concerned (TARIC codes 7307 23 10 35, 7307 23 10 40, 7307 23 90 35, 7307 23 90 40) ('the product under investigation').

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Commission Implementing Regulation (EU) 2017/141 of 26 January 2017 imposing definitive anti-dumping duties on imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China and Taiwan (OJ L 22, 27.1.2017, p. 14).

C. EXISTING MEASURES

- (5) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Implementing Regulation (EU) 2017/141 ('the existing measures'). On 26 January 2022, the Commission initiated an expiry review of the existing measures in accordance with Article 11(2) of the basic Regulation by publishing a notice in the *Official Journal of the European Union* ⁽³⁾.

D. GROUNDS

- (6) The request contains sufficient evidence that the existing anti-dumping measures on imports of the product concerned are being circumvented by imports of the product under investigation.
- (7) The evidence in the request shows a change in the pattern of trade involving exports from the PRC and Malaysia to the Union has taken place following the imposition of measures on the product concerned. The import data provided in the request showed a significant change in the pattern of trade involving exports from PRC and Malaysia to the Union following the imposition of measures on the product concerned. Exports from the PRC of the product concerned to the EU decreased while at the same time Chinese exports of the product under investigation to Malaysia increased and Malaysian exports to the EU increased significantly since the imposition of measures on 26 January 2017. This change appears without sufficient due cause or economic justification other than the imposition of the measures. Indeed, according to the evidence provided by the applicant, the change appeared to stem from the transshipment of the product concerned originating in the PRC via Malaysia to the Union. Furthermore, the applicant claimed that genuine production of the product under investigation in Malaysia is limited to only two producers whose combined exports to the Union have been consistently much lower than the volumes of the product under investigation exported from Malaysia to the Union since the imposition of measures on the product concerned. The applicant has submitted evidence putting in doubt the existence of actual production facilities of Chinese-owned companies in Malaysia. In addition, the applicant provided evidence that Chinese producers are openly proposing to change the origin of the product concerned from Chinese to Malaysian.
- (8) Furthermore, the evidence shows that because of the practice described above the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and prices. Significant volumes of imports of the product under investigation appear to have entered the Union market. In addition, there is sufficient evidence that imports of the product under investigation are made at prices below the non-injurious price established in the investigation that led to the existing measures.
- (9) Finally, the evidence shows that the prices of the product under investigation are dumped in relation to the normal value previously established for the product concerned.
- (10) Should circumvention practices covered by Article 13 of the basic Regulation, other than the one mentioned above, be identified in the course of the investigation, the investigation may also cover these practices.

E. PROCEDURE

- (11) In light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13(3) of the basic Regulation and to make imports of the product under investigation subject to registration, in accordance with Article 14(5) of the basic Regulation.
- (12) In order to obtain the information necessary for this investigation, all interested parties should contact the Commission forthwith, but not later than the time limit set in Article 3(2) of this Regulation. The time limit set in Article 3(2) of this Regulation applies to all interested parties. Information, as appropriate, may also be sought from the Union industry.
- (13) The authorities of Malaysia and the PRC will be notified of the initiation of the investigation.

⁽³⁾ OJ C 40, 26.1.2022, p. 1.

(a) Collection of information and holding of hearings

- (14) All interested parties including the Union industry, importers and any relevant association are invited to make their views known in writing and to provide supporting evidence provided that such submissions are made within the deadline provided for in Article 3(2). Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(b) Requests for exemptions

- (15) In accordance with Article 13(4) of the basic Regulation, imports of the product under investigation may be exempted from measures if the importation does not constitute circumvention.
- (16) Since the possible circumvention takes place outside the Union, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to producers of the product under investigation in Malaysia that can show that they are not engaged in circumvention practices as defined in Article 13(1) and (2) of the basic Regulation. Producers, if any, wishing to obtain an exemption should come forward within the time limit indicated in Article 3(1) of this Regulation. Copies of the questionnaire for exporting producers in the PRC, the exemption claim form questionnaire for exporting producers in Malaysia and questionnaires for importers in the Union are available in the file for inspection by interested parties and on DG Trade's website: <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2606>. The questionnaires have to be submitted within the time limit indicated in Article 3(2) of this Regulation.

F. REGISTRATION

- (17) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation shall be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount, not exceeding the residual duty imposed by Implementing Regulation (EU) 2017/141, can be levied from the date on which registration of such imports was imposed.

