

Official Journal of the European Union

L 162



English edition

Legislation

Volume 65

17 June 2022

Contents

II *Non-legislative acts*

REGULATIONS

- ★ **Commission Delegated Regulation (EU) 2022/930 of 10 March 2022 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council by specifying fees relating to the supervision by the European Securities Markets Authority of data reporting service providers** 1
- ★ **Commission Delegated Regulation (EU) 2022/931 of 23 March 2022 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by laying down rules for the performance of official controls as regards contaminants in food ⁽¹⁾** 7
- ★ **Commission Implementing Regulation (EU) 2022/932 of 9 June 2022 on uniform practical arrangements for the performance of official controls as regards contaminants in food, on specific additional content of multi-annual national control plans and specific additional arrangements for their preparation ⁽¹⁾** 13
- ★ **Commission Implementing Regulation (EU) 2022/933 of 13 June 2022 concerning the classification of certain goods in the Combined Nomenclature** 23
- ★ **Commission Implementing Regulation (EU) 2022/934 of 16 June 2022 making imports of certain aluminium road wheels originating in Morocco subject to registration** 27

DECISIONS

- ★ **Council Decision (EU) 2022/935 of 13 June 2022 on the position to be taken on behalf of the European Union within the Association Council set up by the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, with regard to the adoption of EU-Egypt Partnership Priorities 2021–2027** 31

⁽¹⁾ Text with EEA relevance.

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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

★ Council Decision (EU) 2022/936 of 13 June 2022 on the position to be taken on behalf of the European Union at the 14th meeting of the Committee of Technical Experts of the Intergovernmental Organisation for International Carriage by Rail (OTIF) as regards the modification of the uniform technical prescriptions concerning telematics applications for freight and the revision of Annex B to the ATMF Uniform Rules on derogations, and in the written procedure of the Revision Committee of OTIF as regards the modification of the ATMF Uniform Rules	35
★ Commission Implementing Decision (EU) 2022/937 of 16 June 2022 repealing Decision 2006/563/EC concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in wild birds in the Community ⁽¹⁾	37

⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2022/930

of 10 March 2022

supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council by specifying fees relating to the supervision by the European Securities Markets Authority of data reporting service providers

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 ⁽¹⁾, and in particular Article 38n(3) thereof,

Whereas:

- (1) Given the cross-border dimension of market data handling, data quality and the necessity to achieve economies of scale, and to avoid the adverse impact of potential divergences on both data quality and the task of data reporting providers, Regulation (EU) 2019/2175 of the European Parliament and of the Council ⁽²⁾ transferred authorisation and supervision powers with regard to the activities of data reporting services providers ('DRSPs') in the Union to the European Securities and Markets Authority ('ESMA').
- (2) It is important to specify the fees that ESMA may charge with regard to the application, authorisation and supervision of data reporting services providers.
- (3) Fees charged to DRSPs are aimed at full recovery of costs made by ESMA related to authorisation and supervision of DRSPs. Supervisory activities include the assessment of suitability of the management body, supervision of compliance by DRSPs with organisational requirements, the exercise of powers to require information, conduct investigations and perform on-site inspections and the imposing of supervisory measures. ESMA assesses its budget on an annual basis.
- (4) Fees charged for ESMA's activities related to DRSPs should be set at a level such as to avoid a significant accumulation of deficit or surplus. Where there is a recurrent significant surplus or deficit, the level of fees should be revised.
- (5) A DRSP should submit its application to ESMA in order to ensure harmonised application of the derogation criteria. During the first phase of the application, ESMA should determine if a DRSP is eligible for derogation from ESMA supervision. If the criteria for derogation apply, ESMA should forward the application to the national competent authority. No fee should be charged by ESMA in this case. The fixed fees related to the authorisation by ESMA should be divided between an application fee, which should relate to the assessment of completeness of an application and an authorisation fee. The process of authorisation should be completed within six months.

⁽¹⁾ OJ L 173, 12.6.2014, p. 84.

⁽²⁾ Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority), Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority), Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and Regulation (EU) 2015/847 on information accompanying transfers of funds (OJ L 334, 27.12.2019, p. 1).

- (6) ESMA shall assess if DRSPs that are already authorised at national level from 1 January 2022 will fall in scope of ESMA supervision and inform the respective DRSPs. DRSPs that are already authorised at national level should not be subject to reauthorisation by ESMA. These DRSPs already comply with the requirements applicable to DRSPs and should not be charged for a duplication of the authorisation process by ESMA.
- (7) The annual fees charged by ESMA should cover all activities related to the DRSPs. ESMA should assess annually its supervisory budget related to each type DRSP and charge each individual DRSP a fee that is proportionate to its revenue compared to the total revenue of all DRSPs of the same type. Revenue related to activities directly ancillary to core DRSP services should be included in the calculation of the applicable turnover for as far as it is likely to have an impact on ESMA's supervision of the DRSP and it is not already covered by separate supervision activities. A minimum fee for Approved Publication Arrangements (APAs) and Approved Reporting Mechanisms (ARMs) covers the fixed costs related to requests for information, on-going monitoring and, investigations. The annual fee applies per calendar year.
- (8) ESMA may delegate supervisory tasks to national competent authorities, in which case the national competent authorities should be reimbursed by ESMA for their costs incurred.
- (9) As information on cost based supervision is difficult to collect for the supervision in 2022, it is essential to provide for a transitional provision with a calculation method for a fixed fee that applies during the first year of supervision by ESMA and that is based on easily obtainable and objective data. In order to meet the proportionality principle, a distinction between DRSPs should be made by using the number of transactions as a proxy for the relevance of the individual DRSP relative to all DRSPs. The calculation to determine the supervisory fee per DRSP for 2022 should be based on the information provided by national competent authorities on transactions published or reported by APAs and ARMs during the first half of 2021 and should distinguish between larger and smaller DRSPs.
- (10) Audited accounts for DRSPs will only become required after ESMA has taken over DRSP supervision. It is therefore necessary to provide for a transitional provision to adjust the revenue calculation method for 2023, under which the payment of the annual supervisory fee for 2023 is first be based on non-audited account information from the first six months of 2022. At a second stage, a correction mechanism should be in place to base the fee on audited accounts of the whole year of 2022.
- (11) In order to ensure smooth functioning of the new supervisory framework for DRSPs, as introduced in Article 4 of Regulation (EU) 2019/2175, this Regulation should enter into force as a matter of urgency,

HAS ADOPTED THIS REGULATION:

Article 1

Definition

For the purpose of this Regulation 'data reporting services provider', or 'DRSP', means an approved publication arrangement or an approved reporting mechanism as defined in Article 2(1)(34) and Article 2(1)(36) of Regulation (EU) No 600/2014.

Article 2

Application and authorisation fees

Where a DRSP applies for authorisation to provide data reporting services it shall pay:

- (a) for APAs and ARMs an application fee of EUR 20 000 for the first application and EUR 10 000 for each following application for authorisation of additional data reporting services in case the applicant does not have a derogation in accordance with Commission Delegated Regulation (EU) 2022/466 on derogation criteria ⁽³⁾;

⁽³⁾ Commission Delegated Regulation (EU) 2022/466 of 17 December 2021 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council by specifying criteria for derogation of the principle that approved publication arrangements and approved reporting mechanisms are supervised by the European Securities Markets Authority (OJ L 96, 24.3.2022, p. 1).

- (b) for APAs and ARMs an authorisation fee of EUR 80 000 for the first authorisation and EUR 40 000 for each following authorisation of additional data reporting services, in case the applicant does not have a derogation in accordance with Delegated Regulation (EU) 2022/466.

Article 3

Annual supervisory fees

1. A DRSP which is subject to ESMA supervision shall be charged an annual supervisory fee.
2. The total annual supervisory fee and the annual supervisory fee for a given DRSP shall be calculated as follows:
 - (a) the total annual supervisory fee for a given year (n) shall be the estimate of expenditure relating to the supervision of data reporting services providers' activities under Regulation (EU) No 600/2014 as included in ESMA's budget for that year;
 - (b) a data reporting services provider's annual supervisory fee for a given year (n) shall be the total annual supervisory fee determined pursuant to point (a) divided between all data reporting services providers authorised in year (n), in proportion to their applicable turnover calculated pursuant to Article 4.
3. In no case shall an APA or ARM authorised by ESMA pay an annual supervisory fee of less than EUR 30 000.

In case an entity is subject to minimum supervisory fees for more than one data reporting service, it shall pay the minimum supervisory fee for each service provided.

4. By way of derogation of paragraphs 2 and 3, the first-year fee shall be calculated by lessening the authorisation fee referred to in Article 2(1), point (b) with a factor that is equal to the days between authorisation and the end of the year divided by the total number of days in that year. It shall hence be calculated as follows:

*data reporting services provider first-year fee = Min (Authorisation fee, Authorisation fee * Coefficient)*

$$\text{Coefficient} = \frac{\text{Number of calendar days from the date of authorisation until 31 December}}{\text{Number of calendar days in year (n)}}$$

Where a DRSP is authorised during the month of December, it shall not pay the first-year supervisory fee.

5. By way of derogation from paragraphs 2 and 3, where the reassessment referred to in Article 1(3) of Delegated Regulation (EU) 2022/466 results in the derogation of ESMA supervision of a DRSP, the annual supervisory fee for the year in which the derogation applies shall be calculated solely for the 5 months in that year during which ESMA continues to be the supervisor of the DRSP in accordance with Article 1(4) of Delegated Regulation (EU) 2022/466.

Article 4

Applicable turnover

1. DRSPs shall keep audited accounts for the purposes of this Regulation which distinguish between at least the following:
 - (a) revenues generated from ARM services;
 - (b) revenues generated from APA services;
 - (c) revenues generated from ancillary services to ARM activities;

- (d) revenues generated from ancillary services to APA activities.
2. The applicable turnover of a DRSP for a given year (n) shall be the sum of:
- (a) its revenues generated from the core functions of the provision of ARM or APA services on the basis of the audited accounts of the year (n-2), or, if they are not yet available of the year previous to that (n-3) and
 - (b) its applicable revenues from ancillary services on the basis of audited accounts of the year (n-2), or, if they are not yet available of the year previous to that (n-3),
- divided by the sum of:
- (c) the total revenues of all authorised ARMs or APAs generated from core functions of provision of ARM or APA services on the basis of the audited account during the year (n-2), or, if they are not yet available of the year previous to that (n-3) and
 - (d) the total applicable revenues from ancillary services of all ARMs or APAs on the basis of audited accounts during the year (n-2), or, if they are not yet available of the year previous to that (n-3).
3. Where the data reporting services provider did not operate during the full year (n-2), its applicable turnover shall be estimated according to the formula set out in paragraph 2 by extrapolating for the data reporting services provider the values calculated for the number of months during which the data reporting services provider operated in year (n-2) to the whole year (n-2).
4. DRSPs shall provide ESMA, on an annual basis, with audited accounts as referred to in paragraph 1. The documents shall be submitted to ESMA by electronic means no later than 30 September each year (n-1). If a DRSP authorised after 30 September, it shall provide the figures immediately upon authorisation and by end of the year of authorisation.

Article 5

General payment modalities

1. All fees shall be payable in euro. They shall be paid as specified in Articles 6 and 7.
2. Any late payments shall incur the default interest laid down in Article 99 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (*).

Article 6

Payment of application and authorisation fees

1. The fees for application, authorisation or extension of authorisation shall be due at the time the DRSP applies and shall be paid in full within 30 days from the date of issuance of ESMA's invoice.
2. When a DRSP decides to withdraw its application for authorisation before ESMA adopts its reasoned decision to authorise or refuse authorisation, the application or authorisation fees shall not be reimbursed.

Article 7

Payment of annual supervisory fees

1. The annual supervisory fee referred to in Article 3 shall be due at the beginning of each calendar year and paid in full to ESMA in the first three months of that year. ESMA shall submit an invoice specifying the full amount of the supervisory fee at the latest thirty days before the final payment date. The fees shall be calculated on the basis of the latest available information for annual fees.

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

2. When a DRSP decides to withdraw its authorisation, the annual supervisory fee shall not be reimbursed.

Article 8

Reimbursement of national competent authorities

1. In case of a delegation of tasks by ESMA to national competent authorities, the national competent authority shall not recover costs incurred while carrying out supervisory tasks delegated by ESMA directly from the DRSP.
2. ESMA shall reimburse a competent authority for the actual costs incurred as a result of work carried out pursuant to Regulation (EU) No 600/2014, in particular as a result of any delegation of tasks pursuant to Article 38o of Regulation (EU) No 600/2014.
3. ESMA shall ensure that the costs to be reimbursed to national competent authorities fulfil the following conditions:
 - (a) they should be previously agreed between ESMA and the NCA;
 - (b) they should be proportionate to the turnover of the relevant DRSP; and
 - (c) they should not be greater than the total amount of supervisory fees paid by the relevant DRSP.
4. Any delegation of tasks by ESMA to national competent authorities shall be determined on an independent basis, may be revoked at any time and shall not impact the amount of fees charged to a particular DRSP.

Article 9

Transitional provision for 2022

1. For the purposes of the calculation of the annual supervisory fee applicable to DRSPs under ESMA supervision for the year 2022, ESMA shall collect a fixed fee, based on the following calculations:
 - (a) EUR 350 000 for APAs that published transactions which accounted for more than 10 % of the total number of published transactions of all authorised APAs, either for equity or non-equity instruments, in the first 6 months of 2021, as reported by the competent authority concerned;
 - (b) EUR 50 000 for APAs that published transactions which accounted for less than 10 % of the total number of published transactions of all authorised APAs, either for equity or non-equity instruments, in the first 6 months of 2021, as reported by the competent authority concerned;
 - (c) EUR 650 000 for ARMs that submitted transaction reports to the relevant competent authority which accounted for more than 10 % of the total number of transaction reports submitted to competent authorities by all authorised ARMs in the first 6 months of 2021, as reported by the competent authority concerned;
 - (d) EUR 50 000 for ARMs that submitted transaction reports to the relevant competent authority which accounted for less than 10 % of the total number of transaction reports submitted to competent authorities by all authorised ARMs in the first 6 months of 2021, as reported by the competent authority concerned.
2. ESMA shall provide the APAs and ARMs concerned with an invoice specifying the full amount of the fees for 2022 as soon as practically possible after this Regulation has started to apply, and at the latest thirty days before the final payment date.

*Article 10***Transitional provision for 2023**

1. DRSPs supervised by ESMA as of 1 January 2023 shall be charged an annual supervisory fee for 2023 calculated in accordance with Article 3. However, for the purposes of Article 4(2), the applicable turnover of DRSPs shall be calculated in accordance with paragraph 2.
2. For the purposes of paragraph 1, the applicable turnover of a DRSP shall be the sum of:
 - (a) the DRSP's revenues generated from the core functions of the provision of ARM or APA services in the first 6 months of 2022 and
 - (b) the DRSP's revenues generated from ancillary services to ARM or APA activities in the first 6 months of 2022, divided by the sum of:
 - (c) the total revenues of all authorised ARMs or APAs generated from core functions of provision of ARM or APA services in the first 6 months of 2022 and
 - (d) the total revenues generated from ancillary services to ARM or APA activities of all ARMs or APAs in the first 6 months of 2022.

DRSPs shall, by 30 September 2022, inform ESMA about the amount of revenues generated from the core functions of the provision of ARM or APA services in the first 6 months of 2022 and about the amount of the revenues from ancillary services to ARM or APA activities in the first 6 months of 2022.

3. As soon as the audited accounts for the year 2022 become available, the DRSPs referred to in paragraph 1 shall immediately report those audited accounts to ESMA in accordance with Article 4(1).
4. ESMA shall calculate whether there is any difference between the annual supervisory fee for 2023 paid by the DRSP in accordance with paragraph 2 and the annual supervisory fee due for 2023 calculated on the basis of the audited accounts received in accordance with paragraph 3.
5. ESMA shall provide the DRSPs a first invoice specifying the amount of the supervisory fee for 2023 as referred to in paragraph 2 at the latest thirty days before the final payment date.

When the information referred to in paragraph 3 is available for all DRSPs, ESMA shall provide the DRSPs a second invoice specifying the final amount of the supervisory fee for 2023 based on the calculation referred to in paragraph 4. ESMA shall provide the DRSPs that invoice at the latest thirty days before the final payment date.