G. TIME LIMITS

- (18) In the interest of sound administration, time limits should be stated within which:
- interested parties may make themselves known to the Commission, submit questionnaires, present their views in writing or any other information to be taken into account during the investigation,
 - producers in Malaysia may request exemptions from registration of imports or measures,
 - interested parties may make a written request to be heard by the Commission.
- (19) Attention is drawn to the fact that the exercise of procedural rights set out in the basic Regulation depends on parties making themselves known within the time limits laid down in Article 3 of this Regulation.

H. NON-COOPERATION

- (20) If any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made on the basis of facts available in accordance with Article 18 of the basic Regulation.
- (21) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available in accordance with Article 18 of the basic Regulation.
- (22) If an interested party does not cooperate or cooperates only partially and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

I. SCHEDULE OF THE INVESTIGATION

- (23) The investigation will be concluded, pursuant to Article 13(3) of the basic Regulation, within nine months of the date of entry into force of this Regulation.

J. PROCESSING OF PERSONAL DATA

- (24) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁴⁾.
- (25) A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website: <http://ec.europa.eu/trade/policy/accessing-markets/trade-defence/>

K. HEARING OFFICER

- (26) Interested parties may request the intervention of the Hearing Officer for trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.
- (27) The Hearing Officer may organise hearings and mediate between the interested party/-ies and Commission services to ensure that the interested parties' rights of defence are being fully exercised. A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in the due course.
- (28) Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, interested parties should request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. In principle, the timeframes set out in Article 3(3) of this Regulation to request hearings with the Commission services apply *mutatis mutandis* to requests for hearings with the Hearing Officer. Where hearing requests are submitted outside the relevant timeframes, the Hearing Officer will also examine the reasons for such late requests, the nature of the issues raised and the impact of those issues on the rights of defence, having due regard to the interests of good administration and the timely completion of the investigation.
- (29) For further information and contact details interested parties may consult the Hearing Officer's web pages on DG TRADE's website: <http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/>

HAS ADOPTED THIS REGULATION:

Article 1

An investigation is initiated pursuant to Article 13(3) of Regulation (EU) 2016/1036, in order to determine if imports of tube and pipe butt-welding fittings, of austenitic stainless steel grades, corresponding to AISI types 304, 304L, 316, 316L, 316Ti, 321 and 321H and their equivalent in the other norms, with a greatest external diameter not exceeding 406,4 mm and a wall thickness of 16 mm or less, with a roughness average (Ra) of the internal surface not less than 0,8 micrometres, not flanged, whether or not finished, currently classified under CN codes ex 7307 23 10 and ex 7307 23 90 consigned from Malaysia, whether declared as originating in Malaysia or not (TARIC codes 7307 23 10 35, 7307 23 10 40, 7307 23 90 35, 7307 23 90 40), are circumventing the measures imposed by Implementing Regulation (EU) 2017/141.

⁽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).

Article 2

1. The customs authorities of the Member States shall, pursuant to Articles 13(3) and 14(5) of Regulation (EU) 2016/1036, take the appropriate steps to register the imports identified in Article 1 of this Regulation.
2. Registration shall expire nine months following the date of entry into force of this Regulation.
3. The Commission may direct customs authorities to cease registration in respect of imports of products made by exporters/producers having applied for an exemption from registration and having been found to fulfil the conditions for an exemption to be granted.

Article 3

1. Interested parties must make themselves known by contacting the Commission within 15 days from the date of entry into force of this Regulation.
2. Interested parties, if their representations are to be taken into account during the investigation, must present their views in writing and submit questionnaire replies, requests for exemptions, or any other information within 37 days from the date of the publication of this Regulation in the *Official Journal of the European Union*, unless otherwise specified.
3. Interested parties may also apply to be heard by the Commission within the same 37-day time limit. For hearings pertaining to the initiation stage of the investigation the request must be submitted within 15 days of the date of entry into force of this Regulation. Any request to be heard must be made in writing and must specify the reasons for the request.
4. Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing a) the Commission to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their right of defence.
5. All written submissions, including the information requested in this Regulation, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Sensitive' ^(*). Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.
6. Parties providing 'Sensitive' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of Regulation (EU) 2016/1036, which will be labelled 'For inspection by interested parties'. These summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence.
7. If a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.
8. Interested parties are invited to make all submissions and requests via TRON.tdi (<https://webgate.ec.europa.eu/tron/>) including requests to be registered as interested parties, scanned powers of attorney and certification sheets.