*Article 11***Entry into force and date of application**

This Regulation shall enter into force and apply on the third 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, 10 March 2022.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2022/931**of 23 March 2022****supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by laying down rules for the performance of official controls as regards contaminants in food****(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 19(2), point (a), thereof,

Whereas:

- (1) Regulation (EU) 2017/625 lays down rules for the performance of official controls and other official activities by the competent authorities of the Member States for verifying compliance with Union legislation on food and food safety. Article 109 of that Regulation provides for an obligation for Member States to ensure that official controls are performed by the competent authorities on the basis of a multi-annual national control plan ('MANCP'). Regulation (EU) 2017/625 furthermore specifies the general content of the MANCP, requires Member States to provide in their MANCP official controls on contaminants in food and, in this regard, empowers the Commission to lay down specific requirements for the performance of official controls, including, where appropriate, the range of samples and the stage of production, processing and distribution where the samples are to be taken.
- (2) Regulation (EU) 2017/625 repealed Council Directive 96/23/EC ⁽²⁾, which provided measures to monitor certain substances, including contaminants, in live animals and products of animal origin and specifically set requirements for Member States' monitoring plans for the detection of residues or substances within its scope. However, Regulation (EU) 2017/625 does not incorporate all the measures provided for in that Directive or in the acts adopted by the Commission on its basis. This Regulation together with Commission Implementing Regulation (EU) 2022/932 ⁽³⁾ aims therefore at ensuring continuity of the rules of Directive 96/23/EC concerning the content of the MANCP and its preparation, as well as the range of samples and the stage of production, processing and distribution where the samples are to be taken as regards contaminants in food, within the framework of Regulation (EU) 2017/625.
- (3) However, in line with Article 19 of Regulation (EU) 2017/625, which refers in a comprehensive manner to contaminants in food, it is appropriate that this Regulation applies also to official controls necessary to detect the presence of all contaminants falling within the scope of Council Regulation (EEC) No 315/93 ⁽⁴⁾. Therefore, this Regulation should apply to the official controls necessary to detect the presence in food of contaminants for which maximum levels or other regulatory levels requiring or triggering action by the competent authorities are established by Union legislation.

⁽¹⁾ OJ L 95, 7.4.2017, p. 1.

⁽²⁾ Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC (OJ L 125, 23.5.1996, p. 10).

⁽³⁾ Commission Implementing Regulation (EU) 2022/932 of 9 June 2022 on uniform practical arrangements for the performance of official controls as regards contaminants in food, on specific additional content of multi-annual national control plans and specific additional arrangements for their preparation (see page 13 of this Official Journal).

⁽⁴⁾ Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food (OJ L 37, 13.2.1993, p. 1).

- (4) The presence of mercury in food can be considered to occur due to environmental contamination since pesticides containing mercury have now been prohibited in the Union for more than thirty years. Official controls as regards maximum levels of mercury compounds as set out in Regulation (EC) No 396/2005 of the European Parliament and of the Council ⁽⁵⁾, Commission Directive 2006/125/EC ⁽⁶⁾, Commission Delegated Regulation (EU) 2016/127 ⁽⁷⁾ and Commission Delegated Regulation (EU) 2016/128 ⁽⁸⁾ should therefore also be covered by this Regulation instead of the specific rules on controls for residues of pesticides.
- (5) In order to ensure that official controls are efficiently targeted in all Member States, it is appropriate to set out rules on the combinations of contaminants or contaminant groups and commodity groups to be sampled by Member States and the sampling strategy, including criteria to use for defining the content of their plans and the performance of the related official controls.
- (6) It is therefore appropriate to supplement Article 19(1) of Regulation (EU) 2017/625 by laying down rules for the performance of the official controls as regards contaminants in food.
- (7) Article 150(1) of the Regulation (EU) 2017/625 lays down a transitional period obliging Member States to perform official controls in accordance with Directive 96/23/EC until 14 December 2022. Article 19(1) of Regulation (EU) 2017/625 provides that official controls to verify compliance with the rules on food and food safety as well as feed and feed safety shall include official controls on relevant substances including substances to be used in food contact materials, contaminants, non-authorised, prohibited and undesirable substances whose use or presence on crops or animals or to produce or process food or feed may result in residues of those substances in food or feed. However, since the last monitoring plans adopted by Member States under Directive 96/23/EC will apply to the year 2022, and thus beyond 14 December 2022, it is appropriate that this Regulation applies from 1 January 2023,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation, the definition of ‘contaminant’ in Article 1(1), second subparagraph of Council Regulation (EEC) No 315/93 applies.

Article 2

Member States shall control the presence of contaminants in food in accordance with Annex I.

Member States shall adopt a sampling strategy in accordance with the criteria set out in Annex II.

Article 3

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

It shall apply from 1 January 2023.

⁽⁵⁾ Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC (OJ L 70, 16.3.2005, p. 1).

⁽⁶⁾ Commission Directive 2006/125/EC of 5 December 2006 on processed cereal-based foods and baby foods for infants and young children (OJ L 339, 6.12.2006, p. 16).

⁽⁷⁾ Commission Delegated Regulation (EU) 2016/127 of 25 September 2015 supplementing Regulation (EU) No 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for infant formula and follow-on formula and as regards requirements on information relating to infant and young child feeding (OJ L 25, 2.2.2016, p. 1).

⁽⁸⁾ Commission Delegated Regulation (EU) 2016/128 of 25 September 2015 supplementing Regulation (EU) No 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for food for special medical purposes (OJ L 25, 2.2.2016, p. 30).

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

Done at Brussels, 23 March 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Rules for the selection of specific combination of contaminants or contaminant groups and commodity groups

- (1) Member States shall control the following combinations of contaminants or contaminant groups in the following commodity groups:

Commodity groups	Halogenated persistent organic pollutants	Metals	Mycotoxins	Other contaminants
Unprocessed bovine, ovine and caprine meat (including edible offal)	x	x		x
Unprocessed porcine meat (including edible offal)	x	x		x
Unprocessed equine meat (including edible offal)		x		x
Unprocessed poultry meat (including edible offal)	x	x		x
Unprocessed meat from other farmed terrestrial animals * (including edible offal)		x		
Raw bovine, ovine and caprine milk	x	x	x	x
Fresh hen eggs and other eggs	x	x		x
Honey		x		x
Unprocessed fishery products ** (excluding crustaceans)	x	x		x
Crustaceans and bivalve molluscs	x	x		x
Animal and marine fats and oils	x	x		x
Processed products of animal origin ***	x	x		x

* Other farmed terrestrial animals as defined in entry 1017000 of Annex I, Part A, to Regulation (EC) No 396/2005.

** Fishery products as defined in Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).

*** Processed products as defined in Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (OJ L 139, 30.4.2004, p. 1).

- (2) Member States shall consider all combinations of contaminants or contaminant groups and commodity groups of food of non-animal origin for which maximum levels or other regulatory levels are set under Union legislation.
- (3) Each Member State shall consider the following criteria for selecting specific combinations of contaminants or contaminant groups and commodity groups to be controlled:
- (a) frequency of the detection of non-compliance in the Member State's samples, in other Member States' samples or in third countries' samples, especially when reported under the Rapid Alert System for Food and Feed or the Administrative Assistance and Cooperation System;
 - (b) availability of suitable laboratory methods and analytical standards;

- (c) possible risk for consumers or certain population groups arising from consumption of contaminants present in food, taking into account the relevant information available from the European Food Safety Authority, or in absence of such information, other sources of information such as scientific publications or national risk assessments;
 - (d) consumption data (dietary exposure patterns);
 - (e) as regards food falling within the scope of the control plan for food of animal origin entering the Union as described in Article 5 of Regulation (EU) 2022/932, the following criteria shall also be considered, where available:
 - (i) the outcome of Commission controls in third countries;
 - (ii) any information casting doubt on the reliability of guarantees on the compliance of imported food with Union rules;
 - (iii) information on increased vigilance.
-

ANNEX II

Criteria for sampling strategy

- (1) For each food business operator to be controlled, the Member State shall consider the following criteria for the selection of the type of food to be controlled:
 - (a) history of non-compliance;
 - (b) shortcomings in the application of Hazard Analysis and Critical Control Point and related auto controls;
 - (c) shortcomings in record keeping addressing requirements as defined in Section III, Part A, of Annex I to Regulation (EC) No 852/2004;
 - (d) representative sampling regardless of the size of the food business operator;
 - (e) emerging situations (changes in consumption patterns, natural disasters or economic problems that cause changes in food trade chains etc.).
 - (2) Each Member State shall consider the following criteria for the selection of slaughterhouses, cutting plants, establishments for the milk production, establishments for the production and placing on the market of fishery products and aquaculture products, establishments for honey and egg and egg packing centres:
 - (a) the criteria listed under point (3) of Annex I and under point (1) of this Annex;
 - (b) the respective establishments' share of the Member State's total production volume of the slaughterhouses, cutting plants, establishments for milk production, establishments for production and placing on the market of fishery products and aquaculture products, establishments for honey and egg and egg packing centres;
 - (c) relevant origins of the slaughtered animals, milk, aquaculture products, honey and eggs.
 - (3) When taking the samples, efforts shall be made to avoid multiple sampling from one food business operator, unless the operator has been identified on the basis of the criteria included in point (1) or an appropriate justification has been provided in the control plan. The compliance with the planned frequency of checks shall be ensured.
 - (4) As regards food within the scope of the control plan for food placed on the Union market as set out in Article 4 of Regulation (EU) 2022/932, sampling shall be performed on food placed on the market and on food intended for placing on the market (primary stage, free-range, slaughterhouses, during food processing, storage or sale, etc.).
-

COMMISSION IMPLEMENTING REGULATION (EU) 2022/932**of 9 June 2022****on uniform practical arrangements for the performance of official controls as regards contaminants in food, on specific additional content of multi-annual national control plans and specific additional arrangements for their preparation****(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 19(3)(a) and (b) thereof,

Whereas:

- (1) Regulation (EU) 2017/625 lays down rules for the performance of official controls and other official activities by the competent authorities of the Member States for verifying compliance with Union legislation in the area of food and food safety. Article 109 of that Regulation provides for an obligation for Member States to ensure that official controls are performed by the competent authorities on the basis of a multi-annual national control plan ('MANCP'). Regulation (EU) 2017/625 furthermore specifies the general content of the MANCP, requires Member States to provide in their MANCP official controls on contaminants in food and, in this regard, empowers the Commission to lay down specific additional content of the MANCP and specific additional arrangements for its preparation, as well as a uniform minimum frequency of official controls, having regard to the hazards and risks related to substances referred to in Article 19(1) of that Regulation.
- (2) Regulation (EU) 2017/625 repealed Council Directive 96/23/EC ⁽²⁾, which provided measures to monitor certain substances, including contaminants, in live animals and products of animal origin and specifically set requirements for Member States' monitoring plans for the detection of residues or substances within its scope. However, Regulation (EU) 2017/625 does not incorporate all the measures contained in that Directive or in the acts adopted by the Commission on its basis. Therefore, in order to ensure a smooth transition, Regulation (EU) 2017/625 provided that competent authorities were to continue to perform the official controls in accordance with the Annexes to Directive 96/23/EC until 14 December 2022 or until the date of application of the corresponding rules to be adopted by the Commission. This Regulation, together with Commission Delegated Regulation (EU) 2022/931 ⁽³⁾, aims therefore at ensuring continuity of the rules of Directive 96/23/EC concerning the content of the MANCP and its preparation, as well as the minimum frequency of official controls, as regards contaminants in food, within the framework of Regulation (EU) 2017/625.

⁽¹⁾ OJ L 95, 7.4.2017, p. 1.

⁽²⁾ Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC (OJ L 125, 23.5.1996, p. 10).

⁽³⁾ Commission Delegated Regulation (EU) 2022/931 of 23 March 2022 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by laying down rules for the performance of official controls as regards contaminants in food (see page 7 of this Official Journal).

- (3) In light of the specific provisions for official controls of food of animal origin entering the Union from third countries set out by Article 47 of Regulation (EU) 2017/625, it is appropriate to require Member States to include in their MANCPs two different plans for the control of contaminants in food, one for such food of animal origin entering the Union and another one for any other food placed on the Union market.
- (4) The plan for food of animal origin entering the Union should include the official controls on all such food intended to be placed on the Union market, but also official controls on fishery products which are to be carried out on vessels when these call at a port in a Member State, in accordance with Article 68 of Commission Implementing Regulation (EU) 2019/627 ⁽⁴⁾, since those vessels are to be considered as similar to border control points, irrespective of flag.
- (5) The plan for food placed on the Union market should concern any other food, namely, each Member State's domestic food production, food introduced from other Member States, and food of non-animal origin entering the Union. It should also concern composite products within the meaning of Commission Delegated Regulation (EU) 2019/625 ⁽⁵⁾, even those entering the Union from third countries since some of those products do not have to be controlled at border control points in accordance with Regulation (EU) 2017/625.
- (6) In addition to the rules on the combinations of contaminants or contaminant groups and commodity groups of the samples to be taken by Member States and the sampling strategy including criteria that they are to use for defining the content of their plans and the performance of the related official controls laid down in Delegated Regulation (EU) 2022/931, minimum control frequencies should be laid down in this Regulation for each of the plans, in order to ensure that controls are carried out in all products at least to a certain extent throughout the Union. However, in order to ensure proportionality, those minimum annual control frequencies should be set, depending on the products, by reference to Member States' production data and to Member States' population size, but with a reasonable minimum amount, and to number of imported consignments. For the same reason, and, in particular, in order to avoid excessive burden and costs, it is appropriate to allow Member States to not perform official controls on certain contaminant/commodity combinations annually, provided that the MANCPs justifies this choice. As regards, in particular, imported consignments, food products imported from third countries listed in Annex II to Commission Implementing Regulation (EU) 2019/2129 ⁽⁶⁾, with which the Union has concluded agreements of equivalence for physical checks, should not be counted against the number of imported consignments as Member States must carry out their controls at a frequency rate, as provided in those agreements.
- (7) In order to ensure a comprehensive content of the MANCPs on the presence of contaminants in food, the information that Member States are to include in their MANCPs regarding the choices they have made in their plans should be defined.
- (8) For ensuring a uniform implementation of this Regulation, it is appropriate to require Member States to submit their control plans for evaluation to the Commission on annual basis and to provide a procedure for that evaluation.
- (9) Data collected by the Member States through official controls on the presence of contaminants in food must also be transmitted to the European Food Safety Authority ('EFSA') in accordance with Article 33 of Regulation (EC) No 178/2002 of the European Parliament and of the Council ⁽⁷⁾. In order to allow for the monitoring of recent occurrence data, all Member States should submit data on a regular basis and by the same date.

⁽⁴⁾ Commission Implementing Regulation (EU) 2019/627 of 15 March 2019 laying down uniform practical arrangements for the performance of official controls on products of animal origin intended for human consumption in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council and amending Commission Regulation (EC) No 2074/2005 as regards official controls (OJ L 131, 17.5.2019, p. 51).

⁽⁵⁾ Commission Delegated Regulation (EU) 2019/625 of 4 March 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with regard to requirements for the entry into the Union of consignments of certain animals and goods intended for human consumption (OJ L 131, 17.5.2019, p. 18).

⁽⁶⁾ Commission Implementing Regulation (EU) 2019/2129 of 25 November 2019 establishing rules for the uniform application of frequency rates for identity checks and physical checks on certain consignments of animals and goods entering the Union (OJ L 321, 12.12.2019, p. 122).

⁽⁷⁾ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

- (10) Article 150(1) of the Regulation (EU) 2017/625 lays down a transitional period obliging Member States to perform official controls in accordance with Directive 96/23/EC until 14 December 2022. Article 19(1) of Regulation (EU) 2017/625 provides that official controls to verify compliance with the rules on food and food safety as well as feed and feed safety shall include official controls on relevant substances including substances to be used in food contact materials, contaminants, non-authorised, prohibited and undesirable substances whose use or presence on crops or animals or to produce or process food or feed may result in residues of those substances in food or feed. However, since the last monitoring plans adopted by Member States under Directive 96/23/EC will apply to the year 2022, and thus beyond 14 December 2022, it is appropriate that this Regulation applies from 1 January 2023.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter and scope

This Regulation lays down uniform practical arrangements for the performance of official controls on the presence of contaminants in food, regarding:

- (a) the annual uniform minimum frequency of these official controls; and
- (b) specific arrangements and specific content for the Member States' MANCPs, in addition to those laid down in Article 110 of Regulation (EU) 2017/625.

Article 2

Definitions

For the purposes of this Regulation, the definitions laid down in Council Regulation (EEC) No 315/93 ⁽⁸⁾, Regulation (EC) No 178/2002, Regulation (EC) No 852/2004 of the European Parliament and of the Council ⁽⁹⁾, Regulation (EC) No 853/2004 of the European Parliament and of the Council ⁽¹⁰⁾, Regulation (EC) No 396/2005 of the European Parliament and of the Council ⁽¹¹⁾, Commission Recommendation 2013/165/EU ⁽¹²⁾, Commission Regulation (EU) 2017/644 ⁽¹³⁾ and Commission Regulation (EU) 2017/2158 ⁽¹⁴⁾ shall apply.

⁽⁸⁾ Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food (OJ L 37, 13.2.1993, p. 1).

⁽⁹⁾ Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (OJ L 139, 30.4.2004, p. 1).

⁽¹⁰⁾ Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).

⁽¹¹⁾ Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC (OJ L 70, 16.3.2005, p. 1).

⁽¹²⁾ Commission Recommendation 2013/165/EU of 27 March 2013 on the presence of T-2 and HT-2 toxin in cereals and cereal products (OJ L 91, 3.4.2013, p. 12).

⁽¹³⁾ Commission Regulation (EU) 2017/644 of 5 April 2017 laying down methods of sampling and analysis for the control of levels of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in certain foodstuffs and repealing Regulation (EU) No 589/2014 (OJ L 92, 6.4.2017, p. 9).