In order to have access to TRON.tdi, interested parties need an EU Login account. Full instructions on how to register and use TRON.tdi are available on <https://webgate.ec.europa.eu/tron/resources/documents/gettingStarted.pdf>.

^(*) A 'Sensitive' document is a document which is considered confidential pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

By using TRON.tdi or email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf.

The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by email, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate G
Office: CHAR 04/039
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

TRON.tdi: <https://webgate.ec.europa.eu/tron/tdi>

Email: TRADE-R777-SSTPF-MALAYSIA@ec.europa.eu

Article 4

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

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

Done at Brussels, 7 June 2022.

For the Commission
The President
Ursula VON DER LEYEN

DECISIONS

COUNCIL DECISION (EU) 2022/895

of 24 May 2022

authorising the opening of negotiations on behalf of the European Union for a comprehensive international convention on countering the use of information and communications technologies for criminal purposes

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 82(1) and (2), and Article 83(1), in conjunction with Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) On 27 December 2019, the United Nations General Assembly adopted Resolution 74/247 on countering the use of information and communications technologies for criminal purposes, deciding to establish an open-ended ad hoc intergovernmental committee of experts, representative of all regions, to elaborate a comprehensive international convention on countering the use of information and communications technologies for criminal purposes.
- (2) The Union has already adopted rules that cover some, but not all, of the elements that are likely to be considered for inclusion in the comprehensive international convention on countering the use of information and communications technologies for criminal purposes. Those rules include in particular instruments on substantive criminal law ⁽¹⁾, on police and judicial cooperation in criminal matters ⁽²⁾ and on minimum standards of

⁽¹⁾ Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1); Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA (OJ L 218, 14.8.2013, p. 8); Directive (EU) 2019/713 of the European Parliament and of the Council of 17 April 2019 on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA (OJ L 123, 10.5.2019, p. 18).

⁽²⁾ Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (OJ C 197, 12.7.2000, p. 1); Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138); Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53); Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams (OJ L 162, 20.6.2002, p. 1); Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings (OJ L 328, 15.12.2009, p. 42); Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ L 130, 1.5.2014, p. 1).

procedural rights ⁽³⁾, as well as data protection and privacy safeguards ⁽⁴⁾. In addition, as legislative proposals have already been made and discussed in additional associated domains, those proposals should also be taken into account to the extent that they aim to reinforce the effectiveness of the Union legal framework.

- (3) Therefore, a comprehensive international convention on countering the use of information and communications technologies for criminal purposes may affect certain Union rules or alter their scope.
- (4) In order to protect the integrity of Union law and to ensure that the rules of international law and Union law remain consistent, it is necessary that the Commission participate, alongside Member States, for matters falling within the Union competence, as defined by the Treaties, and in respect of which the Union has adopted rules, in the negotiations on a comprehensive international convention on countering the use of information and communications technologies for criminal purposes.
- (5) On 22 March 2021, the Council adopted conclusions on the EU cybersecurity strategy for the digital decade. Therein, the Council recalled that several aspects of the negotiations on a comprehensive international convention on countering the use of information and communications technologies for criminal purposes could relate to the Common Foreign and Security Policy, by stressing that it 'supports and promotes the Budapest Convention on Cybercrime and the ongoing work on the Second Additional Protocol to this Convention. Furthermore, it continues to engage in multilateral exchanges on cybercrime, including in processes related to the Council of Europe, the United Nations Office on Drugs and Crime (UNODC) and the Commission on Crime Prevention and Criminal Justice (CCPCJ), to ensure an enhanced international cooperation to counter cybercrime, including the exchange of best practices and technical knowledge and support for capacity building, while respecting, promoting and protecting human rights and fundamental freedoms'.
- (6) This Decision should be without prejudice to the division of competences between the Union and its Member States as defined by the Treaties, to the participation of Member States in the negotiations for a comprehensive international convention on countering the use of information and communications technologies for criminal purposes and to any subsequent decision to conclude, sign or ratify such a convention.
- (7) The negotiating directives set out in the addendum to this Decision are addressed to the Commission and may be revised and further developed if appropriate depending on the evolution of the negotiations.
- (8) In accordance with the principle of sincere cooperation, the Commission and the Member States should cooperate closely during the negotiation process, including through regular contacts with the Member States' experts and representatives in New York and Vienna.