⁽¹⁴⁾ Commission Regulation (EU) 2017/2158 of 20 November 2017 establishing mitigation measures and benchmark levels for the reduction of the presence of acrylamide in food (OJ L 304, 21.11.2017, p. 24).

CHAPTER II

CONTENT OF THE MANCP

*Article 3***General provisions**

Member States shall ensure that the part of the MANCP concerning the performance of official controls on the presence of contaminants in food includes the following:

- (a) a 'control plan for food placed on the Union market' as provided for in Article 4; and
- (b) a 'control plan for food of animal origin entering the Union' as provided for in Article 5.

*Article 4***Control plan for food placed on the Union market**

1. Member States shall prepare a control plan concerning the presence of the contaminants or contaminant groups on food placed on the Union market, other than food of animal origin entering the Union. This plan shall cover official controls on each Member State's domestic food production, food introduced from other Member States, food of non-animal origin entering the Union, and composite products, even those entering the Union from third countries.
2. The control plan for food placed on the Union market shall set out:
 - (a) the list of combinations of contaminants or contaminant groups and commodity groups to be controlled as decided by the Member State in accordance with Annex I to Delegated Regulation (EU) 2022/931;
 - (b) the sampling strategy as decided by the Member State in accordance with Annex II to Delegated Regulation (EU) 2022/931; and
 - (c) the actual control frequencies as decided by the Member State taking into account the annual minimum control frequencies laid down in Annex I.
3. Member States may include in the control plans information on the controls as regards the combinations of contaminants or contaminant groups and commodity groups for which national maximum levels or other regulatory levels are established by national legislation.

*Article 5***Control plan for food of animal origin entering the Union**

1. Member States shall prepare a control plan concerning the presence of the contaminants or contaminant groups in food of animal origin entering the Union and intended for placing on the Union market. This plan shall cover the official controls on food of animal origin entering the Union and intended to be placed on the Union market and on fishery products which are to be carried out on vessels when these call at a port in a Member State.
2. The control plan for food of animal origin entering the Union shall set out:
 - (a) the list of combinations of contaminants or contaminant groups and commodity groups to be controlled as decided by the Member State in accordance with Annex I to Delegated Regulation (EU) 2022/931;
 - (b) the sampling strategy as decided by the Member State in accordance with Annex II to Delegated Regulation (EU) 2022/931; and
 - (c) the actual control frequencies as decided by the Member State taking into account the annual minimum frequencies laid down in Annex II.

3. Member States may include in the control plans information on the controls as regards the combinations of contaminants or contaminant groups and commodity groups for which national maximum levels or other regulatory levels are established by national legislation.

Article 6

Common requirements for the control plans

The control plans referred to in Article 3 shall, in addition, specify:

- (a) a justification for selected combinations of contaminants or contaminant groups and commodity groups, including an explanation on how the criteria listed in Annex I to Delegated Regulation (EU) 2022/931 were taken into account, even if no changes were made compared to the plan of the previous year;
- (b) in case a plan provides that official controls of certain combinations of contaminants or contaminant groups and commodity groups are not performed annually but within a certain time period, a justification of that decision; and
- (c) information about the competent authority/authorities responsible for the implementation of the plans.

CHAPTER III

SUBMISSION AND EVALUATION OF THE CONTROL PLANS AND SUBMISSION OF DATA BY THE MEMBER STATES

Article 7

Submission and evaluation of the control plans

By 31 March of each year, the Member States shall submit the control plans referred to in Article 3 for the current year electronically to the Commission.

The Commission shall evaluate the control plans on the basis of this Regulation and Delegated Regulation (EU) 2022/931 and shall communicate its evaluation to each Member State, where needed.

The Member States shall consider the Commission's comments when implementing their control plans and when preparing the next submission of their plans pursuant to this Article. However, where the Commission identifies a major non-compliance of a plan, it may request the concerned Member State to submit an updated plan at an earlier date than 31 March of the following year.

Where a Member State decides not to update its control plans based on the Commission's comments, it shall justify its position.

Article 8

Submission of data by the Member States

By 30 June, the Member States shall transmit to the European Food Safety Authority ('EFSA') all data gathered under the control plans referred to in Article 3.

CHAPTER IV

GENERAL PROVISIONS*Article 9***Entry into force and application**

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

It shall apply from 1 January 2023.

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

Done at Brussels, 9 June 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Minimum control frequency per Member State in the control plan for food placed on the Union market

1. Food of animal origin

- (a) Member States shall comply with the following minimum control frequencies in the control plan for food placed on the Union market:

	Control frequency
Unprocessed bovine meat (including edible offal)	Minimum 0,02 % of the total number of slaughtered animals
Unprocessed ovine and caprine meat (including edible offal)	Minimum 0,004 % of the total number of slaughtered animals
Unprocessed porcine meat (including edible offal)	Minimum 0,003 % of the total number of slaughtered animals
Unprocessed equine meat (including edible offal)	The number of samples is to be determined by each Member State according to the level of production and the problems identified
Unprocessed poultry meat (including edible offal)	For each category of poultry considered (broiler chickens, spent hens, turkeys and other poultry) minimum 1 sample per 3 000 tonnes of annual production (deadweight)
Unprocessed meat from other farmed terrestrial animals (*) (including edible offal)	The number of samples is to be determined by each Member State according to the level of production and the problems identified
Raw bovine milk	Minimum 1 sample per 110 000 tonnes of annual production of milk
Raw ovine and caprine milk	The number of samples is to be determined by each Member State according to the level of production and the problems identified
Fresh hen eggs and other eggs	Minimum 1 sample per 3 700 tonnes of annual production of eggs
Honey	Minimum 1 sample per 1 300 tonnes of annual production
Unprocessed fishery products (**) (excluding crustaceans)	Minimum 1 sample per 700 tonnes of annual production of aquaculture for the first 60 000 tonnes of production and then 1 sample for each additional 2 000 tonnes For wild caught fishery products, the number of samples is to be determined by each Member State according to the level of production and the problems identified
Crustaceans and bivalve molluscs	The number of samples is to be determined by each Member State according to the level of production and the problems identified
Animal and marine fats and oils	The number of samples is to be determined by each Member State according to the level of production and the problems identified
Processed products of animal origin (***)	The number of samples is to be determined by each Member State according to the level of production and the problems identified

(*) Other farmed terrestrial animals as defined in entry 1017000 of Annex I, part A, to Regulation (EC) No 396/2005.

(**) Fishery products as defined in Regulation (EC) No 853/2004.

(***) Processed products as defined in Regulation (EC) No 852/2004.

- (b) Member States shall annually perform controls on 'metals' in minimum 10 % of the samples taken for each commodity group in accordance to the table of this Annex with the exception of the commodity groups 'crustaceans and bivalve molluscs', 'animal and marine fats and oils' and 'processed products of animal origin'.
- (c) Member States shall annually perform controls on 'mycotoxins' in minimum 10 % of the samples taken for the commodity group 'raw bovine milk' and 'raw ovine and caprine milk' in accordance to the table of this Annex.
- (d) Within the commodity group 'unprocessed bovine, ovine and caprine meat (including edible offal)', Member States shall take samples from all species, taking into account their relative production volume.
- (e) Within the commodity group 'unprocessed poultry meat (including edible offal)', Member States shall take samples from all species, taking into account their relative production volume.
- (f) For the determination of the number of samples for fishery products and bivalve molluscs, Member States shall also take into account the geographical aspects, landing/production volumes and specific contamination patterns in the areas from which they are harvested.
- (g) For calculating the minimum control frequencies, Member States shall use the most recent production data available, at least from previous or at maximum from penultimate year, adjusted, if relevant, to reflect known evolutions in production since the data were made available.
- (h) In case the control frequency calculated in accordance with this Annex would represent less than five samples per year, sampling may be carried out once per two years.
- (i) In case that, within a three years period, the production corresponding to a minimum of one sample is not reached, Member States shall analyse a minimum of two samples once per three years provided that production takes place for that product in their territory.
- (j) Samples taken for the purposes of other control plans relevant for analysis on contaminants (e.g. on pharmacologically active substances and residues thereof, on pesticide residues), may also be used for controls on contaminants provided that the requirements concerning the controls on contaminants are complied with.

2. Food of non-animal origin ⁽¹⁾

Member States shall at least take 100 to 2 000 samples per year depending on their population size. However, where it is necessary on account of the risk, more samples shall be taken to ensure controls remain effective.

Sampling shall be representative for the different contaminants, which may be present in different products on the Member State's market, taking into account also different contaminant patterns in products originating from different regions and the different numbers and sizes of food business operators.

⁽¹⁾ For the purpose of this Regulation, the criteria relevant for food of non-animal origin shall be applied for composite products.

ANNEX II

Minimum control frequency per Member State in the control plan for food of animal origin entering the Union

The Member States shall comply with the minimum control frequency as set out in the table below.

Controls carried out under Articles 47(1)(d) (reinforced checks) and 47(1)(e) (safeguard measures) of Regulation (EU) 2017/625, shall not be counted towards achieving the minimum control frequencies of this Annex.

Controls carried out under the established emergency measures and the intensified official controls, on the basis of Article 53 of Regulation (EC) No 178/2002 and of Article 65(4) of Regulation (EU) 2017/625, shall not be counted towards achieving the minimum control frequencies of this Annex.

Controls of food products from certain third countries listed in Annex II to Regulation (EU) 2019/2129, with which the Union has concluded agreements of equivalence for physical checks, shall not be counted towards achieving the minimum control frequencies of this Annex.

For the controls of fishery products carried out in accordance with Article 68 of Regulation (EU) 2019/627, the Member States shall take into account the geographical aspects, landing/production volumes and specific contamination patterns in the areas from which they are harvested.

	Control frequency
Bovine (includes meat, minced meat, mechanically separated meat, edible offal, meat preparations and meat products)	Minimum 1 % of the imported consignments
Ovine/caprine (includes meat, minced meat, mechanically separated meat, edible offal, meat preparations and meat products)	Minimum 1 % of the imported consignments
Porcine (includes meat, minced meat, mechanically separated meat, edible offal, meat preparations and meat products)	Minimum 1 % of the imported consignments
Equine (includes meat, minced meat, mechanically separated meat, edible offal, meat preparations and meat products)	Minimum 1 % of the imported consignments
Poultry (includes meat, minced meat, edible offal, meat preparations and meat products)	Minimum 1 % of the imported consignments
Meat from other farmed terrestrial animals (*) (includes meat, minced meat, edible offal, meat preparations and meat products)	Minimum 1 % of the imported consignments
Milk (includes raw milk, dairy products, colostrum and colostrum-based products of all species)	Minimum 1 % of the imported consignments
Eggs (includes eggs and egg products from all bird species)	Minimum 1 % of the imported consignments
Honey (includes honey and other apiculture products)	Minimum 1 % of the imported consignments
Unprocessed fishery products (**) excluding crustaceans	Minimum 1 % of the imported consignments
Crustaceans and bivalve molluscs (includes muscle meat and muscle meat products)	Minimum 1 % of the imported consignments
Unprocessed animal and marine fats and oils (***)	Minimum 1 % of the imported consignments

(*) Other farmed terrestrial animals as defined in entry 1017000 of Annex I, part A, to Regulation (EC) No 396/2005.

(**) Fishery products as defined in Regulation (EC) No 853/2004.

(***) Processed products as defined in Regulation (EC) No 852/2004.

Additional provisions:

1. The control frequency for other processed products of food of animal origin, such as gelatine and collagen, shall be determined by each Member State taking into account the number of imported consignments and the problems identified.
 2. For the calculation of the minimum control frequencies listed in this Annex, Member States shall use the most recent data of the number of consignments entering the Union through their border control posts, at least from previous or at maximum from penultimate year.
 3. In case the number of consignments of food entering the Union and intended for placing on the Union market is lower than the number of consignments corresponding to one sample, Member States may perform the sampling once per two or three years. In case the number of consignments imported over a three years period is lower than the number of consignments corresponding to one sample, Member States shall take at least one sample once per three years.
 4. Samples taken for the purposes of other control plans relevant for analysis on contaminants (e.g. on pharmacologically active substances and residues thereof, on pesticide residues, etc.) may also be used for controls on contaminants provided that the requirements concerning the controls on contaminants are complied with.
-

COMMISSION IMPLEMENTING REGULATION (EU) 2022/933
of 13 June 2022
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ⁽²⁾, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN codes indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN codes indicated in column (2) of that table.

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of this Regulation.

Article 3

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.

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

Done at Brussels, 13 June 2022.

For the Commission
Gerassimos THOMAS
Director-General
Directorate-General for Taxation and Customs Union

ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
Three items put up together for retail sale, comprising: (a) a sleeveless knitted garment (a so-called running vest) (93 % synthetic fibres and 7 % elastane) covering the upper part of the body, reaching down to the waist. The front has a V-neckline, and opens completely at the front with a zip fastening, without any overlapping closure. In the front of the garment, there are two rectangular open chest pockets measuring approximately 19 cm × 8 cm and two rectangular open waist pockets measuring approximately 12 cm × 14 cm. In the back, there is one pocket with rubber straps that are designed to attach, for example, folding walking sticks. (b) two soft flasks, with a flat bottom, with a volume of 500 ml each, that fit into the front chest pockets, made of polyurethane and with a plastic lid with a pull spout. See images *.	6110 30 99	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature (GIR). The three items as presented together are three separate items. They are not composite goods, as together they do not form a whole, which would not normally be offered for sale in separate parts. They are not goods put up in sets for retail sale within the meaning of GIR 3(b), as they are not put up together to meet a particular need or to carry out a specific activity, especially because the design of the pockets does not limit their use to carrying specific products for specific needs or activities. The items are individual items that can be used independently from each other. The activities of wearing a garment and drinking are different, and they do not meet the same specific need (the garment is covering the upper part of the body and the flasks are for drinking). If one or more of the articles of a 'set' do not meet the same particular need or are not designed to carry out the same specific activity, each article has to be classified separately (see also Guidelines on the classification in the Combined Nomenclature of goods put up in sets for retail sale, Part B (II) (1) ⁽¹⁾). Consequently, the items are to be classified separately. The individual articles, as referred to in the description of the goods, are to be classified as follows: (a) Classification is determined by Note 9, second paragraph, to Chapter 61 and the wording of CN codes 6110, 6110 30 and 6110 30 99. Based on its objective characteristics, the vest is a garment of heading 6110. That heading covers a category of knitted or crocheted articles, designed to cover the upper part of the body (jerseys, pullovers, cardigans, waistcoats and similar articles) (see also the Harmonized System Explanatory Notes to heading 6110, first paragraph).

	3924 90 00	The garments of that heading are intended to cover the upper part of the body, with or without sleeves, with any type of neckline, with or without a collar, with or without pockets. They can be made of any type of knitted or crocheted material, including light or fine-knit fabrics, of any textile fibre (see also the Explanatory notes to the Combined Nomenclature to heading 6110). The vest cannot be identified as designed for one or other of the sexes. The vest is to be classified as a women's or girls' jersey, pullover, cardigan, waistcoat and similar articles, knitted or crocheted, of man-made fibres. (b) Classification is determined by the wording of CN codes 3924 and 3924 90 00. The flasks are to be classified as other household articles and hygienic or toilet articles, of plastics.
--	------------	--

⁽¹⁾ OJ C 105, 11.4.2013, p. 1.

* The images are purely for information.



COMMISSION IMPLEMENTING REGULATION (EU) 2022/934**of 16 June 2022****making imports of certain aluminium road wheels originating in Morocco 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⁾ ('the basic Regulation'), and in particular Article 14(5a) thereof,

After informing the Member States,

Whereas:

- (1) On 17 November 2021, the European Commission ('the Commission') announced, by a notice published in the *Official Journal of the European Union* ⁽²⁾ ('the Notice of initiation'), the initiation of an anti-dumping proceeding with regard to imports of certain aluminium road wheels originating in Morocco, following a complaint by the Association of European Wheel Manufacturers ('the complainant') on behalf of producers representing more than 25 % of the total Union production of certain aluminium road wheels.

1. PRODUCT SUBJECT TO REGISTRATION

- (2) The product subject to registration is aluminium road wheels of the motor vehicles of headings 8701 to 8705, whether or not with their accessories and whether or not fitted with tyres, originating in Morocco ('the product concerned').
- (3) The product concerned is currently classified under CN codes ex 8708 70 10 and ex 8708 70 50 (TARIC codes: 8708 70 10 15, 8708 70 10 50, 8708 70 50 15 and 8708 70 50 50). The CN and TARIC codes are given for information only. The scope of this investigation is subject to the definition of the product under investigation as mentioned above.

2. GROUNDS FOR REGISTRATION

- (4) According to Article 14(5a) of the basic Regulation, the Commission shall register imports during the period of pre-disclosure under Article 19a of the basic Regulation, so that measures may subsequently be applied against those imports from the date of such registration, unless it has sufficient evidence that the requirements either under Article 10(4)(c) or Article 10(4)(d) of the basic Regulation are not met.
- (5) The Commission verified whether the importers were aware, or should have been aware, of the dumping as regards the extent of the dumping and the injury alleged or found. It also analysed whether there was a further substantial rise in imports which, in the light of its timing and volume and other circumstances, was likely to seriously undermine the remedial effect of the definitive anti-dumping duty to be applied.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ C 464, 17.11.2021, p. 19.