⁽³⁾ Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1); Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1); Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty (OJ L 294, 6.11.2013, p. 1); Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297, 4.11.2016, p. 1); Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (OJ L 132, 21.5.2016, p. 1); Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016, p. 1).

⁽⁴⁾ 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); Directive (EU) 2016/680 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 by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89); Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (OJ L 337, 18.12.2009, p. 11).

- (9) 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 and delivered an opinion on 18 May 2022 ⁽⁹⁾.
- (10) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU), and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (11) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

1. The Commission is hereby authorised to open negotiations, on behalf of the Union, as regards matters falling within the Union's competence, as defined by the Treaties, and in respect of which the Union has adopted rules, for a comprehensive international convention on countering the use of information and communications technologies for criminal purposes.

2. The negotiations shall be conducted on the basis of the negotiating directives of the Council set out in the addendum to this Decision which may be revised and further developed as appropriate depending on the evolution of the negotiations.

Article 2

The negotiations shall be conducted in consultation with the Working Party on Judicial Cooperation in Criminal Matters, which is hereby designated as the special committee within the meaning of Article 218(4) TFEU.

The Commission shall regularly report to the special committee referred to in the first subparagraph on the steps undertaken pursuant to this Decision and consult it on a regular basis.

Whenever so requested by the Council, the Commission shall report to it on the conduct and the outcome of the negotiations, including in writing.

To the extent that the subject matter of the negotiations falls within the competences of both the Union and its Member States, the Commission and the Member States shall cooperate closely during the negotiating process, with a view to ensuring unity in the international representation of the Union and its Member States.

Article 3

This Decision and its addendum shall be made public immediately after their adoption.

Article 4

This Decision is addressed to the Commission.

⁽⁹⁾ Opinion of 18 May 2022 (not yet published in the Official Journal).

Done at Brussels, 24 May 2022.

For the Council
The President
B. LE MAIRE

ADDENDUM

**DIRECTIVES FOR THE NEGOTIATION OF A COMPREHENSIVE INTERNATIONAL CONVENTION
ON COUNTERING THE USE OF INFORMATION AND COMMUNICATIONS TECHNOLOGIES FOR
CRIMINAL PURPOSES**

Regarding the process of the negotiations, the Union should aim to achieve that:

- (1) The negotiation process is open, inclusive and transparent, and based on cooperation in good faith.
- (2) The negotiation process enables participation in a meaningful way of all relevant stakeholders, including representatives of civil society, the private sector, academia and non-governmental organisations.
- (3) Inputs received from all the United Nations Members are considered on an equal basis to ensure an inclusive process.
- (4) The negotiation process is based on an effective and realistic work programme.

Regarding the general objectives for the negotiations, the Union should aim to achieve that:

- (5) Whilst ensuring a high level of protection of human rights and fundamental freedoms, the Convention serves as an effective instrument for law enforcement and judicial authorities in the global fight against cybercrime, with the aim to promote and strengthen measures to prevent and combat cybercrime more efficiently and effectively, to also promote and facilitate international cooperation, to ensure a high level of protection of victims' rights, and to support capacity building and technical assistance in the fight against cybercrime.
- (6) The existing framework of tried-and-tested international and regional instruments and efforts as reflected in United Nations General Assembly Resolutions 74/247 and 75/282 is taken into full consideration. Accordingly, the Convention is compatible with existing international instruments, in particular the 2000 United Nations Convention against Transnational Organized Crime and its protocols, the 2003 United Nations Convention against Corruption, the 2001 Council of Europe Budapest Convention on Cybercrime and its protocols, but also other relevant international and regional instruments, in particular relating to the protection of human rights and fundamental freedoms. The Convention avoids any impact on their application or the further accession of any country to these existing instruments and, to the extent possible, avoid unnecessary duplication.
- (7) The work and outcomes of the open-ended intergovernmental Expert Group to Conduct a Comprehensive Study on Cybercrime as agreed by United Nations General Assembly Resolution 75/282 are taken into full consideration.
- (8) The provisions of the Convention achieve the highest possible protection of human rights and fundamental freedoms. EU Member States should be able to comply with international and EU law, including the fundamental rights, freedoms and general principles of EU law as enshrined in the European Union Treaties and the Charter of Fundamental Rights. The provisions of the Convention should also be compatible with the EU's and its Member States' international trade obligations.

Regarding the substance of the negotiations, the Union should aim to achieve that:

- (9) The Convention provides for definitions of offences that can only be committed using computer systems.
- (10) Provided that sufficient conditions and safeguards and an adequate protection of human rights and fundamental freedoms are guaranteed, as an exception to the principle set out in paragraph 9, the Convention could provide for definitions of offences that can be committed without using computer systems but that can be enabled by the use of computer systems in certain circumstances, but only in cases where the involvement of computer systems substantially changes the characteristics or impact of the offences.
- (11) The offences are clearly and narrowly defined in a technology neutral manner. The definitions are compatible with those in other relevant international or regional conventions in particular in the area of cybercrime, and with international human rights standards and fundamental freedoms.

- (12) The Convention provides for rules on aiding and abetting and, where appropriate, on the attempt of such offences, on the liability of both natural and legal persons for such offences, for rules on the establishment of jurisdiction over such offences, and on effective, proportionate and dissuasive sanctions and measures in relation to such offences that are compatible with other relevant international or regional conventions in particular in the area of organised crime or cybercrime, and with international human rights standards.
- (13) The Convention provides for procedural criminal measures that allow authorities to investigate cybercrimes effectively, which could, providing that sufficient safeguards are provided for, include measures to preserve or obtain electronic evidence of any criminal offence as part of a criminal investigation or proceeding and, where there is, in addition, a demonstrated need and added value, measures to freeze and confiscate proceeds of such crimes, taking due account of the proportionality, legality and necessity principles, the protection of the rights concerning the respect for privacy and the protection of personal data.
- (14) Those procedural criminal measures do not contradict other relevant international or regional conventions in particular in the area of organised crime or cybercrime, and are compatible with such conventions and with international human rights standards and fundamental freedoms.
- (15) Procedural measures to preserve or obtain electronic evidence contain a clear and narrow definition of the type of data covered. Procedural measures for cooperation with private sector entities ensure that the burden on such entities is proportionate and that private sector entities fully respect laws protecting human rights of their users. The Convention provides legal clarity for online service providers (e.g., Internet service providers) in their interactions with law enforcement authorities of the State Parties to the Convention. Procedural measures for the removal of illegal content only relate to illegal content that is sufficiently specific and narrowly defined in the Convention.
- (16) The Convention provides for cooperation measures that allow authorities in different States that are party to the instrument to cooperate effectively through mutual legal assistance, including by the establishment of contact points, for the purpose of criminal investigations or proceedings concerning offences defined in the instrument. It could also provide for such cooperation measures for the purpose of preserving or obtaining electronic evidence of any criminal offence as part of a criminal investigation or proceeding, provided that these measures are subject to sufficient conditions and safeguards under States' domestic law, which shall provide for the adequate protection of human rights and fundamental freedoms.
- (17) Those cooperation measures are compatible with other relevant international or regional conventions in particular in the area of organised crime or cybercrime, and do not contradict such conventions, international human rights standards and fundamental freedoms.
- (18) Cooperation measures are subject to the conditions provided for by the law of the requested Party and provide for broad grounds for refusal such as to ensure the protection of fundamental rights, including the right to the protection of personal data, including in the context of personal data transfers, and the existence of double criminality.
- (19) The Convention provides for strict conditions and strong safeguards to ensure that EU Member States can respect and protect fundamental rights, freedoms and general principles of EU law as enshrined in the European Union Treaties and the Charter of Fundamental Rights, including, in particular, the principles of proportionality, legality and necessity of criminal offences and penalties, procedural guarantees and rights, the right to effective judicial redress, the presumption of innocence, the right to a fair trial, and the rights of defence of persons subject to criminal proceedings, the right not be tried or punished twice in criminal proceedings for the same criminal offence, as well as the right to privacy, the right to the protection of personal data and of electronic communications data when such data is processed, including for transfers to authorities in countries outside the European Union, and the right to freedom of expression and information. The Convention ensures in particular that EU Member States are able to comply with requirements for the international transfers of personal data within the meaning of Directive (EU) 2016/680, Regulation (EU) 2016/679 and Directive 2002/58/EC. The conditions and safeguards also ensure the protection of human rights and fundamental freedoms in line with international human rights standards. This applies to the entire Convention, including procedural measures and cooperation measures, including those that may significantly interfere with individuals' rights.