- (6) The Commission thus examined the evidence at its disposal in light of Article 10(4) of the basic Regulation. For this analysis, the Commission relied, amongst others, on imports data as indicated in Table 1.

2.1. Awareness of the importers of the dumping, the extent thereof and the alleged injury

- (7) The Commission has at its disposal sufficient evidence that imports of the product concerned from Morocco are being dumped.
- (8) The notice of initiation for this proceeding published on 17 November 2021 highlighted that the dumping margin calculated is significant, i.e. 14 %. The evidence in the complaint provided sufficient support at that stage that the exporting producers practice dumping.
- (9) The complaint also provided sufficient evidence of alleged injury to the Union industry, including a decline in market share and a negative development of other key performance indicators of the Union industry.
- (10) By its publication in the *Official Journal of the European Union*, the notice of initiation is a public document accessible to all importers. Furthermore, as interested parties in the investigation, importers have access to the non-confidential version of the complaint and the non-confidential file. Therefore, the Commission considered that, on this basis, the importers were aware, or should have been aware, of the alleged dumping practices, the extent thereof and the alleged injury.
- (11) On the basis of the above, the Commission concluded that there is no evidence that the requirement of Article 10(4)(c) of the basic Regulation was not met.

2.2. Further substantial rise in imports

- (12) On the basis of statistical data summarised in table 1 below, the Commission found that the number of aluminium road wheels imported from Morocco into the Union increased by 43 % during the period from 1 December 2021 to 30 April 2022, i.e. after initiation of the case, when compared to the period from 1 December 2020 to 30 April 2021, i.e. the same period of the previous year and part of the investigation period (the investigation period is from 1 October 2020 to 30 September 2021). In addition, the average monthly volume of imports from Morocco into the Union in the period from 1 December 2021 to 30 April 2022 was 92 300 units higher than the average monthly volume of imports to the Union during the investigation period.
- (13) Therefore, in view of this further substantial rise in imports from the country concerned, the Commission concluded that there is no evidence that this requirement was not met.

Table 1

	1 December 2020 -30 April 2021	1 December 2021 – 30 April 2022	Δ	Monthly average 1 December 2020- 30 April 2021	Monthly average 1 December 2021 – 30 April 2022
Import volumes (in pieces)	1 068 018	1 529 755	+ 43 %	213 604	305 951

Source: Commission surveillance database for April 2022 and Eurostat Comext database for other months. Conversion ratio between kg and unit: 11,3 kg/unit.

2.3. Undermining of the remedial effect of the duty

- (14) As concluded in section 2.2, there was a further substantial increase in imports of the product concerned since the initiation of the current investigation. This increase represents around 92 300 additional aluminium wheels on a monthly basis as compared with the number of aluminium wheels imported from Morocco during the investigation period. This increase alone represents around 2 % of Union consumption during the investigation period.
- (15) According to the import data summarised in table 2 below, the average import price of the product concerned per wheel during the period from 1 December 2021 to 30 April 2022 was 14,8 % higher than the average import price from Morocco observed during the investigation period. However, it needs to be taken into account that primary aluminium constitutes around 50 % of the cost of production of ARW and that the selling price is indexed to the London Metal Exchange aluminium price. The Commission noted that the average aluminium price increased by 50 % in the investigation period when compared to the period December 2021 - April 2022. Therefore, it appears that the price increase of 14,8 % reflected only partially the increase in cost of production and, thus, imports are still capable of putting pressure on the Union industry's sales.

Table 2

	Investigation period	December 2021 – April 2022	Δ
Monthly average import prices (EUR/piece)	44,7	51,3	+ 14,8 %

Source: Commission surveillance database for April 2022 and Eurostat Comext database for other months.

- (16) On that basis, the Commission established that the evidence on file did not show that this requirement was not met.

2.4. Conclusion

- (17) In light of the above, the Commission found that there is no conclusive evidence showing that the registration of imports of the product concerned during the period of the pre-disclosure was not warranted in this case. Since the publication of the notice of initiation, when exporting producers were aware or should have been aware of the alleged dumping and injury, imports of the product concerned have further increased in a manner which may seriously undermine the remedial effect of the anti-dumping duties also during the pre-disclosure period.
- (18) Thus, in accordance with Article 14(5a) of the basic Regulation, the Commission shall register imports of the product concerned during the period of pre-disclosure.

3. PROCEDURE

- (19) All interested parties are invited to make their views known in writing and to provide supporting evidence. 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.

4. REGISTRATION

- (20) Under Article 14(5a) of the basic Regulation, the Commission shall register the imports of the product concerned during the period of pre-disclosure pursuant Article 19a of the basic Regulation, unless there is sufficient evidence that the requirements of Article 10(4)(c) and (d) are not met.

- (21) Any future liability would emanate from the definitive findings of this anti-dumping investigation. The allegations in the complaint requesting the initiation of the investigation estimate dumping margins around 14 % and an average injury elimination level of up to 43 % for the product concerned. The amount of possible future liability is estimated at those levels on the basis of the complaint, namely 14 % as a proportion of the CIF import value of the product concerned.

5. PROCESSING OF PERSONAL DATA

- (22) 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 ⁽³⁾,

HAS ADOPTED THIS REGULATION:

Article 1

1. The customs authorities are hereby directed, pursuant to Article 14(5a) of Regulation (EU) 2016/1036, to take the appropriate steps to register imports of certain aluminium road wheels of the motor vehicles of headings 8701 to 8705, whether or not with their accessories and whether or not fitted with tyres, currently falling under CN codes ex 8708 70 10 and ex 8708 70 50 (TARIC codes: 8708 70 10 15, 8708 70 10 50, 8708 70 50 15 and 8708 70 50 50) and originating in Morocco.

2. Registration shall expire 4 weeks following the date of entry into force of this Regulation.

Article 2

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

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

Done at Brussels, 16 June 2022.

For the Commission
The President
Ursula VON DER LEYEN

⁽³⁾ 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.

DECISIONS

COUNCIL DECISION (EU) 2022/935

of 13 June 2022

on the position to be taken on behalf of the European Union within the Association Council set up by the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, with regard to the adoption of EU-Egypt Partnership Priorities 2021–2027

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217 in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part ⁽¹⁾ ('the Agreement') was signed on 25 June 2001 and entered into force on 1 June 2004.
- (2) Pursuant to the Agreement, the Association Council established thereby ('the EU-Egypt Association Council') has the power to take decisions for the purpose of attaining the objectives of the Agreement and is able to make appropriate recommendations.
- (3) With a view to further strengthening the solid and multifaceted relationship between the two partners, partnership priorities to support the implementation of the Agreement and to guide and inform the EU-Egypt partnership for the period 2021–2027 ('the EU-Egypt Partnership Priorities 2021–2027') have been identified.
- (4) The EU-Egypt Association Council is to adopt a recommendation on the EU-Egypt Partnership Priorities 2021–2027 during its ninth meeting.
- (5) It is appropriate to establish the position to be taken on the Union's behalf within the EU-Egypt Association Council, as the recommendation concerning the EU-Egypt Partnership Priorities 2021–2027 will have legal effects on the Union.
- (6) The position of the Union within the EU-Egypt Association Council should therefore be based on the attached draft recommendation,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the Union during the ninth meeting of the EU-Egypt Association Council shall be based on the draft recommendation of the EU-Egypt Association Council attached to this Decision.

Article 2

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

⁽¹⁾ Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part (OJ L 304, 30.9.2004, p. 39).

Done at Luxembourg, 13 June 2022.

For the Council
The President
M. FESNEAU

DRAFT
RECOMMENDATION No 1/2022 OF THE EU-EGYPT ASSOCIATION COUNCIL
of ...
on the EU-Egypt Partnership Priorities 2021–2027

THE EU-EGYPT ASSOCIATION COUNCIL,

Having regard to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part,

Whereas:

- (1) The Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part ('the Agreement') was signed on 25 June 2001 and entered into force on 1 June 2004.
- (2) Article 76 of the Agreement gives the EU-Egypt Association Council the power to take decisions for the purpose of attaining the objectives of the Agreement, and to make appropriate recommendations.
- (3) Pursuant to Article 86 of the Agreement, the Parties are to take any general or specific measures required to fulfil their obligations under the Agreement and to see to it that the objectives set out in the Agreement are attained.
- (4) The review of the European Neighbourhood Policy proposed a new phase of engagement with partners, allowing a greater sense of ownership by both sides.
- (5) The European Union and Egypt have agreed to consolidate their partnership by agreeing on a set of priorities for the period 2021–2027 ('the EU-Egypt Partnership Priorities 2021–2027') with the aim of addressing common challenges facing the Union and Egypt and promoting joint interests.
- (6) The Parties to the Agreement have agreed on the text of the EU-Egypt Partnership Priorities 2021–2027, which will support the implementation of the Agreement, focusing on cooperation in relation to commonly identified shared interests,

HEREBY RECOMMENDS:

Article 1

The Association Council recommends that the Parties to the Agreement implement the EU-Egypt Partnership Priorities 2021–2027 as set out in the Annex to this Recommendation ^(*).