- (20) The Convention provides a basis for voluntary capacity building measures to support countries in their ability to conduct effective cybercrime investigations and proceedings and to obtain electronic evidence for investigations and proceedings of other offences, including by means of technical assistance and training. The UNODC has a clearly described role for the implementation of such measures.
- (21) The Convention ensures that victims of cybercrime receive appropriate assistance, support, protection and access to compensation.
- (22) The Convention provides a basis for practical measures for the prevention of cybercrime that are clearly defined and strictly limited and distinct from criminal procedural measures that could interfere with the rights and freedoms of individuals or legal persons.

Regarding the functioning of the Convention, the Union should aim to achieve that:

- (23) The Convention preserves existing global and regional instruments and ongoing international cooperation in the global fight against cybercrime. In particular, the European Union Member States, in their mutual relations, are able to continue to apply the rules of the European Union.
- (24) The Convention provides for an appropriate mechanism to ensure its implementation and provide for final provisions, including on the settlement of disputes, signature, ratification, acceptance, approval and accession, entry into force, amendment, suspension, denunciation and depositary and languages that are modelled where possible and appropriate along the provisions of other relevant international or regional conventions in particular in the area of organised crime or cybercrime.
- (25) The Convention allows for the European Union to become a party to it.

Overall, the procedure for negotiation shall be as follows :

- (26) The Commission should endeavour to ensure that the Convention is consistent with relevant Union legislation and policies, as well as the Union's commitments under other relevant multilateral agreements.
 - (27) The Commission should conduct negotiations on behalf of the Union, for matters falling within its competence, in accordance with the Treaties, and in respect of which the Union has adopted rules.
 - (28) The negotiations, including each negotiation round, must be prepared well in advance. To this end, the Commission shall inform the Council of the schedule anticipated and the issues to be negotiated and shall share the relevant information as early as possible.
 - (29) In accordance with the principle of sincere cooperation, the Commission and the Member States should cooperate closely during the negotiation process, including through regular contacts with the Member States' experts and representatives in Vienna and New York.
 - (30) The negotiating sessions shall be preceded by a meeting of the Working Party on Judicial Cooperation in Criminal Matters in order to identify the key issues, formulate opinions and provide guidance, including formulating declarations and reservations, as appropriate.
 - (31) The Commission shall report to the Working Party on Judicial Cooperation in Criminal Matters on the outcome of the negotiations after each negotiating session, including in writing.
 - (32) The Commission shall inform the Council and consult the Working Party on Judicial Cooperation in Criminal Matters on any important issue that may arise during the negotiations.
-

COUNCIL DECISION (EU) 2022/896**of 2 June 2022****appointing one member and one alternate member of the Management Board of the European Agency for Safety and Health at Work (EU-OSHA) for Romania**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Regulation (EU) 2019/126 of the European Parliament and of the Council of 16 January 2019 establishing the European Agency for Safety and Health at Work (EU-OSHA), and repealing Council Regulation (EC) No 2062/94 ⁽¹⁾, and in particular Article 4 thereof,

Having regard to the list of candidates submitted to the Council by the Governments of the Member States and by the employees' and the employers' organisations,

Having regard to the lists of members and alternate members of the Advisory Committee on Safety and Health at Work,

Whereas:

- (1) By means of its Decision of 9 April 2019 ⁽²⁾, the Council appointed the members and alternate members of the Management Board of the European Agency for Safety and Health at Work for the period from 1 April 2019 to 31 March 2023.
- (2) The employers' organisation BusinessEurope has submitted two nominations for two posts to be filled for Romania,

HAS ADOPTED THIS DECISION:

Article 1

The following persons are appointed as a member and an alternate member of the Management Board of the European Agency for Safety and Health at Work for the period ending on 31 March 2023:

REPRESENTATIVES OF EMPLOYERS' ORGANISATIONS

Country	Member	Alternate member
Romania	Mr Marius OLARIU	Ms Victorița Mihaela GRIGORE

Article 2

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

Done at Luxembourg, 2 June 2022.

For the Council
The President
A. DE MONTCHALIN

⁽¹⁾ OJ L 30, 31.1.2019, p. 58.

⁽²⁾ Council Decision of 9 April 2019 appointing the members and alternate members of the Management Board of the European Agency for Safety and Health at Work (EU-OSHA) (OJ C 135, 11.4.2019, p. 7).

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