Article 2

The EU-Egypt Partnership Priorities 2021–2027 replace the EU-Egypt Partnership Priorities whose implementation was recommended by means of Recommendation No 1/2017 of the Association Council ^(†).

Article 3

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

^(*) Delegations: see document ST 8663/2022 ADD1.

^(†) Recommendation No 1/2017 of the EU-Egypt Association Council of 25 July 2017 agreeing on the EU-Egypt Partnership Priorities (EU OJ L 255, 3.10.2017, p. 26).

Done at ...,

*For the EU-Egypt Association Council
The President*

COUNCIL DECISION (EU) 2022/936**of 13 June 2022**

on the position to be taken on behalf of the European Union at the 14th meeting of the Committee of Technical Experts of the Intergovernmental Organisation for International Carriage by Rail (OTIF) as regards the modification of the uniform technical prescriptions concerning telematics applications for freight and the revision of Annex B to the ATMF Uniform Rules on derogations, and in the written procedure of the Revision Committee of OTIF as regards the modification of the ATMF Uniform Rules

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Union acceded to the Convention concerning International Carriage by Rail of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999 (COTIF) by means of the Agreement between the European Union and the Intergovernmental Organisation for International Carriage by Rail on the Accession of the European Union to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999 ⁽¹⁾.
- (2) Pursuant to Article 13 § 1, point (f), of the COTIF, the Committee of Technical Experts ('CTE') of the OTIF was set up.
- (3) Pursuant to Article 20 § 1, point (b), of COTIF, and in accordance with Article 6 of Appendix F to COTIF on the Uniform Rules concerning the Validation of Technical Standards and the Adoption of Uniform Technical Prescriptions applicable to Railway Material intended to be used in International Traffic, the CTE is competent to adopt or to amend, inter alia, the Uniform Technical Prescriptions ('UTP') concerning telematics applications for freight ('UTP TAF').
- (4) In accordance with Article 20 § 1, point (e), of COTIF and Articles 7a and 21 of Appendix G to COTIF on the Uniform Rules concerning the Technical Admission of Railway Material used in International Traffic ('the ATMF Uniform Rules'), the CTE is competent to adopt or to amend Annex B to the ATMF Uniform Rules concerning derogations from the application of UTP.
- (5) The CTE has included in the agenda for its 14th session, which will take place on 14 and 15 June 2022, a proposal for decisions to amend the UTP TAF and the revision of the Annex B to the ATMF Uniform Rules concerning derogations from the application of UTP.
- (6) The objectives of the envisaged CTE decisions are to align the UTP TAF with Commission Implementing Regulation (EU) 2021/541 ⁽²⁾ and to align Annex B to the ATMF Uniform Rules to Directive (EU) 2016/797 of the European Parliament and of the Council ⁽³⁾.

⁽¹⁾ OJ L 51, 23.2.2013, p. 8.

⁽²⁾ Commission Implementing Regulation (EU) 2021/541 of 26 March 2021 amending Regulation (EU) No 1305/2014 as regard the simplification and improvement of data calculation and exchange and the update of the Change Control Management process (OJ L 108, 29.3.2021, p. 19).

⁽³⁾ Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (OJ L 138, 26.5.2016, p. 44).

- (7) The Revision Committee set up in accordance with Article 13 § 1, point (c), of COTIF ('the Revision Committee') is expected to carry out a written procedure to decide upon the amendment of Article 3a § 5 and Article 15 § 2 of the ATMF Uniform Rules.
- (8) The objective of the envisaged Revision Committee decision is to align the ATMF Uniform Rules with Directive (EU) 2016/798 of the European Parliament and of the Council (*).
- (9) It is appropriate to establish the position to be taken on the Union's behalf in the CTE and, as regards the revision of the ATMF Uniform Rules, in the Revision Committee, as the proposed decisions will be binding on the Union.
- (10) The envisaged OTIF decisions are in line with the law and the strategic objectives of the Union, as they contribute to the alignment of OTIF legislation with the equivalent provisions of Union law, and should therefore be supported by the Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf at the 14th session of the CTE of OTIF as regards the modification of the UTP TAF and the revision of Annex B to the ATMF Uniform Rules with regard to derogations from the application of UTP shall be as follows:

- (1) to vote in favour of the CTE proposal to update the UTP TAF (CTE working document TECH-22004-CTE14);
- (2) to vote in favour of the CTE proposal to update Annex B to the ATMF Uniform Rules concerning derogations from the application of UTP (CTE working document TECH-22005-CTE14).

Article 2

The position to be taken on the Union's behalf in the written procedure of the Revision Committee as regards the partial revision of the ATMF Uniform Rules shall be to vote in favour of the CTE proposal to amend Article 3a § 5 and Article 15 § 2 of the ATMF Uniform Rules (CTE working document TECH-22019-CTE14-7).

Article 3

Once adopted, the decisions of the CTE and of the Revision Committee shall be published in the *Official Journal of the European Union*, indicating the date of their entry into force.

Article 4

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

Done at Luxembourg, 13 June 2022.

For the Council
The President
M. FESNEAU

(*) Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (OJ L 138, 26.5.2016, p. 102).

COMMISSION IMPLEMENTING DECISION (EU) 2022/937**of 16 June 2022****repealing Decision 2006/563/EC concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in wild birds in the Community****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') ⁽¹⁾, and in particular Article 71(3) thereof,

Whereas:

- (1) Regulation (EU) 2016/429 empowers the Commission to adopt implementing acts laying down special disease control measures in the framework of the control of outbreaks of listed diseases as referred to in Article 9(1)(a) of Regulation (EU) 2016/429, when disease control measures already taken are found not to be suited to the epidemiological situation.
- (2) Commission Implementing Regulation (EU) 2018/1882 ⁽²⁾ categorises highly pathogenic avian influenza (HPAI) as a listed disease as referred to in Article 9(1)(a) of Regulation (EU) 2016/429.
- (3) Commission Decision 2006/563/EC ⁽³⁾ lays down certain protection measures to be applied in cases where HPAI caused by the highly pathogenic influenza A virus of subtype H5 is detected and the neuraminidase type N1 (H5N1) is suspected or confirmed in wild birds. The legal basis of that Decision includes Article 9(4) of Council Directive 89/662/EEC ⁽⁴⁾ and Article 10(4) of Council Directive 90/425/EEC ⁽⁵⁾. Those Directives were repealed on 14 December 2019 by Regulation (EU) 2017/625 of the European Parliament and of the Council ⁽⁶⁾. Nevertheless, Article 164(2) of Regulation (EU) 2017/625 provides that Article 9 of Directive 89/662/EEC and Article 10 of Directive 90/425/EEC were to continue to apply in relation to the matters governed by Regulation (EU) 2016/429, until the date of application of Regulation (EU) 2016/429. Regulation (EU) 2016/429 started to apply on 21 April 2021.

⁽¹⁾ OJ L 84, 31.3.2016, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) 2018/1882 of 3 December 2018 on the application of certain disease prevention and control rules to categories of listed diseases and establishing a list of species and groups of species posing a considerable risk for the spread of those listed diseases (OJ L 308, 4.12.2018, p. 21).

⁽³⁾ Commission Decision 2006/563/EC of 11 August 2006 concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in wild birds in the Community and repealing Decision 2006/115/EC (OJ L 222, 15.8.2006, p. 11).

⁽⁴⁾ Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market (OJ L 395, 30.12.1989, p. 13).

⁽⁵⁾ Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market (OJ L 224, 18.8.1990, p. 29).

⁽⁶⁾ 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) (OJ L 95, 7.4.2017, p. 1).

- (4) In addition, the measures laid down in Decision 2006/563/EC are not suited to the current epidemiological situation.
- (5) Decision 2006/563/EC should therefore be repealed.
- (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 DECISION:

Article 1

Decision 2006/563/EC is repealed.

Article 2

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

Done at Brussels, 16 June 2022.

For the Commission
The President
Ursula VON DER LEYEN

ISSN 1977-0677 (electronic edition)
ISSN 1725-2555 (paper edition)



Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN