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I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2022/2036 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 19 October 2022

amending Regulation (EU) No 575/2013 and Directive 2014/59/EU as regards the prudential treatment of global systemically important institutions with a multiple-point-of-entry resolution strategy and methods for the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Central Bank ⁽¹⁾,Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Regulation (EU) 2019/876 of the European Parliament and of the Council ⁽⁴⁾, Regulation (EU) 2019/877 of the European Parliament and of the Council ⁽⁵⁾ and Directive (EU) 2019/879 of the European Parliament and of the Council ⁽⁶⁾ amended the Union resolution framework for credit institutions and investment firms through

⁽¹⁾ OJ C 122, 17.3.2022, p. 33.

⁽²⁾ OJ C 152, 6.4.2022, p. 111.

⁽³⁾ Position of the European Parliament of 13 September 2022 (not yet published in the Official Journal) and decision of the Council of 4 October 2022.

⁽⁴⁾ Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (OJ L 150, 7.6.2019, p. 1).

⁽⁵⁾ Regulation (EU) 2019/877 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 806/2014 as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms (OJ L 150, 7.6.2019, p. 226).

⁽⁶⁾ Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC (OJ L 150, 7.6.2019, p. 296).

amendments to Regulation (EU) No 575/2013 of the European Parliament and of the Council ⁽⁷⁾, Regulation (EU) No 806/2014 of the European Parliament and of the Council ⁽⁸⁾ and Directive 2014/59/EU of the European Parliament and of the Council ⁽⁹⁾, respectively. Those amendments were necessary to implement in the Union the international 'Total Loss-absorbing Capacity (TLAC) Term Sheet', published by the Financial Stability Board on 9 November 2015 (the 'TLAC standard'), for global systemically important banks, referred to in the Union framework as global systemically important institutions (G-SIIs), and to enhance the application of the minimum requirement for own funds and eligible liabilities (MREL) for all banks. The revised Union bank resolution framework should better ensure that the loss absorption and recapitalisation of banks occurs through private means when those banks become financially unviable and are, subsequently, placed in resolution.

- (2) Article 12a of Regulation (EU) No 575/2013 provides that G-SIIs with a resolution strategy under which more than one group entity might be resolved ('multiple-point-of-entry resolution strategy' or 'MPE resolution strategy') are to calculate their risk-based requirement for own funds and eligible liabilities on the theoretical assumption that only one entity of the group would be resolved, with the losses and recapitalisation needs of any subsidiaries of that group being transferred to the resolution entity ('single-point-of-entry resolution strategy' or 'SPE resolution strategy'). A similar requirement is provided for in Article 45d(4) of Directive 2014/59/EU, regarding the additional requirement for own funds and eligible liabilities that may be imposed by resolution authorities pursuant to paragraph 3 of that Article. In line with the TLAC standard, those calculations should take into account all third-country entities that are part of a G-SII that would be resolution entities if they were established in the Union.
- (3) In accordance with Article 45h(2), third subparagraph, of Directive 2014/59/EU, and in line with the TLAC standard, the sum of the actual requirements for own funds and eligible liabilities of a G-SII with an MPE resolution strategy is not to be lower than that group's theoretical requirement under an SPE resolution strategy. In order to align the provisions of Regulation (EU) No 575/2013 with those of Directive 2014/59/EU and to ensure that resolution authorities always act in accordance with that Directive and consider both the requirements for own funds and eligible liabilities laid down in Regulation (EU) No 575/2013 and any additional requirement for own funds and eligible liabilities determined in accordance with Article 45d of Directive 2014/59/EU, Article 12a of Regulation (EU) No 575/2013 should be amended and Article 92a(3) of that Regulation should be deleted. This should not prevent resolution authorities from concluding that any adjustment to minimise or eliminate the difference between the sum of the actual requirements for own funds and eligible liabilities of a G-SII with an MPE resolution strategy and that group's theoretical requirement under an SPE resolution strategy, when the former is higher than the latter, would be inappropriate or inconsistent with the G-SII's resolution strategy. To ensure consistency between Article 12a of Regulation (EU) No 575/2013 and Article 45h(2) of Directive 2014/59/EU, the calculation referred to in Article 45h(2) of that Directive should also take into account all third-country entities that are part of a G-SII that would be resolution entities if they were established in the Union.
- (4) Article 92b of Regulation (EU) No 575/2013 sets out that the requirement for own funds and eligible liabilities for material subsidiaries of non-EU G-SIIs that are not resolution entities may be met, inter alia, with eligible liabilities instruments. However, the criteria for eligible liabilities instruments laid down in Article 72b(2), points (c), (k), (l) and (m), of Regulation (EU) No 575/2013 presuppose the issuing entity to be a resolution entity. It should be ensured that those material subsidiaries can issue debt instruments that meet all eligibility criteria, as originally intended.

⁽⁷⁾ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

⁽⁸⁾ Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1).

⁽⁹⁾ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

- (5) In accordance with Article 72e(4), first subparagraph, of Regulation (EU) No 575/2013, it is possible for resolution authorities to permit a G-SII with an MPE resolution strategy to deduct certain holdings of own funds and eligible liabilities instruments of its subsidiaries that do not belong to the same resolution group by deducting a lower, adjusted amount specified by the resolution authority. Article 72e(4), second subparagraph, of that Regulation requires that in such cases the difference between the adjusted amount and the original amount be deducted from the loss absorbing and recapitalisation capacity of the subsidiaries concerned. In line with the TLAC standard, that approach should take into account the risk-based and non-risk-based requirements for own funds and eligible liabilities of the subsidiary concerned. Furthermore, that approach should be applicable to all third-country subsidiaries that are part of that G-SII, as long as those subsidiaries are subject to a resolution regime that, according to the relevant resolution authority in the Union, is legally enforceable and implements internationally agreed standards, more specifically the Financial Stability Board's document 'Key Attributes of Effective Resolution Regimes for Financial Institutions', published in October 2011, and the TLAC standard.
- (6) Directive (EU) 2019/879 amended Directive 2014/59/EU to introduce specific rules on the indirect subscription of internal MREL eligible resources, that is of own funds and liabilities that meet the conditions of Article 45f(2) of Directive 2014/59/EU, within resolution groups. In order to operationalise those rules and to ensure that that indirect subscription is carried out in a prudentially sound manner, the European Supervisory Authority (European Banking Authority) (EBA), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽¹⁰⁾, was mandated under Article 45f(6) of Directive 2014/59/EU to develop draft regulatory technical standards to specify methods for such an indirect subscription of eligible resources. However, as highlighted by the EBA in its letter to the Commission dated 25 January 2021, there were several inconsistencies between the requirements for the delegation laid down in Directive 2014/59/EU and the existing prudential rules laid down in Regulation (EU) No 575/2013, which did not allow the application of the prudential treatment needed for the mandate to be fulfilled as originally intended. More precisely, the EBA noted that Regulation (EU) No 575/2013 did not allow for the deduction of internal MREL eligible resources and, subsequently, for the application of an appropriate risk weight in all the cases relevant for the mandate under Directive 2014/59/EU. Similar issues were identified in the area of the leverage ratio requirement laid down in Regulation (EU) No 575/2013. In light of those legal constraints, the methods developed by the EBA should be incorporated directly into Regulation (EU) No 575/2013. Consequently, Article 45f(6) of Directive 2014/59/EU should be deleted.
- (7) In the context of the indirect subscription of internal MREL eligible resources by resolution entities pursuant to the revised Union bank resolution framework, intermediate entities should be required to deduct the full holding of internal MREL eligible resources issued by entities that are not themselves resolution entities and which belong to the same resolution group. That ensures the proper functioning of the internal loss-absorbing and recapitalisation mechanisms within a group and avoids the double-counting of the internal MREL eligible resources of those entities for the purposes of compliance by the intermediate entity with its own internal MREL. Without those deductions, the proper implementation of the chosen resolution strategy could be compromised since the intermediate entity could use up, not only its own loss absorption and recapitalisation capacity but also that of other entities that are not themselves resolution entities and which belong to the same resolution group, before the intermediate entity or those other entities are no longer viable. To ensure that the obligation to deduct is aligned with the scope of entities that may be used by the resolution entity for the indirect subscription of internal MREL eligible resources, and to avoid regulatory arbitrage, intermediate entities should deduct their holdings of internal MREL eligible resources issued by all entities belonging to the same resolution group and that may be subject to compliance with internal MREL, and not just the holdings of resources issued by their subsidiaries. The same obligations should apply in the case of indirect issuance of resources eligible for compliance with the requirement for own funds and eligible liabilities for material subsidiaries of non-EU G-SIIs laid down in Article 92b of Regulation (EU) No 575/2013, where relevant.

⁽¹⁰⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

- (8) To ensure that the deduction regime remains proportionate, intermediate entities should be able to choose the mix of instruments, consisting of own funds or eligible liabilities, with which they fund the acquisition of ownership of internal MREL eligible resources. That would allow intermediate entities to completely avoid any own funds-related deductions as long as they have issued sufficient eligible liabilities. The deductions should therefore first be applied to the eligible liabilities items of the intermediate entities. Where the intermediate entity is required to comply with internal MREL pursuant to Directive 2014/59/EU on an individual basis, the deductions should be applied to the eligible liabilities meeting the conditions of Article 45f(2) of that Directive. In case the amount to be deducted exceeds the amount of the eligible liabilities items of the intermediate entities, the remaining amount should be deducted from their Common Equity Tier 1, Additional Tier 1 and Tier 2 items, starting with Tier 2 items in accordance with Article 66, point (e), of Regulation (EU) No 575/2013. In such a case, it is necessary that the deductions corresponding to the remaining amount are also applied when calculating own funds for the purposes of the requirements laid down in Regulation (EU) No 575/2013 and Directive 2013/36/EU of the European Parliament and of the Council⁽¹¹⁾. Otherwise, the solvency ratios of intermediate entities that have issued own funds, rather than eligible liabilities, to fund the acquisition of ownership of internal MREL eligible resources may be overstated. Additionally, by keeping the treatment of holdings of internal MREL eligible resources aligned for prudential and resolution purposes, an undue increase in complexity is avoided, as institutions would be able to continue to calculate, report and disclose one set of total risk exposure amount and total exposure measure for prudential and resolution purposes. Article 49(2) of Regulation (EU) No 575/2013 should therefore be amended accordingly.
- (9) To further enhance the proportionality of the deduction regime, that regime should not be applicable in the exceptional cases where, pursuant to Article 45f(1), third subparagraph, and (4) of Directive 2014/59/EU, internal MREL is applied on a consolidated basis only, as regards the holdings of internal MREL eligible resources issued by entities included in the perimeter of consolidation. The same exception should apply when the requirement for own funds and eligible liabilities for material subsidiaries of non-EU G-SIIs laid down in Article 92b of Regulation (EU) No 575/2013 is complied with on a consolidated basis, pursuant to Article 11(3a) of that Regulation.
- (10) The indirect subscription of internal MREL eligible resources should ensure that, when a subsidiary reaches the point of non-viability, losses are effectively passed on to, and the subsidiary concerned is recapitalised by, the resolution entity. Those losses should thus not be absorbed by the intermediate entity, which should become a mere vehicle through which those losses are passed on to the resolution entity. Consequently, and to ensure that the outcome of the indirect subscription is equivalent to that of a full direct subscription, as envisaged under the mandate set out in Article 45f(6) of Directive 2014/59/EU, for the purposes of calculating the total risk exposure amount of the intermediate entity, risk weights should not be applied to the exposures deducted under the new deduction regime to be introduced in Article 72e of Regulation (EU) No 575/2013. In the same vein, those exposures should be excluded from the calculation of the total exposure measure of the intermediate entity. The treatment consisting of not applying risk weights and excluding those exposures from the total exposure measure should be strictly limited to exposures that are deducted in accordance with the new deduction regime to be introduced in Article 72e of that Regulation for the sake of operationalising the approach of indirect subscription of internal MREL eligible resources.
- (11) The templates for the public disclosure of harmonised information on MREL and on the requirement for own funds and eligible liabilities for material subsidiaries of non-EU G-SIIs set out in Commission Implementing Regulation (EU) 2021/763⁽¹²⁾ should be amended to reflect the new deduction regime for internal MREL eligible resources. The disclosure templates should also be amended to include the total risk exposure amount and the total exposure measure that intermediate entities would have if they did not exclude the exposures deducted under that new deduction regime.

⁽¹¹⁾ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

⁽¹²⁾ Commission Implementing Regulation (EU) 2021/763 of 23 April 2021 laying down implementing technical standards for the application of Regulation (EU) No 575/2013 of the European Parliament and of the Council and Directive 2014/59/EU of the European Parliament and of the Council with regard to the supervisory reporting and public disclosure of the minimum requirement for own funds and eligible liabilities (OJ L 168, 12.5.2021, p. 1).

- (12) Since the objectives of this Regulation, namely to fully harmonise the prudential treatment of the holdings by intermediate entities of internal MREL eligible resources of entities in the same resolution group and to revise in a targeted manner the requirements for own funds and eligible liabilities for G-SIIs and for material subsidiaries of non-EU G-SIIs, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (13) In order to duly assess potential unintended consequences of the indirect subscription of internal MREL eligible resources, including the new deduction regime, and to ensure a proportionate treatment and level playing field between different types of banking group structures, especially institutions that have an operating company between the holding company and its subsidiaries, and for entities whose resolution plan provides for their winding up under normal insolvency proceedings in the case of failure, the Commission should review the implementation of the indirect subscription of internal MREL eligible resources by the different types of banking group structures as soon as possible. The Commission should duly assess possible structural solutions to any identified issues such as enlarging the possibility for entities that are not themselves resolution entities to comply with their MREL on a consolidated basis. The accompanying legislative proposal that the Commission may adopt should duly consider the date of application of the dedicated treatment for the indirect subscription of internal MREL eligible resources, so that it can be implemented before Article 72e(5) of Regulation (EU) No 575/2013 becomes applicable. Such a legislative proposal should preferably be a dedicated one.
- (14) In order to ensure that institutions have sufficient time to implement the dedicated treatment for the indirect subscription of internal MREL eligible resources, including the new deduction regime, and that markets can absorb additional issuances of internal MREL eligible resources, where needed, the provisions laying down that treatment should become applicable on 1 January 2024, in line with the deadline for compliance with MREL.
- (15) Regulation (EU) No 575/2013 and Directive 2014/59/EU should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 575/2013

Regulation (EU) No 575/2013 is amended as follows:

- (1) in Article 4(1), the following point is inserted:

‘(130a) “relevant third-country authority” means a third-country authority as defined in Article 2(1), point (90), of Directive 2014/59/EU;’

- (2) Article 12a is replaced by the following:

‘Article 12a

Consolidated calculation for G-SIIs with multiple resolution entities

Where at least two G-SII entities that are part of the same G-SII are resolution entities or third-country entities that would be resolution entities if they were established in the Union, the EU parent institution of that G-SII shall calculate the amount of own funds and eligible liabilities referred to in Article 92a(1), point (a):

- (a) for each resolution entity or third-country entity that would be a resolution entity if it were established in the Union;
- (b) for the EU parent institution as if it were the only resolution entity of the G-SII.

The calculation referred to in point (b) of the first subparagraph shall be undertaken on the basis of the consolidated situation of the EU parent institution.

Resolution authorities shall act in accordance with Article 45d(4) and Article 45h(2) of Directive 2014/59/EU.;

- (3) in Article 49(2), the following subparagraph is added:

‘This paragraph shall not apply with regard to the deductions set out in Article 72e(5).’;

- (4) in Article 72b(2), the following subparagraph is added:

‘For the purposes of Article 92b, references to the resolution entity in points (c), (k), (l) and (m) of the first subparagraph of this paragraph shall also be understood as references to an institution that is a material subsidiary of a non-EU G-SII.’;

- (5) Article 72e is amended as follows:

- (a) paragraph 4 is replaced by the following:

‘4. Where an EU parent institution or a parent institution in a Member State that is subject to Article 92a has direct, indirect or synthetic holdings of own funds instruments or eligible liabilities instruments of one or more subsidiaries which do not belong to the same resolution group as that parent institution, the resolution authority of that parent institution, after duly considering the opinion of the resolution authorities or relevant third-country authorities of any subsidiaries concerned, may permit the parent institution to deduct such holdings by deducting a lower amount specified by the resolution authority of that parent institution. That adjusted amount shall be at least equal to the amount (m) calculated as follows:

$$m_i = \max\{0; OP_i + LP_i - \max\{0; \beta \cdot [O_i + L_i - \max\{r_i \cdot aRWA_i; w_i \cdot aLRE_i\}]\}\}$$

where:

i = the index denoting the subsidiary;

OP_i = the amount of own funds instruments issued by subsidiary i and held by the parent institution;

LP_i = the amount of eligible liabilities instruments issued by subsidiary i and held by the parent institution;

β = percentage of own funds instruments and eligible liabilities instruments issued by subsidiary i and held by the parent undertaking, calculated as follows:

$$\beta = \frac{OP_i + LP_i}{\text{the amount of all own funds instruments and eligible liabilities instruments issued by subsidiary } i};$$

O_i = the amount of own funds of subsidiary i , not taking into account the deduction calculated in accordance with this paragraph;

L_i = the amount of eligible liabilities of subsidiary i , not taking into account the deduction calculated in accordance with this paragraph;

r_i = the ratio applicable to subsidiary i at the level of its resolution group in accordance with Article 92a(1), point (a), of this Regulation and Article 45c(3), first subparagraph, point (a), of Directive 2014/59/EU or, for third-country subsidiaries, an equivalent resolution requirement applicable to subsidiary i in the third country where it has its head office, insofar as that requirement is met with instruments that would be considered own funds or eligible liabilities under this Regulation;

$aRWA_i$ = the total risk exposure amount of the G-SII entity i calculated in accordance with Article 92(3), taking into account the adjustments set out in Article 12a or, for third-country subsidiaries, calculated in accordance with the applicable local regulations;

w_i = the ratio applicable to subsidiary i at the level of its resolution group in accordance with Article 92a(1), point (b), of this Regulation and of Article 45c(3), first subparagraph, point (b), of Directive 2014/59/EU or, for third-country subsidiaries, an equivalent resolution requirement applicable to subsidiary i in the third country where it has its head office, insofar as that requirement is met with instruments that would be considered own funds or eligible liabilities under this Regulation;

$aLRE_i$ = the total exposure measure of the G-SII entity i calculated in accordance with Article 429(4) or, for third-country subsidiaries, calculated in accordance with the applicable local regulations.

Where the parent institution is allowed to deduct the adjusted amount in accordance with the first subparagraph, the difference between the amount of holdings of own funds instruments and eligible liabilities instruments referred to in the first subparagraph and that adjusted amount shall be deducted by the subsidiary.;

(b) the following paragraph is added:

‘5. Institutions and entities referred to in Article 1(1), points (b), (c) and (d), of Directive 2014/59/EU shall deduct from eligible liabilities items their holdings of own funds instruments and eligible liabilities instruments where all of the following conditions are met:

- (a) the own funds instruments and eligible liabilities instruments are held by an institution or entity that is not itself a resolution entity but that is a subsidiary of a resolution entity or of a third-country entity that would be a resolution entity if it were established in the Union;
- (b) the institution or entity referred to in point (a) is required to comply with the requirements laid down in Article 92b of this Regulation or in Article 45f of Directive 2014/59/EU;
- (c) the own funds instruments and eligible liabilities instruments held by the institution or entity referred to in point (a) were issued by an institution or entity referred to in Article 92b(1) of this Regulation or in Article 45f(1) of Directive 2014/59/EU that is not itself a resolution entity and that belongs to the same resolution group as the institution or entity referred to in point (a).

By way of derogation from the first subparagraph, holdings of own funds instruments and eligible liabilities instruments shall not be deducted where the institution or entity referred to in point (a) of the first subparagraph is required to comply with the requirement referred to in point (b) of the first subparagraph on a consolidated basis and the institution or entity referred to in point (c) of the first subparagraph is included in the consolidation of the institution or entity referred to in point (a) of the first subparagraph in accordance with Part One, Title II, Chapter 2.

For the purposes of this paragraph, the reference to eligible liabilities items shall be understood as a reference to any of the following:

- (a) eligible liabilities items taken into account for the purposes of complying with the requirement laid down in Article 92b;
- (b) liabilities that meet the conditions set out in Article 45f(2), point (a), of Directive 2014/59/EU.

For the purposes of this paragraph, the reference to own funds instruments and eligible liabilities instruments shall be understood as a reference to any of the following:

- (a) own funds instruments and eligible liabilities instruments that meet the conditions set out in Article 92b(2) and (3);
- (b) own funds and liabilities that meet the conditions set out in Article 45f(2) of Directive 2014/59/EU.;

(6) in Article 92a, paragraph 3 is deleted;

(7) in Article 113, paragraph 1 is replaced by the following:

‘1. To calculate risk-weighted exposure amounts, risk weights shall be applied to all exposures, unless those exposures are deducted from own funds or are subject to the treatment set out in Article 72e(5), first subparagraph, in accordance with the provisions of Section 2. The application of risk weights shall be based on the exposure class to which the exposure is assigned and, to the extent specified in Section 2, its credit quality. Credit quality may be determined by reference to the credit assessments of ECAs or the credit assessments of export credit agencies in accordance with Section 3.;

(8) in Article 151, paragraph 1 is replaced by the following:

‘1. The risk-weighted exposure amounts for credit risk for exposures belonging to one of the exposure classes referred to in Article 147(2), points (a) to (e) and point (g), shall, unless those exposures are deducted from own funds or are subject to the treatment set out in Article 72e(5), first subparagraph, be calculated in accordance with Sub-section 2.;

(9) in Article 429a(1), the following point is added:

‘(q) the exposures that are subject to the treatment set out in Article 72e(5), first subparagraph.’;

(10) in Part Ten, Title I, Chapter 1, Section 3, the following sub-section is inserted:

‘Sub-Section 3a

Deductions from eligible liabilities items

Article 477a

Deductions from eligible liabilities items

1. By way of derogation from Article 72e(4) and until 31 December 2024, the resolution authority of a parent institution, after duly considering the opinion of the resolution authorities or relevant third-country authorities of any subsidiaries concerned, may permit that the adjusted amount m_i be calculated by using the following definition of r_i , and w_i :

r_i = the total risk-based capital requirement applicable to subsidiary i in the third country where it has its head office, insofar as that requirement is met with instruments that would be considered own funds under this Regulation;

w_i = the total non-risk-based Tier 1 capital requirement applicable to subsidiary i in the third country where it has its head office, insofar as that requirement is met with instruments that would be considered Tier 1 capital under this Regulation.

2. The resolution authority may grant the permission referred to in paragraph 1 where the subsidiary is established in a third country that does not yet have in place an applicable local resolution regime if at least one of the following conditions is met:

- (a) there is no current or foreseen material practical or legal impediment to the prompt transfer of assets from the subsidiary to the parent institution;
- (b) the relevant third-country authority of the subsidiary has provided an opinion to the resolution authority of the parent institution that assets equal to the amount to be deducted by the subsidiary in accordance with Article 72e(4), second subparagraph, could be transferred from the subsidiary to the parent institution.’.

Article 2

Amendments to Directive 2014/59/EU

Directive 2014/59/EU is amended as follows:

(1) in Article 45d, paragraph 4 is replaced by the following:

‘4. For the purposes of Article 45h(2), where more than one G-SII entity that are part of the same G-SII are resolution entities or third-country entities that would be resolution entities if they were established in the Union, the relevant resolution authorities shall calculate the amount referred to in paragraph 3 of this Article:

- (a) for each resolution entity or third-country entity that would be a resolution entity if it were established in the Union;
- (b) for the Union parent undertaking as if it were the only resolution entity of the G-SII.’;

(2) in Article 45f, paragraph 6 is deleted;

(3) in Article 45h, paragraph 2 is replaced by the following:

‘2. Where more than one G-SII entity that are part of the same G-SII are resolution entities or third-country entities that would be resolution entities if they were established in the Union, the resolution authorities referred to in paragraph 1 shall discuss and, where appropriate and consistent with the G-SII’s resolution strategy, agree on the application of Article 72e of Regulation (EU) No 575/2013 and any adjustment to minimise or eliminate the difference between the sum of the amounts referred to in Article 45d(4), point (a), of this Directive and Article 12a, point (a), of Regulation (EU) No 575/2013 for individual resolution entities or third-country entities and the sum of the amounts referred to in Article 45d(4), point (b), of this Directive and Article 12a, point (b), of Regulation (EU) No 575/2013.

Such an adjustment may be applied subject to the following:

- (a) the adjustment may be applied in respect of differences in the calculation of the total risk exposure amounts between the relevant Member States or third countries by adjusting the level of the requirement;
- (b) the adjustment shall not be applied to eliminate differences resulting from exposures between resolution groups.

The sum of the amounts referred to in Article 45d(4), point (a), of this Directive and Article 12a, point (a), of Regulation (EU) No 575/2013 for individual resolution entities or third-country entities that would be resolution entities if they were established in the Union shall not be lower than the sum of the amounts referred to in Article 45d(4), point (b), of this Directive and Article 12a, point (b), of Regulation (EU) No 575/2013.’;

(4) in Article 129, the following paragraph is added:

‘By 31 December 2022, the Commission shall review the impact of the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities on the level playing field between different types of banking group structures, including where groups have an operating company between the holding company identified as a resolution entity and its subsidiaries. It shall assess in particular the following:

- (a) the possibility to allow entities that are not themselves resolution entities to comply with the minimum requirement for own funds and eligible liabilities on a consolidated basis;
- (b) the treatment, under the rules governing the minimum requirement for own funds and eligible liabilities, of entities whose resolution plan provides that they are to be wound up under normal insolvency proceedings;
- (c) the appropriateness of limiting the amount of deductions required pursuant to Article 72e(5) of Regulation (EU) No 575/2013.

The Commission shall submit a report thereon to the European Parliament and to the Council. Where appropriate, that report shall be accompanied by a legislative proposal, taking into account the application date of Article 72e(5) of Regulation (EU) No 575/2013.’.

Article 3

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2, points (1) and (3), by 15 November 2023. They shall immediately communicate the text of those measures to the Commission.

When Member States adopt those measures, they shall contain a reference to this Regulation or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by Article 2, points (1) and (3), of this Regulation.

*Article 4***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 14 November 2022.

However, Article 1, point (3), point (5)(b), and points (7), (8) and (9), shall apply from 1 January 2024.

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

Done at Strasbourg, 19 October 2022.

For the European Parliament

The President

R. METSOLA

For the Council

The President

M. BEK

REGULATION (EU) 2022/2037 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 19 October 2022
amending Regulation (EU) 2019/833 laying down conservation and enforcement measures applicable
in the Regulatory Area of the Northwest Atlantic Fisheries Organisation

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

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

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

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

Whereas:

- (1) Regulation (EU) 2019/833 of the European Parliament and of the Council ⁽³⁾ was adopted in order to implement into Union law the most up-to-date rules for conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organization (NAFO). That Regulation was subsequently amended by Regulation (EU) 2021/1231 of the European Parliament and of the Council ⁽⁴⁾, in order to implement into Union law the NAFO measures adopted at its annual meetings in 2019 and 2020.
- (2) NAFO subsequently adopted at its 43rd annual meeting, in September 2021, a number of legally binding decisions for the conservation of fishery resources under its purview as regards catch retention for the 'Others' quota, port inspection of landings of cod in Division 3M and of Greenland halibut, and reinforced provisions on monitoring, infringements and enforcement ('the NAFO decisions').
- (3) The NAFO decisions are addressed to the NAFO Contracting Parties, but also contain obligations for operators. Following their entry into force on 2 December 2021, NAFO conservation and enforcement measures ('CEMs') are binding on all NAFO Contracting Parties. Therefore, they are to be incorporated into Union law to the extent that they are not already provided for by Union law.
- (4) Regulation (EU) 2019/833 should therefore be adapted in order to apply those new CEMs to Union fishing vessels.
- (5) Certain provisions of the CEMs are likely to be amended at future NAFO annual meetings following the introduction of new technical measures in relation to changing stock biomass and a review of area restrictions for bottom-fishing activities. Therefore, in order to swiftly incorporate into Union law such future amendments to the CEMs, before the start of fishing season, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of landing and inspection measures for Greenland halibut and control measures for cod in Division 3M. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those

⁽¹⁾ OJ C 290, 29.7.2022, p. 149.

⁽²⁾ Position of the European Parliament of 13 September 2022 (not yet published in the Official Journal) and decision of the Council of 4 October 2022.

⁽³⁾ Regulation (EU) 2019/833 of the European Parliament and of the Council of 20 May 2019 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation, amending Regulation (EU) 2016/1627 and repealing Council Regulations (EC) No 2115/2005 and (EC) No 1386/2007 (OJ L 141, 28.5.2019, p. 1).

⁽⁴⁾ Regulation (EU) 2021/1231 of the European Parliament and of the Council of 14 July 2021 amending Regulation (EU) 2019/833 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation (OJ L 274, 30.7.2021, p. 32).

consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ^(⁹). In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (6) Regulation (EU) 2019/833 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) 2019/833

Regulation (EU) 2019/833 is amended as follows:

- (1) in Article 7(3), point (d) is replaced by the following:

'(d) where a ban on fishing applies (moratoria) or when the "Others" quota opened for that stock has been fully taken: 1 250 kg or 5 %, whichever is the greater, in regard to those Contracting Parties following their notification of the use of the "Others" quota in accordance with Article 6;';

- (2) in Article 9a(1), point (c) is replaced by the following:

'(c) each Member State shall inspect in its ports at least 50 % of the landings or transshipment of cod catches from Division 3M and prepare an inspection report in the format prescribed in Annex IV.C to the CEM referred to in point 9 of the Annex to this Regulation, and send it to the NAFO Executive Secretary, with the Commission and EFCA in copy, within 12 working days from the date on which the inspection was completed. That report shall identify and provide details of any infringement of this Regulation detected during the port inspection. It shall include all relevant information available with regard to infringements detected at sea during the current trip of the inspected fishing vessel.';

- (3) in Article 10(1), point (e) is replaced by the following:

'(e) each Member State shall inspect in its ports each landing of Greenland halibut, if the quantity of that stock on board represents either more than 5 % of the total catch or more than 2 500 kg, and prepare an inspection report in the format prescribed in Annex IV.C to the CEM referred to in point 9 of the Annex to this Regulation, and send it to the NAFO Executive Secretary, with the Commission and EFCA in copy, within 14 working days from the date on which the inspection was completed. The report shall identify and provide details of any infringement of this Regulation detected during the port inspection. It shall include all relevant information available with regard to infringements detected at sea during the current trip of the inspected fishing vessel.';

- (4) in Article 29, paragraph 1 is replaced by the following:

'1. Each Member State shall, not later than 1 November each year, send the following information to EFCA (with the Commission in copy), which shall ensure that that information is sent to the NAFO Executive Secretary:

- (a) the contact information of the competent authority which shall act as the contact point for the purpose of immediate notification of infringements in the Regulatory Area, and any subsequent changes to that information, not less than 15 days before the change comes into effect;
- (b) the names of inspectors and inspector trainees and the name, radio call sign and communication contact information of each inspection platform it has assigned to the Scheme. It shall notify changes to the particulars so notified, whenever possible, not less than 60 days in advance.';

- (5) in Article 35(1), point (g) is replaced by the following:

'(g) fishing with an unauthorised mesh size, grid or grate bar spacing, or without the use of sorting grids or grates, in contravention of Article 13 or Article 14;';

⁽⁹⁾ OJ L 123, 12.5.2016, p. 1.

(6) Article 36 is amended as follows:

(a) in paragraph 1, point (d) is replaced by the following:

‘(d) ensure that sanctions applicable in respect of infringements, and to the extent possible under national legislation for repeated serious infringements, in particular those identified under Article 35(3), point (c) (iii) and (iv), are adequate in severity to be effective in securing compliance, deterring further infringements or their repetition and depriving the offenders of the benefits accruing from the infringement.’;

(b) in paragraph 2, the following points are added:

‘(e) increased or additional reporting requirements, such as enhanced reporting frequency or additional data to be reported; and

(f) increased or additional monitoring requirements, such as the deployment of an observer or an inspector on board or the installation of remote electronic monitoring implemented in accordance with relevant technical specifications for fishing vessels operating in the Regulatory Area.’;

(7) in Article 40, paragraph 3 is replaced by the following:

‘3. The Member State shall send to the Commission the contact information of the competent authority, which shall act as the contact point for the purposes of receiving requests in accordance with Article 39(5) and providing confirmation in accordance with Article 39(6). The Commission shall send that information to the NAFO Executive Secretary.’;

(8) in Article 50, paragraph 2 is amended as follows:

(a) point (c) is replaced by the following:

‘(c) procedures concerning vessels with more than 50 tonnes live weight total catch on board, entering the Regulatory Area to fish for Greenland halibut as regards the content of notifications provided for in Article 10(2), points (a) and (b), conditions for commencement of fishing provided for in Article 10(2), point (d), and provisions on landing and inspection concerning Greenland halibut provided for in Article 10(1), point (e)’;

(b) the following point is added:

‘(l) control measures for cod in Division 3M as provided for in Article 9a.’.

Article 2

Entry into force

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

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

Done at Strasbourg, 19 October 2022.

For the European Parliament
The President
R. METSOLA

For the Council
The President
M. BEK

REGULATION (EU) 2022/2038 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 19 October 2022****amending Council Regulation (EEC) No 95/93 as regards temporary relief from the slot utilisation rules at Union airports due to an epidemiological situation or military aggression****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

After consulting the Committee of the Regions,

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

Whereas:

- (1) Council Regulation (EEC) No 95/93 ⁽³⁾ was amended several times since the beginning of the COVID-19 crisis as the requirement set by that Regulation to operate at least 80 % of a series of slots to maintain the right to the same series of slots in the next equivalent scheduling period became unsustainable for air carriers in light of highly reduced air traffic levels.
- (2) Figures published by Eurocontrol, which is the network manager for the air traffic network functions of the single European sky, show that air traffic has had a strong recovery since the beginning of the summer 2022 scheduling period and that the air traffic at the start of the winter 2022/2023 scheduling period is expected to be approximately 90 % of 2019 levels under the base forecast. Those figures justify a return to the 80 % requirement for slot use as a general rule for the summer scheduling period 2023, complemented with specific slot use alleviation in cases of justified non-use of slots.
- (3) Nevertheless, due to the COVID-19 crisis, the situation in the aviation sector remains highly uncertain. As was the case at the end of 2021, new COVID-19 variants can appear and cause sudden reactions from both national authorities and consumers that can in turn negatively affect air traffic. Furthermore, certain long-haul markets continue to be affected by sanitary measures which severely impede air traffic.
- (4) Russia's war of aggression against Ukraine is also having an impact on air traffic and air carriers' ability to operate their slots as Union air carriers are prevented from entering the airspace of Belarus, Russia and Ukraine.
- (5) State-imposed travel restrictions for sanitary reasons and the impossibility of entering the airspace of what has become a war zone are beyond the control of air carriers. These circumstances can lead to the voluntary or obligatory cancellation of their air services or adjustment of schedules. In particular, voluntary cancellations protect the financial health of air carriers and at the same time avoid the negative environmental impact caused by operating flights only to retain their slots.

⁽¹⁾ Opinion of 22 September 2022 (not yet published in the Official Journal).

⁽²⁾ Position of the European Parliament of 6 October 2022 (not yet published in the Official Journal) and decision of the Council of 13 October 2022.

⁽³⁾ Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (OJ L 14, 22.1.1993, p. 1).

- (6) Under those circumstances, air carriers that fail to use their slots in accordance with the slot utilisation rate set out in Regulation (EEC) No 95/93 should not automatically lose the precedence in respect of the series of slots, laid down in Articles 8(2) and 10(2) of that Regulation, that they might otherwise enjoy. This Regulation should establish specific rules to this effect.
- (7) At the same time, it is important to recall the objectives of Regulation (EEC) No 95/93, which are namely to ensure the efficient use of airport capacity and to ensure fair access for all air carriers to limited airport capacity, thereby promoting competition. The adjustment of normal slot use requirements through a lower use-rate or extended justified non-use exceptions should be strictly limited to situations where slot relief is necessary and should not lead to unfair competitive advantages for those air carriers holding historic slots.
- (8) In particular, it is necessary to ensure that air carriers prepared to provide services are allowed to take up unused capacity and that they have the prospect of maintaining such slots in the long term. That should maintain air carriers' incentives to make use of airport capacity, which in turn would benefit consumers in terms of connectivity.
- (9) It is therefore necessary to lay down, in accordance with those principles and for a limited period, the conditions under which air carriers continue to be entitled to series of slots under Articles 8(2) and 10(2) of Regulation (EEC) No 95/93, and to establish requirements for air carriers concerned to release unused capacity. The period should run from 30 October 2022 until 28 October 2023 in line with the recovery forecast of Eurocontrol.
- (10) During that period, the definition of the term 'new entrant' should remain broad in order to increase the number of air carriers covered, thereby giving more air carriers the opportunity to establish and expand their operations.
- (11) From 30 October 2022 until 28 October 2023, the system of slot allocation should continue to recognise the efforts of the air carriers that have operated flights using slots which are part of a series that another air carrier is entitled to under Articles 8(2) and 10(2) of Regulation (EEC) No 95/93, but which have been made available to the slot coordinator for temporary reallocation. Therefore, air carriers that have operated at least five slots of a series should receive priority for the allocation of those series in the next equivalent scheduling period, subject to airport capacity availability.
- (12) To address the effects of Russia's war of aggression against Ukraine and to support the recovery of connectivity between the Union and Ukraine, it is necessary to extend the period during which operators are able to rely on the reason set out in Article 10(4), point (a), of Regulation (EEC) No 95/93 to justify the non-utilisation of the series of slots on the routes between the Union and Ukraine.
- (13) Without prejudice to the obligation of Member States to comply with Union law, in particular with the rules laid down in the Treaties and in Regulation (EC) No 1008/2008 of the European Parliament and of the Council (*), the negative consequences on passengers' ability to travel due to possible restrictions adopted by public authorities of Member States or third countries addressing epidemiological situations, natural disasters or political unrest, such as rebellions, riots or severe public disorder, cannot be imputed to air carriers and should be mitigated where those measures significantly impact the viability, or the possibility, of travel or the demand on the routes concerned. Mitigation measures should ensure that air carriers are not penalised for failure to use slots where that failure is the result of such restrictions.
- (14) To reduce the risk of distortions of competition and to ensure the efficient use of airport capacity, specific relief from the effects of the imposition of those restrictions should be of limited duration and scope, thus ensuring that the effect of the mitigation measures is limited to the period for which they were justified. Slots covered by such measures mitigating the effect of restrictions should be deemed to have been operated for the purposes of Regulation (EEC) No 95/93.

(*) Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3).

- (15) It is necessary to clarify that the provisions on the justified non-use of slots exceptions do not apply to air carriers that are the object of restrictive measures adopted pursuant to Article 29 of the Treaty on European Union (TEU) or Article 215 of the Treaty on the Functioning of the European Union (TFEU), or to air carriers subject to an operating ban within the Union which are listed in Annex A or B to Commission Regulation (EC) No 474/2006 ⁽⁵⁾. In order to ensure the effective application of those measures, the impossibility to invoke the provisions on the justified non-use of slots exceptions should apply also to the air carriers that are already the object of such restrictive measures in force on the date of entry into force of this Regulation.
- (16) The cooperation between coordinators should be strengthened to ensure uniform implementation of Regulation (EEC) No 95/93 across the Union.
- (17) Coordinators should exchange best practices on the implementation of Regulation (EEC) No 95/93, including through the European Airport Coordinators Association (EUACA). The EUACA is encouraged to continue issuing guidance to ensure a harmonised implementation of Union rules, in particular regarding the provision on the mitigation of the restrictions. Moreover, whether the mitigation is applied or not is an important piece of information for air carriers when planning their schedules. Therefore, it is necessary to ensure transparent communication from the coordinators.
- (18) While measures mitigating the restrictions should be interpreted strictly since they represent an exception to the normal slot use requirements, in certain instances it should be possible to require common action by all coordinators to ensure a level playing field across the Union. Under certain conditions, and based on a unanimous decision, coordinators should be able to apply that provision to all slots held at coordinated airports.
- (19) The robustness of traffic forecasts for the winter 2022/2023 scheduling period is negatively affected by uncertainty concerning the evolution of various crises, in particular the situation in Ukraine and the COVID-19 crisis. Consequently, air carriers should be released, to the extent necessary, from the requirements to operate slots in order to retain entitlement to the same slots in the next equivalent scheduling period. This would enable air carriers to increase the provision of services when circumstances allow, with a view to applying the regular rules for the operation of slots from the summer 2023 scheduling period, subject to those adaptations made by the Commission in specific circumstances to react to certain challenges to the air transport sector.
- (20) In order to address the evolving impact of the COVID-19 crisis or of other epidemiological situations, as well as the direct devastating impact of Russia's war of aggression against Ukraine on air traffic and to support connectivity to or from Ukraine, and to respond flexibly, where strictly necessary and justified, to the challenges that the air transport sector is facing in consequence, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending the percentage values of the minimum usage rate within a certain range and for any scheduling period within the period from 30 October 2022 until 28 October 2023 in line with the recovery forecast of Eurocontrol and in respect of amending the percentage values of the minimum usage rate within a certain range for the routes between the Union and Ukraine and for any scheduling period from 30 October 2022 until 28 October 2023. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations are conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽⁶⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

⁽⁵⁾ Commission Regulation (EC) No 474/2006 of 22 March 2006 establishing the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council (OJ L 84, 23.3.2006, p. 14).

⁽⁶⁾ OJ L 123, 12.5.2016, p. 1.

- (21) Airports, airport services providers and air carriers need to have information on available capacity for the purpose of adequate planning. Air carriers should continue to make available to the coordinator for possible reallocation to other air carriers any slot that they do not intend to use at the earliest possible opportunity and no later than 3 weeks before the planned date of their operation. Where air carriers repeatedly fail to comply with that requirement, they should not benefit from a reduced slot operation rate.
- (22) Where a coordinator is satisfied that an air carrier has ceased operations at an airport, the coordinator should withdraw the slots from the air carrier in question and place them in the pool for reallocation to other carriers.
- (23) The prohibition on air carriers to fly into Union airspace in application of restrictive measures adopted pursuant to Article 29 TEU or Article 215 TFEU or of an operating ban pursuant to Regulation (EC) No 474/2006 could result in the unjustified blocking of slots at Union airports. While slots previously used by such air carriers can be re-allocated on an ad hoc basis during the scheduling period, this does not sufficiently encourage the efficient use of slots enabling airlines to increase long-term competition and connectivity for the benefit of consumers. The slots should therefore be immediately withdrawn from the air carriers concerned.
- (24) Since the objective of this Regulation, namely the establishment of specific rules and the relief from the general slot utilisation rules for a limited period of time in order to mitigate the effects of an epidemiological crisis and Russia's war of aggression against Ukraine on air traffic, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the proposed action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.
- (25) In view of the urgency entailed by the exceptional circumstances related to the COVID-19 crisis and Russia's war of aggression against Ukraine, it is considered to be appropriate to invoke the exception to the 8-week period provided for in Article 4 of Protocol No 1 on the role of national Parliaments in the Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.
- (26) In order to allow for the prompt application of the measures provided for in this Regulation, it should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 95/93 is amended as follows:

(1) Article 2 is amended as follows:

(a) in point (ba), the introductory wording is replaced by the following:

‘during the period from 30 October 2022 to 28 October 2023, “new entrant” shall mean:’;

(b) in point (f), point (i) is replaced by the following:

“air carrier” shall mean an air transport undertaking holding a valid operating licence or equivalent at the latest on 31 January for the following summer scheduling period or on 31 August for the following winter scheduling period; for the purpose of Articles 4, 8, 8a, 10 and 10a, the definition of air carrier shall also include business aviation operators, when they operate according to a schedule; for the purposes of Articles 7 and 14, the definition of air carrier shall also include all civil aircraft operators;’;

(2) Article 8 is amended as follows:

(a) in paragraph 2, first subparagraph, the introductory wording is replaced by the following:

‘2. Without prejudice to Articles 7, 8a and 9, Article 10(1) and Article 14, paragraph 1 of this Article shall not apply when the following conditions are satisfied:’;

(b) in paragraph 2a, the first subparagraph is replaced by the following:

‘2a. During the period from 30 October 2022 to 28 October 2023, and subject to capacity being available at the airport, a series of slots which was returned to the slot pool in accordance with paragraph 1 of this Article at the end of the scheduling period (the “reference scheduling period”) shall, upon request, be allocated for the next equivalent scheduling period to an air carrier which has operated at least five slots of the series in question following the application of Article 10a(7) during the reference scheduling period.’;

(c) paragraph 6a is replaced by the following:

‘6a. Within the period during which COVID-19 coordination parameters apply, and in order to enable the proper application of such coordination parameters, the coordinator may, after having heard the air carrier concerned, amend the timing of requested or allocated slots falling within the period from 30 October 2022 to 28 October 2023 or cancel them. In this context, the coordinator shall take into account the additional rules and guidelines referred to in paragraph 5, subject to the conditions set out therein.’;

(3) Article 10 is amended as follows:

(a) paragraph 2a is deleted;

(b) paragraph 4 is amended as follows:

(i) the first subparagraph is amended as follows:

— point (d) is replaced by the following:

‘(d) judicial proceedings concerning the application of Article 9 of this Regulation for routes where public service obligations have been imposed according to Article 4 of Regulation (EEC) No 2408/92 resulting in the temporary suspension of the operation of such routes.’;

— point (e) is deleted;

(ii) the second, third, fourth and fifth subparagraphs are deleted;

(iii) the following subparagraph is added:

‘Where the impact of Russia’s war of aggression against Ukraine and the destruction of critical infrastructure affects the ability to provide air services, as well as demand for air services, coordinators shall apply the first subparagraph, point (a), to the routes between the Union and Ukraine for the duration of the airspace closure or airport closure, whichever occurs later, and an additional period of 16 weeks. The coordinator shall notify the Commission of the start date and end date of the 16-week period.’;

(c) the following paragraphs are inserted:

‘4a. In addition, during the period from 30 October 2022 to 28 October 2023, the non-utilisation of a slot may also be justified by the introduction, by public authorities, of restrictions intended to address any major epidemiological situation, natural disaster or political unrest at one end of a route for which the slot in question was operated or planned to be operated, on condition that those restrictions significantly impact the possibility of, or demand for, travel, and that, on the routes concerned, the restrictions lead to any of the following:

(a) a partial or total closure of the border, airport or airspace during a substantial part of the relevant scheduling period;

- (b) a severe impediment to the ability of passengers to travel with any carrier on that direct route during a substantial part of the relevant scheduling period, for example, where the impediment is linked to any of the following reasons:
- travel restrictions based on nationality or place of residence, the prohibition of all except essential travel, or bans on flights from or to certain countries or geographical areas,
 - restrictions of movement, or quarantine or isolation measures, within the country or region where the airport of destination is located (including intermediate points), unless quarantine can be avoided by a negative test, proof of recovery or proof of vaccination recognised by the Union,
 - restrictions on the availability of services essential to directly support the operation of an air service, including the closure of hospitality and public services, including transport, leading to a severe downturn in demand at either end of the route,
 - limitations on number of passengers per flight and frequencies per air carrier leading to a severe downturn in demand at either end of the route;
- (c) restrictions on airline crew movements that significantly hamper the operation of air services to or from the airports served, including sudden bans on entry or the unexpected stranding of crew due to quarantine measures, unless quarantine can be avoided by a negative test, proof of recovery or vaccination recognised by the Union.

This paragraph shall apply for the period in which the restrictions referred to in the first subparagraph apply and for up to 6 additional weeks, subject to the third and fourth subparagraphs. However, where those restrictions cease to apply less than 6 weeks before the end of a scheduling period, this paragraph shall apply to the remainder of the 6-week period only where the slots in the subsequent scheduling period are used for the same route.

This paragraph shall only apply to slots used for routes for which they were already used prior to the publication of the restrictions referred to in the first subparagraph.

This paragraph shall cease to apply where the air carrier, using the slots in question, changes to a route not affected by the restrictions referred to in the first subparagraph.

When a majority of Member States representing at least 50 % of the population of the Union apply restrictions referred to in the first subparagraph which significantly impact the possibility of, or demand for, travel and lead to any of the situations referred to in points (a) to (c) of the first subparagraph, each coordinator may, following a unanimous decision by coordinators of all Community coordinated airports to the effect that non-utilisation of slots is justified in general and its notification by them to the Commission and the Member States, apply this paragraph to all slots held at such airports for the duration of the restrictions that are in force and for up to 6 additional weeks, provided that those restrictions affect a significant number of routes to or from a Community airport, thereby rendering air traffic in the Union to a large extent unviable or leading to an uneven level playing field.

4b. When the non-utilisation of a slot is justified by the restrictions referred to in paragraph 4 or 4a, the coordinators shall consider that the slot was operated within the series of slots concerned.

4c. Air carriers whose operations are impeded by restrictive measures adopted pursuant to Article 29 of the Treaty on European Union (TEU) or Article 215 of the Treaty on the Functioning of the European Union (TFEU), including those in force on 26 October 2022 and air carriers subject to an operating ban within the Union which are listed in Annex A or B to Commission Regulation (EC) No 474/2006 (*) shall not be entitled to invoke a justification for the non-utilisation of slots under paragraphs 4 and 4a of this Article.

However, by way of derogation from the first subparagraph, where such air carriers are permitted to operate wet-leased aircraft of an air carrier whose operations are not impeded by such restrictive measures and which is not subject to such an operating ban, they may invoke a justification for the non-utilisation of slots under paragraphs 4 and 4a, provided that safety rules applicable in the Union are complied with.

4d. Coordinators shall regularly exchange best practices on the implementation of paragraphs 4 and 4a with the aim of ensuring coherent and consistent application across the Union.

Coordinators shall publish and regularly update the list of destinations to which paragraphs 4 and 4a apply.

(*) Commission Regulation (EC) No 474/2006 of 22 March 2006 establishing the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council (OJ L 84, 23.3.2006, p. 14).';

(d) paragraph 5 is replaced by the following:

'5. At the request of a Member State or on its own initiative, the Commission shall examine the application of paragraphs 4 and 4a by the coordinator of an airport falling within the scope of this Regulation.'

(4) Article 10a is amended as follows:

(a) the heading is replaced by the following:

'Article 10a

Allocation of slots in response to certain crisis situations'

(b) paragraphs 1, 2 and 4 are deleted;

(c) paragraph 3 is replaced by the following:

'3. During the period from 30 October 2022 until 25 March 2023 and for the purposes of Article 8(2), Article 10(2) and (4) and Article 14(6), first subparagraph, if an air carrier demonstrates to the satisfaction of the coordinator that it has operated the series of slots that was allocated to it, as cleared by the coordinator, for at least 75 % of the time during the scheduling period for which it has been allocated, that air carrier shall be entitled to the same series of slots for the next equivalent scheduling period.'

(d) paragraph 5 is replaced by the following:

'5. Where data published by Eurocontrol clearly shows that weekly air traffic, over a period of 2 consecutive weeks, has fallen below 80 % of 2019 levels of the corresponding weeks, due to COVID-19 crisis, other epidemiological situations or as a direct effect of Russia's war of aggression against Ukraine, and that, on the basis of Eurocontrol traffic forecasts, the reduction in the level of air traffic as compared to the level in the corresponding period in 2019 is likely to persist, the Commission is empowered to adopt delegated acts in accordance with Article 12a to amend the percentage values set out in paragraph 3 of this Article and in Article 8(2), Article 10(2) and (4) and Article 14(6), first subparagraph, within a range between 0 % and 70 % for any scheduling period falling between 30 October 2022 and 28 October 2023. The percentage value applied shall be proportionate to the level of air traffic forecasts by Eurocontrol.

When adopting those delegated acts, the Commission shall have regard to all the following elements:

(a) data published by Eurocontrol on traffic levels and traffic forecasts;

(b) indicators relating to demand for passenger and cargo air transport, including trends regarding forward bookings, airlines planned schedules, fleet size, fleet utilisation, and load factors;

(c) measures by public authorities linked to the COVID-19 crisis or another epidemiological situation resulting in an significant effect on air traffic levels to or from Union airports, forced re-routings due to airspace closures or a prohibition on Union air carriers to enter a third-country airspace, taking into account advice from the European Union Aviation Safety Agency in its Conflict Zone Information Bulletin;

(d) data from the European Centre for Disease Control and the World Health Organisation on COVID-19 or another epidemiological situation characterised as highly contagious and likely to induce a severe downturn in air travel.

In view of the preparation of schedules by air carriers ahead of the scheduling period, the Commission shall endeavour to adopt those delegated acts pursuant to this paragraph before the start of the scheduling period, in order to allow air carriers to plan their flight schedules. The Commission may adopt such acts during the scheduling period in case of unforeseen circumstances.’;

(e) the following paragraph is inserted:

‘5a. Where the Commission finds that due to the destruction of infrastructure and impact on living conditions as a result of Russia’s war of aggression against Ukraine, the gradual restoration of air traffic between Ukraine and the Union requires a lower use rate for routes serving Ukraine, the Commission is empowered to adopt delegated acts in accordance with Article 12a to amend the percentage values set out in paragraph 3 of this Article and in Article 8(2), Article 10(2) and (4) and Article 14(6), first subparagraph, within a range between 0 % and 70 % for slots used on routes to or from Ukraine for any scheduling period falling between 30 October 2022 and 28 October 2023.

When adopting those delegated acts, the Commission shall have regard to the following elements:

- (a) data published by Eurocontrol on traffic levels and traffic forecasts on routes between the Union and Ukraine;
 - (b) indicators relating to demand for passenger and cargo air transport, including trends in forward bookings and planned airline schedules;
 - (c) forced re-routings due to airspace closures or prohibition on Union air carriers to enter a third country airspace taking into account advice from the European Union Aviation Safety Agency in its Conflict Zone Information Bulletin.’;
- (f) paragraphs 6 and 7 are replaced by the following:

‘6. Where, as a result of the prolonged impact of the COVID-19 crisis, of other epidemiological situations or of the direct effects of Russia’s war of aggression against Ukraine, imperative grounds of urgency so require, the procedure provided for in Article 12b shall apply to delegated acts adopted pursuant to this Article.

7. During a period where slot relief applies according to paragraph 3, 5 or 5a of this Article, air carriers shall make available to the coordinator, for reallocation to other air carriers, any slot that they do not intend to use, no less than 3 weeks before the date of intended operation. Without prejudice to Article 10(4) and (4a), where an air carrier fails to make available to the coordinator more than three slots in a series in accordance with this paragraph, that carrier shall be entitled to the entire series of slots in the next equivalent scheduling period only if the entire series of slots has been operated, or if the entire series of slots has been deemed to have been operated in accordance with Article 10(4b), by the carrier for at least 80 % of the time, regardless of whether Article 8(2) and Article 10(2) have been amended by the delegated act referred to in this Article.’;

(5) in Article 11, paragraph 1 is replaced by the following:

‘1. Without prejudice to rights of appeal under national law, complaints regarding the application of Article 7(2), Articles 8, 8a and 10, Article 10a(7), Article 14(1) to (4) and Article 14(6) shall be submitted to the coordination committee. The committee shall, within a period of 1 month following submission of the complaint, consider the matter and if possible make proposals to the coordinator in an attempt to resolve the problem. If the complaint cannot be settled, the Member State responsible may, within a further 2-month period, provide for mediation by an air carriers’ or airports’ representative organisation or other third party.’;

(6) in Article 12a, paragraph 2 is replaced by the following:

‘2. The power to adopt delegated acts referred to in Article 10a shall be conferred on the Commission until 28 October 2023.’;

(7) in Article 14, paragraph 6 is replaced by the following:

‘6. Without prejudice to Article 10(4) and (4a), if the 80 % usage rate as defined in Article 8(2) cannot be achieved by an air carrier, the coordinator may decide to withdraw from that air carrier the series of slots in question for the remainder of the scheduling period and place them in the pool after having heard the air carrier concerned.

Without prejudice to Article 10(4) and (4a), if after an allotted time corresponding to 20 % of the period of the series validity no slots of that series of slots have been used, the coordinator shall place the series of slots in question in the pool for the remainder of the scheduling period, after having heard the air carrier concerned.

During the period from 30 October 2022 until 28 October 2023, when a coordinator determines, on the basis of information at its disposal, that an air carrier has ceased its operations at an airport and is no longer able to operate the slots which it has been allocated, the coordinator shall withdraw from that air carrier the series of slots in question for the remainder of the scheduling period and place them in the pool, after having heard the air carrier concerned.

During the period from 30 October 2022 until 28 October 2023, when a coordinator determines, on the basis of information at its disposal, that an air carrier that is subject to the restrictive measures adopted pursuant to Article 29 TEU or Article 215 TFEU, including those in force on 26 October 2022, or an air carrier that is subject to an operating ban within the Union and is listed in Annex A or B to Regulation (EC) No 474/2006, is not able to operate slots for a substantial part of the scheduling period, the coordinator shall, after having heard the air carrier concerned, withdraw from that air carrier the series of slots in question for the remainder of the scheduling period and place them in the pool.

However, where an air carrier is subject to an operating ban within the Union and is listed in Annex A or B to Regulation (EC) No 474/2006, and is permitted to operate wet-leased aircraft of an air carrier whose operations are not impeded by such restrictive measures and which is not subject to such an operating ban, the fourth subparagraph of this paragraph shall not apply to that carrier's slots, provided that safety rules applicable in the Union are complied with.'

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 Strasbourg, 19 October 2022.

For the European Parliament
The President
R. METSOLA

For the Council
The President
M. BEK

REGULATION (EU) 2022/2039 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 19 October 2022

amending Regulations (EU) No 1303/2013 and (EU) 2021/1060 as regards additional flexibility to address the consequences of the military aggression of the Russian Federation FAST (Flexible Assistance for Territories) – CARE

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 177 thereof,

Having regard to the proposal from the European Commission,

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

After consulting the European Economic and Social Committee,

After consulting the Committee of the Regions,

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

Whereas:

- (1) Member States, and in particular the central and eastern regions of the European Union, have been severely affected by the consequences of the military aggression by the Russian Federation against Ukraine, at a time when Member States' economies are still recovering from the impact of the COVID-19 pandemic. While facing a continuous inflow of persons fleeing Russian aggression, many Member States are also affected by shortages of labour, supply chain difficulties and rising prices and energy costs. On the one hand, this generates challenges for public budgets and, on the other, delays the implementation of investments. Such circumstances have created an exceptional situation which needs to be addressed with specific, well-targeted measures, in order not to require changes in the multiannual financial framework annual ceilings for commitments and payments set out in Annex I to Council Regulation (EU, Euratom) 2020/2093 ⁽²⁾, as well as to avoid undermining the ongoing green, digital and resilient recovery of the economy.
- (2) With a view to alleviating the increasing burden on national budgets, Regulation (EU) 2022/562 of the European Parliament and of the Council ⁽³⁾ made a number of targeted amendments to Regulations (EU) No 1303/2013 ⁽⁴⁾ and (EU) No 223/2014 ⁽⁵⁾ of the European Parliament and of the Council in order to make it easier for Member States to use their remaining allocations of the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Fund for European Aid to the Most Deprived (FEAD) under the 2014–2020 multiannual financial framework, as well as to use REACT-EU resources to address the migratory challenges resulting from the military aggression by the Russian Federation as effectively and as rapidly as possible.

⁽¹⁾ Position of the European Parliament of 4 October 2022 (not yet published in the Official Journal) and decision of the Council of 13 October 2022.

⁽²⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

⁽³⁾ Regulation (EU) 2022/562 of the European Parliament and of the Council of 6 April 2022 amending Regulations (EU) No 1303/2013 and (EU) No 223/2014 as regards Cohesion's Action for Refugees in Europe (CARE) (OJ L 109, 8.4.2022, p. 1).

⁽⁴⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

⁽⁵⁾ Regulation (EU) No 223/2014 of the European Parliament and of the Council of 11 March 2014 on the Fund for European Aid to the Most Deprived (OJ L 72, 12.3.2014, p. 1).

- (3) In addition, Regulation (EU) 2022/613 of the European Parliament and of the Council⁽⁶⁾ provided additional possibilities to mobilise resources quickly to offset the immediate budgetary costs borne by Member States and established a unit cost to facilitate the financing of basic needs and support of persons fleeing Russian aggression who are granted temporary protection.
- (4) Additional exceptional arrangements to enable Member States to concentrate on the necessary response to the unprecedented socioeconomic situation should nevertheless be provided to Member States, given the extended nature of the Russian invasion, especially with regard to operations addressing the migratory challenges as a result of the military aggression by the Russian Federation.
- (5) Given the additional strain on public budgets caused by the military aggression by the Russian Federation, the flexibility regarding the use of the ERDF and the ESF provided for in Article 98(4) of Regulation (EU) No 1303/2013 for such operations should be extended to also cover the Cohesion Fund so that its resources can also be used to support operations falling within the scope of the ERDF or the ESF in accordance with the rules applicable to those Funds. In addition, it is appropriate to extend the simplified monitoring requirements set out in Article 98(4) of Regulation (EU) No 1303/2013 to operations supported by the ESF which address migratory challenges, where these operations are programmed in a priority axis which only addresses those challenges. Furthermore, the possibility should be introduced that priorities promoting the socioeconomic integration of third country nationals, including those dedicated to operations addressing migratory challenges resulting from the Russian aggression, benefit from a co-financing rate of up to 100 % in both programming periods, in order to support Member States in addressing displaced persons both now and in the future. In the same vein, the amount for the unit cost to facilitate the financing of basic needs and the support of refugees should be increased and its application in time extended.
- (6) In addition, the setting of the start of the eligibility date on 24 February 2022 for operations addressing migratory challenges as a result of the military aggression by the Russian Federation has not proved sufficient to ensure that all relevant operations addressing these challenges could be supported by the Funds. It is therefore appropriate to exceptionally allow for the selection of such operations prior to the approval of a related programme amendment and for the eligibility of expenditure for such operations which are physically completed or fully implemented, also extending these flexibilities to operations supported by the European Maritime and Fisheries Fund (EMFF) which address the consequences on the fishery and aquaculture sector resulting from the Russian aggression. Furthermore, taking into account the limited funding available in the regions most affected, it should be possible to support such operations beyond the limits of the programme area within a given Member State, given that the situation of persons fleeing Russian aggression and moving within and across Member States poses a challenge to the economic, social and territorial cohesion of the Union as a whole. Such operations should therefore be eligible irrespective of where they are implemented within a given Member State, as their location is ultimately not a decisive criterion when addressing the immediate needs.
- (7) Moreover, given that the burden placed on local authorities and civil society organisations operating in local communities for addressing migratory challenges as a result of the military aggression by the Russian Federation is high, a minimum level of support of 30 % should be set aside for such bodies in the context of the resources being used to support operations within the scope of the ERDF or the ESF in accordance with Article 98(4), first and second subparagraphs, of Regulation (EU) No 1303/2013.
- (8) With a view to alleviating the administrative burden on Member States to take account of the evolving needs and compliance with the financial allocations in an operational programme, the requirement under the 2014–2020 programming period for a formal amendment of a programme in respect of transfers between thematic objectives within a priority of the same Fund and category of region should be removed.
- (9) Lastly, in order to optimise the use of the 2014–2020 allocations in the context of the closure of programmes under the 2014–2020 programming period, the ceiling of the flexibility between priorities for calculating the final balance of the contribution from the Funds should be raised.

⁽⁶⁾ Regulation (EU) 2022/613 of the European Parliament and of the Council of 12 April 2022 amending Regulations (EU) No 1303/2013 and (EU) No 223/2014 as regards increased pre-financing from REACT-EU resources and the establishment of a unit cost (OJ L 115, 13.4.2022, p. 38).

- (10) Certain flexibilities to address the unprecedented situation should also be provided for in the legal framework governing programmes under the 2021–2027 programming period. Again with a view to alleviating the burden on national budgets, pre-financing payments for programmes under the Investment for jobs and growth goal should be increased. Furthermore, given the challenges posed by the displacement of people and the integrated responses required from Member States, where a Member State dedicates a priority under one of its 2021–2027 cohesion programmes to supporting operations that promote the socioeconomic integration of third country nationals, a co-financing rate of up to 100 % for that priority should be possible until 30 June 2024, provided that an appropriate level of support is directed to local authorities and civil society organisations operating in local communities and that the total amount programmed under such priorities in a Member State does not exceed 5 % of the initial national allocation of that Member State from the ERDF and the European Social Fund Plus (ESF+) combined. This is without prejudice to the possibility for Member States to programme additional amounts for such priorities with regular co-financing rates. Also, taking into account disruptions to the end of the 2014–2020 programming period caused by the military aggression by the Russian Federation, on top of the long-lasting consequences of the COVID-19 pandemic on project implementation and continuing disruptions of value chains, additional flexibility should also be provided to enable the direct granting of support and completion of operations for which implementation had started in accordance with the 2014–2020 legislative framework before the date of the legislative proposal for this Regulation, even where such operations would not fall within the scope of the Fund concerned under the 2021–2027 programming period, with the exception of cases where the Funds were used under Article 98(4), first and second subparagraph, of Regulation (EU) No 1303/2013. To ensure that such operations can be attributed to types of interventions, Annex I to Regulation (EU) 2021/1060 of the European Parliament and of the Council ⁽⁷⁾ should be adjusted accordingly. Support for such operations should not affect Member States' obligations to comply with thematic concentration requirements and climate contribution targets.
- (11) Since the objectives of this Regulation, namely to assist Member States in addressing the challenges created by the exceptionally high number of arrivals of people fleeing the military aggression by the Russian Federation against Ukraine and to support Member States' continued efforts to move towards a resilient recovery of the economy from the COVID-19 pandemic, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the proposed action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.
- (12) Regulations (EU) No 1303/2013 and (EU) 2021/1060 should therefore be amended accordingly.
- (13) In view of the need to provide rapid relief to public budgets with a view to preserving Member States' capacity to sustain the economic recovery process as well as to enable the speedy programming of the phasing of operations to the 2021–2027 programming period, this Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 1303/2013

Regulation (EU) No 1303/2013 is amended as follows:

- (1) in Article 30, the following paragraphs are added:

‘6. By way of derogation from paragraphs 1 and 2, for programmes supported by the ERDF, the ESF or the Cohesion Fund, the Member State may transfer financial allocations between different thematic objectives within the same priority of the same Fund and category of region of the same programme.

⁽⁷⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

Such transfers shall be considered to be not substantial and shall not require a decision of the Commission amending the programme. Nevertheless, these transfers shall comply with all regulatory requirements and shall be approved by the monitoring committee in advance. The Member State shall notify the revised financial tables to the Commission.

7. By way of derogation from paragraphs 1 and 2, the application of a co-financing rate of up to 100 % pursuant to Article 120(9) to a priority axis promoting the socioeconomic integration of third country nationals that has been established within a programme, including those dedicated to operations addressing migratory challenges as a result of the military aggression by the Russian Federation shall not require a decision of the Commission amending the programme. The amendment shall be approved by the monitoring committee in advance. The Member State shall notify the revised financial tables to the Commission.;

(2) in Article 65, the following paragraph is inserted:

‘10a. Paragraph 6 shall not apply to operations addressing migratory challenges resulting from the military aggression by the Russian Federation.

Paragraph 6 shall also not apply to operations supported by the EMFF addressing the consequences of that aggression on the fisheries and aquaculture sector.

By way of derogation from Article 125(3), point (b), such operations may be selected for support by the ERDF, the ESF, the Cohesion Fund or the EMFF prior to the approval of the amended programme.;

(3) in Article 68c, the first subparagraph is replaced by the following:

‘For the implementation of operations addressing migratory challenges resulting from the military aggression by the Russian Federation, Member States may include in the expenditure declared in payment applications a unit cost linked to the basic needs and support of persons granted temporary protection or other adequate protection under national law in accordance with Council Implementing Decision (EU) 2022/382 (*) and Council Directive 2001/55/EC (**). That unit cost shall be EUR 100 per week for each full week or partial week that the person is in the Member State concerned. The unit cost may be used for a maximum of 26 weeks in total, starting from the date of arrival of the person in the Union.

(*) Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (OJ L 71, 4.3.2022, p. 1).

(**) Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).;

(4) in Article 70(2), the following subparagraph is added:

‘Where operations receiving support from the ERDF, the ESF or the Cohesion Fund addressing migratory challenges resulting from the military aggression by the Russian Federation are implemented outside the programme area but within the Member State, only point (d) of the first subparagraph shall apply.;

(5) in Article 70, paragraph 4 is replaced by the following:

‘4. Paragraphs 1, 2 and 3 shall not apply to programmes under the European territorial cooperation goal. Paragraphs 2 and 3 shall not apply to operations supported by the ESF, with the exception of the fourth subparagraph of paragraph 2.;

(6) in Article 96, paragraph 10 is replaced by the following:

‘10. Without prejudice to Article 30(5), (6) and (7), the Commission shall adopt a decision, by means of an implementing act, approving all the elements, including any of its future amendments, of the operational programme falling under this Article, except those falling under points (b)(vi), (c)(v) and (e) of the first subparagraph of paragraph 2, paragraphs 4 and 5, points (a) and (c) of paragraph 6, and paragraph 7, which remain under the responsibility of the Member States.;

(7) in Article 98, paragraph 4 is amended as follows:

(a) the following subparagraph is inserted after the first subparagraph:

‘In addition, such operations may also be financed by the Cohesion Fund on the basis of rules applicable either to the ERDF or the ESF.’;

(b) the following subparagraph is inserted after the second subparagraph:

‘Where a dedicated priority axis makes use of the possibility set out in the first and second subparagraph, at least 30 % of the financial allocation of that priority axis shall be attributed to operations which have beneficiaries that are local authorities or civil society organisations operating in local communities, or both. Member States shall report on the fulfilment of that condition in the final implementation report required under Article 50(1) and Article 111. Where that condition is not fulfilled, reimbursement by the Commission under the priority axis concerned shall be reduced proportionately to ensure that that condition is respected when calculating the final balance to be paid to the programme.’;

(c) the third subparagraph is replaced by the following subparagraph:

‘Where data on participants is required to be reported for operations under the priority axis referred to in the third subparagraph, that data shall be based on informed estimates and shall be limited to the total number of supported persons and the number of children under 18 years of age. The same reporting requirements shall also apply to other priority axes supported by the ESF which are only supporting operations addressing migratory challenges as a result of the military aggression by the Russian Federation.’;

(8) in Article 120, the following paragraph is added:

‘9. A separate priority axis promoting the socioeconomic integration of third country nationals with a co-financing rate of up to 100 % may be established within an operational programme. Such a priority axis may be entirely dedicated to operations addressing migratory challenges as a result of the military aggression by the Russian Federation, including the dedicated priority axis referred to in the third subparagraph of Article 98(4).’;

(9) in Article 130(3), the first subparagraph is replaced by the following:

‘By way of derogation from paragraph 2, the contribution from the Funds or the EMFF through payments of the final balance for each priority per Fund and per category of regions in the final accounting year shall not exceed, by more than 15 %, the contribution from the Funds or the EMFF for each priority per Fund and per category of regions as laid down in the decision of the Commission approving the operational programme.’.

Article 2

Amendments to Regulation (EU) 2021/1060

Regulation (EU) 2021/1060 is amended as follows:

(1) in Article 90(2), the following subparagraph is added:

‘An additional 0,5 % pre-financing shall be paid in 2022 immediately following the entry into force of this Regulation and an additional 0,5 % pre-financing shall be paid in 2023 for programmes supported by the ERDF, ESF+ or the Cohesion Fund under the Investment for jobs and growth goal. Where a programme is adopted after 31 December 2022, the 2022 instalment shall be paid in the year of adoption.’;

(2) in Article 90(5), the first subparagraph is replaced with the following:

‘5. The amount paid as pre-financing for the years 2021 and 2022, with the exception of the additional pre-financing referred to in the third subparagraph of paragraph 2 of this Article, shall be cleared from the Commission accounts each year. All other amounts paid as pre-financing shall be cleared from the Commission accounts no later than with the final accounting year in accordance with Article 100.’;

(3) in Article 112, the following paragraph is added:

‘7. Where a separate priority is established within a programme to support operations promoting the socioeconomic integration of third country nationals, a co-financing rate of up to 100 % shall be applied to expenditure declared in payment applications until the end of the accounting year ending on 30 June 2024. After that date, the co-financing rate set out in the programme in accordance with the maximum co-financing rates listed under paragraphs 3 and 4 shall apply.’.

The total amount programmed under such priorities in a Member State shall not exceed 5 % of the initial national allocation from the ERDF and the ESF+ combined.

The Commission shall review the co-financing rate by 30 June 2024.

At least 30 % of the financial allocation of such a separate priority shall be attributed to operations which have beneficiaries that are local authorities or civil society organisations operating in local communities. Member States shall report on the fulfilment of that condition in the final performance report required under Article 43. Where that condition is not fulfilled, reimbursement by the Commission under the priority concerned shall be reduced proportionately to ensure that that condition is respected when calculating the final balance to be paid to the programme.;

(4) the following article is inserted:

Article 118a

Conditions for operations subject to phased implementation that were selected for support before 29 June 2022 under Regulation (EU) No 1303/2013

1. Notwithstanding Article 118, where an operation with a total cost exceeding EUR 1 000 000 was selected for support and started before 29 June 2022 under Regulation (EU) No 1303/2013 and Fund-specific Regulations (EU) No 1301/2013 (*), (EU) No 1304/2013 (**), (EU) No 1300/2013 (***), (EU) No 1299/2013 (****) and (EU) No 508/2014 (*****) of the European Parliament and of the Council, that operation shall be deemed eligible for support under this Regulation and the corresponding Fund-specific Regulations in the 2021–2027 programming period.

By way of derogation from Article 73(1) and (2), the managing authority may decide to grant support to such an operation under this Regulation directly, provided that the following conditions are met:

- (a) the operation has two phases that are identifiable from a financial point of view with separate audit trails;
- (b) the operation falls within actions programmed under a relevant specific objective and is attributed to a type of intervention in accordance with Annex I;
- (c) expenditure included in a payment application in relation to the first phase is not included under any payment applications in relation to the second phase;
- (d) the Member State commits to complete during the programming period and render operational the second and final phase in the final implementation report, or in the context of the European Maritime and Fisheries Fund in the last annual implementation report, submitted in accordance with Article 141 of Regulation (EU) No 1303/2013.

2. This Article shall not apply to operations addressing migratory challenges resulting from the military aggression by the Russian Federation that are supported by making use of the possibility provided under the first and second subparagraphs of Article 98(4) of Regulation (EU) No 1303/2013.

(*) Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347, 20.12.2013, p. 289).

(**) Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006 (OJ L 347, 20.12.2013, p. 470).

(***) Regulation (EU) No 1300/2013 of the European Parliament and of the Council of 17 December 2013 on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006 (OJ L 347, 20.12.2013, p. 281).

(****) Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (OJ L 347, 20.12.2013, p. 259).

(*****) Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council (OJ L 149, 20.5.2014, p. 1).;

(5) in Annex I, the following lines are added at the end of Table 1:

INTERVENTION FIELD ³		Coefficient for the calculation of support to climate change objectives	Coefficient for the calculation of support to environmental objectives
Other codes related to operations subject to phased implementation pursuant to Article 118a			
183	Household waste management: landfill	0 %	100 %
184	Electricity storage and transmission	100 %	40 %
185	Natural gas: storage, transmission and distribution	0 %	0 %
186	Airports	0 %	0 %
187	Productive investment in large enterprises linked to the low-carbon economy	40 %	0 %

Article 3

Entry into force

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 Strasbourg, 19 October 2022.

For the European Parliament
The President
R. METSOLA

For the Council
The President
M. BEK

REGULATION (EU) 2022/2040 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 19 October 2022

**amending Regulation (EC) No 805/2004 as regards the use of the regulatory procedure with scrutiny
in order to adapt it to Article 290 of the Treaty on the Functioning of the European Union**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(2) thereof,

Having regard to the proposal from the European Commission,

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

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

Whereas:

- (1) The Treaty of Lisbon modified the legal framework governing the powers conferred on the Commission by the legislator, introducing a distinction between powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act (delegated acts) and powers conferred on the Commission to adopt acts to ensure uniform conditions for implementing legally binding Union acts (implementing acts).
- (2) Legislative acts adopted before the entry into force of the Treaty of Lisbon confer powers on the Commission to adopt measures under the regulatory procedure with scrutiny established by Article 5a of Council Decision 1999/468/EC ⁽²⁾.
- (3) Earlier proposals relating to the alignment of legislation referring to the regulatory procedure with scrutiny with the legal framework introduced by the Treaty of Lisbon were withdrawn ⁽³⁾ due to the stagnation of the interinstitutional negotiations.
- (4) The European Parliament, the Council and the Commission subsequently agreed on a new framework for delegated acts in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽⁴⁾, and acknowledged the need to align all existing legislation to the legal framework introduced by the Treaty of Lisbon. In particular, they agreed on the need to give high priority to the prompt alignment of all basic acts which still refer to the regulatory procedure with scrutiny. The Commission gave a commitment to prepare a proposal for that alignment by the end of 2016.
- (5) The empowerment for the Commission to amend the standard forms set out in the Annexes to Regulation (EC) No 805/2004 of the European Parliament and of the Council ⁽⁵⁾ provides for the use of the regulatory procedure with scrutiny. As that empowerment fulfils the criteria under Article 290 of the Treaty on the Functioning of the European Union (TFEU), it should be adapted to that provision.
- (6) In order to update Regulation (EC) No 805/2004, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission so that it can amend the Annexes to that Regulation in order to update the standard forms. It is of particular importance that the Commission carry out appropriate consultations during its

⁽¹⁾ Position of the European Parliament of 17 April 2019 (OJ C 158, 30.4.2021, p. 832) and position of the Council at first reading of 28 June 2022 (OJ C 280, 21.7.2022, p. 14). Position of the European Parliament of 18 October 2022 (not yet published in the Official Journal).

⁽²⁾ Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).

⁽³⁾ OJ C 80, 7.3.2015, p. 17.

⁽⁴⁾ OJ L 123, 12.5.2016, p. 1.

⁽⁵⁾ Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (OJ L 143, 30.4.2004, p. 15).

preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (7) This Regulation should not affect pending procedures in which the committee has already delivered its opinion in accordance with Article 5a of Decision 1999/468/EC before the entry into force of this Regulation.
- (8) In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union (TEU) and to the TFEU, Ireland has notified its wish to take part in the adoption and application of this Regulation.
- (9) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (10) Regulation (EC) No 805/2004 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 805/2004

Regulation (EC) No 805/2004 is amended as follows:

- (1) Article 31 is replaced by the following:

'Article 31

Amendments to the Annexes

The Commission is empowered to adopt delegated acts in accordance with Article 31a to amend the Annexes, in order to update the standard forms.';

- (2) the following article is inserted:

'Article 31a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 31 shall be conferred on the Commission for a period of five years from 26 October 2022. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 31 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making (*).

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 31 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

(*) OJ L 123, 12.5.2016, p. 1.;

(3) Article 32 is deleted.

Article 2

Pending procedures

This Regulation shall not affect pending procedures in which a committee has already delivered its opinion in accordance with Article 5a of Decision 1999/468/EC.

Article 3

Entry into force

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 the Member States in accordance with the Treaties.

Done at Strasbourg, 19 October 2022.

For the European Parliament
The President
R. METSOLA

For the Council
The President
M. BEK

DIRECTIVES

DIRECTIVE (EU) 2022/2041 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 19 October 2022

on adequate minimum wages in the European Union

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 153(2), point (b), in conjunction with Article 153(1), point (b), thereof,

Having regard to the proposal from the European Commission,

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

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

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Pursuant to Article 3 of the Treaty on European Union (TEU), the aims of the Union are, inter alia, to promote the well-being of its peoples and to work for the sustainable development of Europe based on a highly competitive social market economy, aiming to ensure full employment and social progress, a high level of protection and improvement of the quality of the environment, while promoting social justice and equality between women and men. Pursuant to Article 9 of the Treaty on the Functioning of the European Union (TFEU), the Union is to take into account, inter alia, requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, and the fight against social exclusion.
- (2) Article 151 TFEU provides that the Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter (ESC), have as their objectives, inter alia, the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection and dialogue between management and labour.
- (3) Article 31 of the Charter of Fundamental Rights of the European Union ⁽⁴⁾ (the 'Charter') provides for the right of every worker to working conditions which respect his or her health, safety and dignity. Article 27 of the Charter provides for the right of workers to information and consultation. Article 28 of the Charter provides for the right of workers and employers, or their respective organisations, in accordance with Union law and national laws and practices, to negotiate and conclude collective agreements at the appropriate levels. Article 23 of the Charter provides for the right to equality between women and men in all areas, including employment, work and pay.
- (4) The ESC establishes that all workers have the right to just conditions of work. It recognises the right of all workers to a fair remuneration sufficient for a decent standard of living for themselves and their families. It also recognises the role of freely concluded collective agreements, as well as of statutory minimum wage-setting mechanisms, to ensure the effective exercise of this right, the right of all workers and employers to organise in local, national and international organisations for the protection of their economic and social interests and the right to bargain collectively.

⁽¹⁾ Opinion of 25 March 2021 (OJ C 220, 9.6.2021, p. 106).

⁽²⁾ Opinion of 19 March 2021 (OJ C 175, 7.5.2021, p. 89).

⁽³⁾ Position of the European Parliament of 14 September 2022 (not yet published in the Official Journal) and decision of the Council of 4 October 2022.

⁽⁴⁾ OJ C 326, 26.10.2012, p. 391.

- (5) Chapter II of the European Pillar of Social Rights (the 'Pillar'), proclaimed at Gothenburg on 17 November 2017, establishes a set of principles to serve as a guide towards ensuring fair working conditions. Principle No 6 of the Pillar reaffirms workers' right to fair wages that provide for a decent standard of living. It also provides that adequate minimum wages are to be ensured, in a way that provides for the satisfaction of the needs of the worker and his or her family in light of national economic and social conditions, while safeguarding access to employment and incentives to seek work. Furthermore, it recalls that in-work poverty is to be prevented and that all wages are to be set in a transparent and predictable way, according to national practices and respecting the autonomy of the social partners. Principle No 8 of the Pillar provides that the social partners are to be consulted on the design and implementation of economic, employment and social policies according to national practices and that they are to be encouraged to negotiate and conclude collective agreements in matters relevant to them, while respecting their autonomy and the right to collective action.
- (6) Guideline 5 in the annex to Council Decision (EU) 2020/1512 ^(*) calls on Member States that have in place national mechanisms for the setting of statutory minimum wages to ensure an effective involvement of social partners in wage-setting, providing for fair wages that enable a decent standard of living, while paying particular attention to lower and middle income groups with a view to upward convergence. That Guideline also calls on Member States to promote social dialogue and collective bargaining with a view to wage-setting. It also calls on Member States and the social partners to ensure that all workers have adequate and fair wages by benefitting from collective agreements or adequate statutory minimum wages, and taking into account their impact on competitiveness, job creation and in-work poverty, while respecting national practices. The Commission communication of 17 September 2020 entitled 'Annual Sustainable Growth Strategy 2021' states that Member States should adopt measures to ensure fair working conditions. Moreover, the Commission communication of 17 December 2019 entitled 'Annual Sustainable Growth Strategy 2020' recalled that, in the context of growing social divides, it is important to ensure that each worker earns a fair wage. Country-specific recommendations have been issued to a number of Member States in the field of minimum wages with the aim of improving the setting and updating of minimum wages.
- (7) Better living and working conditions, including through adequate minimum wages, benefit workers and businesses in the Union as well as society and the economy in general and are a prerequisite for achieving fair, inclusive and sustainable growth. Addressing large differences in the coverage and adequacy of minimum wage protection contributes to improving the fairness of the Union's labour market, to preventing and reducing wage and social inequalities, and to promoting economic and social progress and upward convergence. Competition in the internal market should be based on high social standards, including a high level of worker protection and the creation of quality jobs, as well as on innovation and improvements in productivity, while ensuring a level playing field.
- (8) When set at adequate levels, minimum wages, as provided for in national law or collective agreements, protect the income of workers, in particular of disadvantaged workers, help ensure a decent living, as pursued by International Labour Organization (ILO) Minimum Wage Fixing Convention No 131 (1970). Minimum wages that provide for a decent standard of living and thus meet a threshold of decency can contribute to the reduction of poverty at national level and to sustaining domestic demand and purchasing power, strengthen incentives to work, reduce wage inequalities, the gender pay gap and in-work poverty, and limit the fall in income during economic downturns.
- (9) In-work poverty in the Union has increased over the past decade and more workers are experiencing poverty. During economic downturns, the role of adequate minimum wages in protecting low-wage workers is particularly important, as they are more vulnerable to the consequences of such downturns, and is essential for the purpose of supporting a sustainable and inclusive economic recovery, which should lead to an increase in quality employment. To ensure sustainable recovery, it is vital that businesses, in particular microenterprises and small enterprises, thrive. In view of the effects of the COVID-19 pandemic, it is important to assess the adequacy of wages in low-paid sectors that have proven to be essential and of great social value during the crisis.

(*) Council Decision (EU) 2020/1512 of 13 October 2020 on guidelines for the employment policies of the Member States (OJ L 344, 19.10.2020, p. 22).

- (10) Women, younger workers, migrant workers, single parents, low-skilled workers, persons with disabilities, and in particular persons who suffer from multiple forms of discrimination, still have a higher probability of being minimum wage or low wage earners than other groups. Given the over-representation of women in low-paid jobs, improving the adequacy of minimum wages contributes to gender equality, closing the gender pay and pension gap, as well as elevating women and their families out of poverty, and contributes to sustainable economic growth in the Union.
- (11) The crisis caused by the COVID-19 pandemic is having a significant impact on the services sector, microenterprises and small enterprises, which have a high share of low-wage and minimum-wage earners. Minimum wages are therefore also important in view of the structural trends that are reshaping labour markets and which are increasingly characterised by high shares of precarious and non-standard forms of work, often including part-time, seasonal, platform and temporary agency workers. Those trends have led, in many cases, to an increased job polarisation resulting in an increasing share of low-paid and low-skilled occupations and sectors in most Member States, as well as to higher wage inequality in some of them. It is more difficult for workers with non-standard contracts to organise and negotiate for collective agreements.
- (12) While minimum wage protection exists in all Member States, in some that protection stems from legislative or administrative provisions and from collective agreements while in others it is provided exclusively through collective agreements. The different national traditions in the Member States should be respected.
- (13) Minimum wage protection provided for in collective agreements in low-paid occupations is adequate and therefore provides a decent standard of living in most cases, and has proven to be an effective means by which to reduce in-work poverty. In several Member States, statutory minimum wages are usually low compared to other wages in the economy. In 2018, the statutory minimum wage did not provide sufficient income for a single minimum-wage earner to reach the at-risk-of-poverty threshold in nine Member States.
- (14) Not all workers in the Union are effectively protected by minimum wages, as in some Member States some workers, even though they are covered, receive a lower remuneration than the statutory minimum wage in practice, due to non-compliance with existing rules. Such non-compliance has been found to affect, in particular, women, young workers, low-skilled workers, migrant workers, single parents, persons with disabilities, workers in non-standard forms of employment such as temporary workers and part-time workers, and agricultural and hospitality workers, which as a consequence drives down wages. In Member States where minimum wage protection is provided for in collective agreements alone, the share of workers not covered is estimated to vary from 2 % to 55 % of all workers.
- (15) The United Nations' Convention on the Rights of Persons with Disabilities requires that workers with disabilities, including those in sheltered employment, receive equal remuneration for work of equal value. That principle is also relevant with regard to minimum wage protection.
- (16) While strong collective bargaining, in particular at sector or cross-industry level, contributes to ensuring adequate minimum wage protection, traditional collective bargaining structures have been eroding during recent decades, due, inter alia, to structural shifts in the economy towards less unionised sectors and to the decline in trade union membership, in particular as a consequence of union-busting practices and the increase of precarious and non-standard forms of work. In addition, sectoral and cross-industry level collective bargaining came under pressure in some Member States in the aftermath of the 2008 financial crisis. However, sectoral and cross-industry level collective bargaining is an essential factor for achieving adequate minimum wage protection and therefore needs to be promoted and strengthened.
- (17) The Commission has consulted management and labour in a two-stage process with regard to possible action to address the challenges related to adequate minimum wage protection in the Union, in accordance with Article 154 TFEU. There was no agreement among the social partners to enter into negotiations with regard to those matters. It is, however, important to take action at Union level, while respecting the principle of subsidiarity, to improve living and working conditions in the Union, in particular the adequacy of minimum wages, taking into account the outcomes of the consultation of the social partners.

- (18) With a view to improving living and working conditions as well as upward social convergence in the Union, this Directive establishes minimum requirements at Union level and sets out procedural obligations for the adequacy of statutory minimum wages, and enhances effective access of workers to minimum wage protection, in the form of a statutory minimum wage where it exists, or provided for in collective agreements as defined for the purposes of this Directive. This Directive also promotes collective bargaining on wage-setting.
- (19) In accordance with Article 153(5) TFEU, this Directive neither aims to harmonise the level of minimum wages across the Union nor does it aim to establish a uniform mechanism for setting minimum wages. It does not interfere with the freedom of Member States to set statutory minimum wages or to promote access to minimum wage protection provided for in collective agreements, in accordance with national law and practice and the specificities of each Member State and in full respect for national competences and the social partners' right to conclude agreements. This Directive does not impose and should not be construed as imposing an obligation on the Member States where wage formation is ensured exclusively via collective agreements to introduce a statutory minimum wage or to declare collective agreements universally applicable. Moreover, this Directive does not establish the level of pay, which falls within the right of the social partners to conclude agreements at national level and within the relevant competence of Member States.
- (20) This Directive takes into account that, in accordance with ILO Maritime Labour Convention (2006) ⁽⁶⁾, as amended, Member States who ratified that Convention are, after consulting representative ship-owners' and seafarers' organisations, to establish procedures for determining minimum wages for seafarers. Representative ship-owners' and seafarers' organisations are to participate in such procedures. In light of their specific nature, the acts of Member States resulting from such procedures should not be subject to the rules on statutory minimum wages set out in Chapter II of this Directive. Such acts should not interfere with free collective bargaining between ship-owners or their organisations and seafarers' organisations.
- (21) While complying with Regulation (EC) No 593/2008 of the European Parliament and of the Council ⁽⁷⁾, this Directive should apply to workers who have an employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State, with consideration to the criteria established by the Court of Justice of the European Union (Court of Justice) for determining the status of a worker. Provided that they fulfil those criteria, workers in both the private and the public sectors, as well as domestic workers, on-demand workers, intermittent workers, voucher-based workers, platform workers, trainees, apprentices and other non-standard workers, as well as bogus self-employed and undeclared workers could fall within the scope of this Directive. Genuinely self-employed persons do not fall within the scope of this Directive since they do not fulfil those criteria. The abuse of the status of self-employed persons, as defined in national law, either at national level or in cross-border situations, is a form of falsely declared work that is frequently associated with undeclared work. Bogus self-employment occurs when a person is declared to be self-employed while fulfilling the conditions characteristic of an employment relationship, in order to avoid certain legal or fiscal obligations. Such persons should fall within the scope of this Directive. The determination of the existence of an employment relationship should be guided by the facts relating to the actual performance of the work and not by the parties' description of the relationship.
- (22) Well-functioning collective bargaining on wage-setting is an important means by which to ensure that workers are protected by adequate minimum wages that therefore provide for a decent standard of living. In the Member States with statutory minimum wages, collective bargaining supports general wage developments and therefore contributes to improving the adequacy of minimum wages as well as the living and working conditions of workers. In the Member States where minimum wage protection is provided for exclusively by collective bargaining, their level as well as the share of protected workers are directly determined by the functioning of the collective bargaining system and the collective bargaining coverage. Strong and well-functioning collective bargaining together with a high coverage of sectorial or cross-industry collective agreements strengthen the adequacy and the coverage of minimum wages.

⁽⁶⁾ Council Decision 2007/431/EC of 7 June 2007 authorising Member States to ratify, in the interests of the European Community, the Maritime Labour Convention, 2006, of the International Labour Organisation (OJ L 161, 22.6.2007, p. 63).

⁽⁷⁾ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008, p. 6).

- (23) Minimum wage protection through collective agreements is beneficial to workers and employers as well as businesses. In some Member States there are no statutory minimum wages. In those Member States, wages, including minimum wage protection, are provided for exclusively by collective bargaining between the social partners. Average wages in those Member States are among the highest in the Union. Those systems are characterised by very high collective bargaining coverage as well as high levels of affiliation to both the employer associations and trade unions. Minimum wages that are provided for in collective agreements that have been declared universally applicable without any discretion of the declaring authority as to the content of the applicable provisions should not be considered to be statutory minimum wages.
- (24) In a context of declining collective bargaining coverage, it is essential that the Member States promote collective bargaining, facilitate the exercise of the right of collective bargaining on wage-setting and thereby enhance the wage-setting provided for in collective agreements to improve workers' minimum wage protection. Member States have ratified ILO Freedom of Association and Protection of the Right to Organise Convention No 87 (1948) and ILO Right to Organise and Collective Bargaining Convention No 98 (1949). The right to bargain collectively is recognised under those ILO conventions, under ILO Labour Relations (Public Services) Convention No 151 (1978) and ILO Collective Bargaining Convention No 154 (1981), as well as under the Convention for the Protection of Human Rights and Fundamental Freedoms and the ESC. Articles 12 and 28 of the Charter guarantee, respectively, the freedom of assembly and association and the right of collective bargaining and action. According to its preamble, the Charter reaffirms those rights as they result, in particular, from the Convention on the Protection of Human Rights and Fundamental Freedoms and the Social Charters adopted by the Union and by the Council of Europe. Member States should take, as appropriate and in accordance with national law and practice, measures promoting collective bargaining on wage-setting. Such measures might include, among others, measures easing the access of trade union representatives to workers.
- (25) Member States with a high collective bargaining coverage tend to have a small share of low-wage workers and high minimum wages. Member States with a small share of low-wage earners have a collective bargaining coverage rate above 80 %. Similarly, the majority of the Member States with high levels of minimum wages relative to the average wage have a collective bargaining coverage above 80 %. Therefore, each Member State with a collective bargaining coverage rate below 80 % should adopt measures with a view to enhancing such collective bargaining. Each Member State with a collective bargaining coverage below a threshold of 80 % should provide a framework of enabling conditions for collective bargaining, and establish an action plan to promote collective bargaining to progressively increase the collective bargaining coverage rate. In order to respect the autonomy of the social partners, which includes their right to collective bargaining and excludes any obligation to conclude collective agreements, the threshold of 80 % of collective bargaining coverage should only be construed as an indicator triggering the obligation to establish an action plan.

The action plan should be reviewed on a regular basis, at least every five years, and, if needed, revised. The action plan and any update thereof should be notified to the Commission and be made public. Each Member State should be able to decide on the appropriate form of its action plan. An action plan that a Member State has adopted before the entry into force of this Directive may be considered to be an action plan under this Directive provided that it contains actions to effectively promote collective bargaining and fulfils the obligations under this Directive. Each Member State should establish such an action plan after consulting the social partners or by agreement with them, or, following a joint request by the social partners, as agreed between them. Member States' collective bargaining coverage rates vary significantly owing to a number of factors, including national tradition and practice as well as historic context. This should be taken into account when analysing progress towards a higher collective bargaining coverage, particularly with regard to the action plan provided for in this Directive.

- (26) Sound rules, procedures and effective practices for setting and updating statutory minimum wages are necessary to deliver adequate minimum wages, while safeguarding existing and creating new employment opportunities, a level playing field and the competitiveness of firms including microenterprises, small enterprises and medium-sized enterprises (SMEs). Those rules, procedures and practices include a number of components to contribute to the adequacy of statutory minimum wages, including criteria to guide Member States in setting and updating statutory minimum wages and indicators to assess their adequacy, regular and timely updates, the existence of consultative bodies and the involvement of the social partners. A timely and effective involvement of the latter in the setting and updating of statutory minimum wages as well as in the establishment or modification of automatic indexation mechanisms, where they exist, is another element of good governance that allows for an informed and inclusive

decision-making process. Member States should provide the social partners with relevant information on statutory minimum wage-setting and updating. Giving the social partners the possibility to provide opinions, and to receive a reasoned response to opinions expressed prior to the presentation of proposals, on statutory minimum wage-setting and updating and before any decisions are taken could contribute to the proper involvement of the social partners in that process.

- (27) Member States which use an automatic indexation mechanism, including semi-automatic mechanisms in which a minimal obligatory increase of statutory minimum wage is at least guaranteed, should also carry out the procedures for updating the statutory minimum wages, at least every four years. Those regular updates should consist of an evaluation of the minimum wage taking into account the guiding criteria, followed, if necessary, by a modification of the amount. The frequency of the automatic indexation adjustments on the one hand, and the updates of the statutory minimum wages on the other might differ. Member States where automatic or semi-automatic indexation mechanisms do not exist should update their statutory minimum wage at least every two years.
- (28) Minimum wages are considered to be adequate if they are fair in relation to the wage distribution in the relevant Member State and if they provide a decent standard of living for workers based on a full-time employment relationship. The adequacy of statutory minimum wages is determined and assessed by each Member State in view of its national socioeconomic conditions, including employment growth, competitiveness and regional and sectoral developments. For the purpose of that determination, Member States should take into account purchasing power, long-term national productivity levels and developments, as well as wage levels wage distribution and wage growth.

Among other instruments, a basket of goods and services at real prices established at national level can be instrumental to determining the cost of living with the aim of achieving a decent standard of living. In addition to material necessities such as food, clothing and housing, the need to participate in cultural, educational and social activities could also be taken into consideration. It is appropriate to consider the setting and updating of statutory minimum wages separately from income support mechanisms. Member States should use indicators and associated reference values to guide their assessment of statutory minimum wage adequacy. The Member States might choose among indicators commonly used at international level and/or indicators used at national level. The assessment might be based on reference values commonly used at international level such as the ratio of the gross minimum wage to 60 % of the gross median wage and the ratio of the gross minimum wage to 50 % of the gross average wage, which are currently not met by all Member States, or the ratio of the net minimum wage to 50 % or 60 % of the net average wage. The assessment might also be based on reference values associated to indicators used at national level, such as the comparison of the net minimum wage with the poverty threshold and the purchasing power of minimum wages.

- (29) Without prejudice to the competence of Member States to set the statutory minimum wage and to allow for variations and deductions, it is important to avoid variations and deductions being used widely, as they risk having a negative impact on the adequacy of minimum wages. It should be ensured that variations and deductions respect the principles of non-discrimination and proportionality. Variations and deductions should therefore pursue a legitimate aim. Examples of such deductions might be the recovery of overstated amounts paid or deductions ordered by a judicial or administrative authority. Other deductions, such as those related to the equipment necessary to perform a job or deductions of allowances in kind, such as accommodation, present a high risk of being disproportionate. Moreover, nothing in this Directive should be construed as imposing an obligation on Member States to introduce any variations of or deductions from minimum wages.
- (30) An effective enforcement system, including reliable monitoring, controls and field inspections, is necessary to ensure the functioning of and compliance with national statutory minimum wage frameworks. To strengthen the effectiveness of enforcement authorities, close cooperation with the social partners is also needed, including to address critical challenges such as those related to abusive sub-contracting, bogus self-employment, non-recorded overtime or health and safety risks linked to an increase in work intensity. The capabilities of enforcement authorities should also be developed, in particular through training and guidance. Routine and unannounced visits, judicial and administrative proceedings and penalties in the case of infringements are important means by which to dissuade employers from effecting infringements.

- (31) The effective implementation of minimum wage protection set out by legal provisions or provided for in collective agreements is essential in the awarding and the performance of public procurement and concession contracts. Non-respect for collective agreements providing for minimum wage protection may indeed occur in the execution of such contracts or in the sub-contracting chain thereafter, resulting in workers being paid less than the wage level agreed in the sectoral collective agreements. To prevent such situations, in accordance with Articles 30(3) and 42(1) of Directive 2014/23/EU ⁽⁸⁾, Articles 18(2) and 71(1) of Directive 2014/24/EU ⁽⁹⁾ and Articles 36(2) and 88(1) of Directive 2014/25/EU ⁽¹⁰⁾, of the European Parliament and the Council, public procurement contracting authorities and contracting entities are to take appropriate measures, including the possibility to introduce contract performance conditions, and ensure that economic operators apply to their workers the wages provided for in collective agreements for the relevant sector and geographical area and respect the rights of workers and trade unions arising from ILO Freedom of Association and the Protection of the Right to Organise Convention No 87 (1948) and ILO Right to Organise and Collective Bargaining Convention No 98 (1949), as referred to in those Directives, in order to abide by applicable obligations in the field of labour law. However, this Directive does not create any additional obligation in relation to those Directives.
- (32) For applicants for financial support from Union funds and programmes under Regulation (EU) 2021/1060 of the European Parliament and of the Council ⁽¹¹⁾ and the enabling conditions therein, the rules for public procurement and concessions should be applied adequately, including with regard to compliance with collective agreements provisions.
- (33) Reliable monitoring and data collection are essential for effective minimum wage protection. For the purposes of data collection, Member States may rely on sufficiently representative sample surveys, national databases, harmonised data from Eurostat and other publicly accessible sources such as the Organisation for Economic Cooperation and Development. In exceptional cases where accurate data is not available, Member States might use estimates. Employers, in particular microenterprises and other SMEs, should not bear an unnecessary administrative burden with regard to the implementation of data collection requirements. The Commission should report every second year to the European Parliament and to the Council its analysis of levels and developments in the adequacy and coverage of statutory minimum wages as well as the collective bargaining coverage on the basis of data and information to be provided by Member States.

In addition, progress should be monitored in the framework of the process of economic and employment policy coordination at Union level. In that context, the Council or the Commission can request the Employment Committee and the Social Protection Committee, in accordance with Articles 150 and 160 TFEU respectively, to examine, in their respective area of competence, the development of the collective bargaining coverage and the adequacy of statutory minimum wages in the Member States on the basis of the report produced by the Commission and other multilateral surveillance tools such as benchmarking. During such an examination, the Committees are to involve the social partners at Union level, including cross-sectoral social partners, in accordance with Articles 150 and 160 TFEU respectively.

⁽⁸⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

⁽⁹⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

⁽¹⁰⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

⁽¹¹⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

- (34) Workers should have easy access to comprehensive information on statutory minimum wages as well as on minimum wage protection provided for in universally applicable collective agreements to ensure transparency and predictability as regards their working conditions, including for persons with disabilities in accordance with Directive (EU) 2016/2102 of the European Parliament and of the Council ⁽¹²⁾.
- (35) Workers and workers' representatives, including those who are trade union members or representatives, should be in a position to exercise their right of defence when their rights relating to minimum wage protection are provided for in national law or collective agreements and have been violated. In order to prevent workers from being deprived of their rights provided for in national law or collective agreements and without prejudice to specific forms of redress and dispute resolution provided for in collective agreements, including systems of collective dispute resolution, Member States should take the necessary measures to ensure that workers have access to effective, timely and impartial dispute resolution and a right to redress, as well as effective judicial and/or administrative protection from any form of detriment, if they decide to exercise their right of defence. Social partners' involvement in the further development of impartial dispute resolution mechanisms in Member States can be beneficial. Workers should be informed about the redress mechanisms for the purpose of exercising their right to redress.
- (36) The Commission should conduct an evaluation providing the basis for a review on the effective implementation of this Directive. The European Parliament and the Council should be informed of the results of that review.
- (37) The reforms and measures adopted by the Member States to promote adequate minimum wage protection of workers, while being steps in the right direction, have not always been comprehensive and systematic. Moreover, action taken at Union level to improve the adequacy and coverage of minimum wages can contribute to further improving living and working conditions in the Union and mitigating concerns about possible adverse economic effects resulting from isolated measures of Member States. Since the objectives of this Directive cannot be sufficiently achieved by the Member States, but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (38) This Directive lays down procedural obligations as minimum requirements, thus leaving untouched Member States' prerogative to introduce and maintain more favourable provisions. Rights acquired under the existing national legal framework should continue to apply, unless more favourable provisions are introduced by this Directive. The implementation of this Directive cannot be used to reduce existing rights for workers, nor can it constitute valid grounds for reducing the general level of protection afforded to workers in the field covered by this Directive, including, in particular, with regard to the lowering or abolition of minimum wages.
- (39) In implementing this Directive Member States should avoid imposing unnecessary administrative, financial and legal constraints, in particular if they hold back the creation and development of SMEs. Member States are therefore encouraged to assess the impact of their transposition measures on SMEs in order to ensure that they are not disproportionately affected, paying particular attention to microenterprises and to the administrative burden, and to publish the results of such assessments. If Member States find that SMEs are disproportionately affected by the transposition measures, they should consider introducing measures to support SMEs to adjust their remuneration structures to the new requirements.

⁽¹²⁾ Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (OJ L 327, 2.12.2016, p. 1).

- (40) Regulations (EU) 2021/240 ⁽¹³⁾ and (EU) 2021/1057 ⁽¹⁴⁾ of the European Parliament and of the Council are available to Member States to develop or improve the technical aspects of minimum wage frameworks, including on the assessment of adequacy, monitoring and data collection, broadening access, as well as on enforcement and on general capacity building relating to the implementation of those frameworks. In accordance with Regulation (EU) 2021/1057, Member States are to allocate an appropriate amount to the capacity building of the social partners,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1. With a view to improving living and working conditions in the Union, in particular the adequacy of minimum wages for workers in order to contribute to upward social convergence and reduce wage inequality, this Directive establishes a framework for:

- (a) adequacy of statutory minimum wages with the aim of achieving decent living and working conditions;
- (b) promoting collective bargaining on wage-setting;
- (c) enhancing effective access of workers to rights to minimum wage protection where provided for in national law and/or collective agreements.

2. This Directive shall be without prejudice to the full respect for the autonomy of the social partners, as well as their right to negotiate and conclude collective agreements.

3. In accordance with Article 153(5) TFEU, this Directive shall be without prejudice to the competence of Member States in setting the level of minimum wages, as well as to the choice of the Member States to set statutory minimum wages, to promote access to minimum wage protection provided for in collective agreements, or both.

4. The application of this Directive shall be in full compliance with the right to collective bargaining. Nothing in this Directive shall be construed as imposing an obligation on any Member State:

- (a) where wage formation is ensured exclusively via collective agreements, to introduce a statutory minimum wage; or
- (b) to declare any collective agreement universally applicable.

5. The acts by which a Member State implements the measures concerning minimum wages of seafarers periodically set by the Joint Maritime Commission or another body authorised by the Governing Body of the International Labour Office shall not be subject to Chapter II of this Directive. Such acts shall be without prejudice to the right to collective bargaining and to the possibility to adopt higher minimum wage levels.

⁽¹³⁾ Regulation (EU) 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument (OJ L 57, 18.2.2021, p. 1).

⁽¹⁴⁾ Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 (OJ L 231, 30.6.2021, p. 21).

Article 2

Scope

This Directive applies to workers in the Union who have an employment contract or employment relationship as defined by law, collective agreements or practice in force in each Member State, with consideration to the case-law of the Court of Justice.

Article 3

Definitions

For the purposes of this Directive, the following definitions apply:

- (1) 'minimum wage' means the minimum remuneration set by law or collective agreements that an employer, including in the public sector, is required to pay to workers for the work performed during a given period;
- (2) 'statutory minimum wage' means a minimum wage set by law or other binding legal provisions, with the exclusion of minimum wages set by collective agreements that have been declared universally applicable without any discretion of the declaring authority as to the content of the applicable provisions;
- (3) 'collective bargaining' means all negotiations which take place according to national law and practice in each Member State between an employer, a group of employers or one or more employers' organisations on the one hand, and one or more trade unions on the other, for determining working conditions and terms of employment;
- (4) 'collective agreement' means a written agreement regarding provisions on working conditions and terms of employment concluded by the social partners that have the capacity to bargain on behalf of workers and employers respectively according to national law and practice, including collective agreements that have been declared universally applicable;
- (5) 'collective bargaining coverage' means the share of workers at national level to whom a collective agreement applies, calculated as the ratio of the number of workers covered by collective agreements to the number of workers whose working conditions may be regulated by collective agreements in accordance with national law and practice.

Article 4

Promotion of collective bargaining on wage-setting

1. With the aim of increasing the collective bargaining coverage and of facilitating the exercise of the right to collective bargaining on wage-setting, Member States, with the involvement of the social partners, in accordance with national law and practice, shall:
 - (a) promote the building and strengthening of the capacity of the social partners to engage in collective bargaining on wage-setting, in particular at sector or cross-industry level;
 - (b) encourage constructive, meaningful and informed negotiations on wages between the social partners, on an equal footing, where both parties have access to appropriate information in order to carry out their functions in respect of collective bargaining on wage-setting;
 - (c) take measures, as appropriate, to protect the exercise of the right to collective bargaining on wage-setting and to protect workers and trade union representatives from acts that discriminate against them in respect of their employment on the grounds that they participate or wish to participate in collective bargaining on wage-setting;
 - (d) for the purpose of promoting collective bargaining on wage-setting, take measures, as appropriate, to protect trade unions and employers' organisations participating or wishing to participate in collective bargaining against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.

2. In addition, each Member State in which the collective bargaining coverage rate is less than a threshold of 80 % shall provide for a framework of enabling conditions for collective bargaining, either by law after consulting the social partners or by agreement with them. Such a Member State shall also establish an action plan to promote collective bargaining. The Member State shall establish such an action plan after consulting the social partners or by agreement with the social partners, or, following a joint request by the social partners, as agreed between the social partners. The action plan shall set out a clear timeline and concrete measures to progressively increase the rate of collective bargaining coverage, in full respect for the autonomy of the social partners. The Member State shall review its action plan regularly, and shall update it if needed. Where a Member State updates its action plan, it shall do so after consulting the social partners or by agreement with them, or, following a joint request by the social partners, as agreed between the social partners. In any event, such an action plan shall be reviewed at least every five years. The action plan and any update thereof shall be made public and notified to the Commission.

CHAPTER II

STATUTORY MINIMUM WAGES

Article 5

Procedure for setting adequate statutory minimum wages

1. Member States with statutory minimum wages shall establish the necessary procedures for the setting and updating of statutory minimum wages. Such setting and updating shall be guided by criteria set to contribute to their adequacy, with the aim of achieving a decent standard of living, reducing in-work poverty, as well as promoting social cohesion and upward social convergence, and reducing the gender pay gap. Member States shall define those criteria in accordance with their national practices in relevant national law, in decisions of their competent bodies or in tripartite agreements. The criteria shall be defined in a clear way. Member States may decide on the relative weight of those criteria, including the elements referred to in paragraph 2, taking into account their national socioeconomic conditions.

2. The national criteria referred to in paragraph 1 shall include at least the following elements:

- (a) the purchasing power of statutory minimum wages, taking into account the cost of living;
- (b) the general level of wages and their distribution;
- (c) the growth rate of wages;
- (d) long-term national productivity levels and developments.

3. Without prejudice to the obligations set out in this Article, Member States may additionally use an automatic mechanism for indexation adjustments of statutory minimum wages, based on any appropriate criteria and in accordance with national laws and practices, provided that the application of that mechanism does not lead to a decrease of the statutory minimum wage.

4. Member States shall use indicative reference values to guide their assessment of adequacy of statutory minimum wages. To that end, they may use indicative reference values commonly used at international level such as 60 % of the gross median wage and 50 % of the gross average wage, and/or indicative reference values used at national level.

5. Member States shall ensure that regular and timely updates of statutory minimum wages take place at least every two years or, for Member States which use an automatic indexation mechanism as referred to in paragraph 3, at least every four years.

6. Each Member State shall designate or establish one or more consultative bodies to advise the competent authorities on issues related to statutory minimum wages, and shall enable the operational functioning of those bodies.

*Article 6***Variations and deductions**

1. Where Member States allow for different rates of statutory minimum wage for specific groups of workers or for deductions that reduce the remuneration paid to a level below that of the relevant statutory minimum wage, they shall ensure that those variations and deductions respect the principles of non-discrimination and proportionality, the latter including the pursuit of a legitimate aim.
2. Nothing in this Directive shall be construed as imposing an obligation on Member States to introduce variations of or deductions from statutory minimum wages.

*Article 7***Involvement of the social partners in the setting and updating of statutory minimum wages**

Member States shall take the necessary measures to involve the social partners in the setting and updating of statutory minimum wages in a timely and effective manner that provides for their voluntary participation in the discussions throughout the decision-making process, including through participation in the consultative bodies referred to in Article 5(6) and in particular as concerns:

- (a) the selection and application of criteria for the determination of the level of the statutory minimum wage, and the establishment of an automatic indexation formula and its modification where such formula exists, referred to in Article 5(1), (2) and (3);
- (b) the selection and application of indicative reference values referred to in Article 5(4) for the assessment of the adequacy of statutory minimum wages;
- (c) the updates of statutory minimum wages referred to in Article 5(5);
- (d) the establishment of variations and deductions in statutory minimum wages referred to in Article 6;
- (e) the decisions both on the collection of data and the carrying out of studies and analyses to provide information to authorities and other relevant parties involved in statutory minimum wage-setting.

*Article 8***Effective access of workers to statutory minimum wages**

Member States shall, with the involvement of the social partners, take the following measures to enhance the effective access of workers to statutory minimum wage protection as appropriate, including, where appropriate, strengthening its enforcement:

- (a) provide for effective, proportionate and non-discriminatory controls and field inspections conducted by labour inspectorates or the bodies responsible for the enforcement of statutory minimum wages;
- (b) develop the capability of enforcement authorities, in particular through training and guidance, to proactively target and pursue non-compliant employers.

CHAPTER III

HORIZONTAL PROVISIONS*Article 9***Public procurement**

In accordance with Directives 2014/23/EU, 2014/24/EU and 2014/25/EU, Member States shall take appropriate measures to ensure that, in the awarding and performance of public procurement or concession contracts, economic operators and their subcontractors comply with the applicable obligations regarding wages, the right to organise and collective bargaining on wage-setting, in the field of social and labour law established by Union law, national law, collective agreements or international social and labour law provisions, including ILO Freedom of Association and the Protection of the Right to Organise Convention No 87 (1948) and ILO Right to Organise and Collective Bargaining Convention No 98 (1949).

*Article 10***Monitoring and data collection**

1. Member States shall take the appropriate measures to ensure that effective data collection tools are in place to monitor minimum wage protection.
2. Member States shall report the following data and information to the Commission every second year, before 1 October of the reporting year:
 - (a) the rate and development of collective bargaining coverage;
 - (b) for statutory minimum wages:
 - (i) the level of the statutory minimum wage and the share of workers covered by it;
 - (ii) a description of the existing variations and deductions and the reasons for their introduction and the share of workers covered by variations, as far as data is available;
 - (c) for minimum wage protection provided for only in collective agreements:
 - (i) the lowest pay rates provided for in collective agreements covering low-wage earners or an estimate thereof, if accurate data is not available to the responsible national authorities, and the share of workers covered by them or an estimate thereof, if accurate data is not available to the responsible national authorities;
 - (ii) the level of wages paid to workers not covered by collective agreements and its relation to the level of wages paid to workers covered by collective agreements.

The Member States that are subject to the reporting obligations referred to in first subparagraph, point (c) shall be required to report the data referred to in point (i) thereof at least with regard to sectoral, geographical and other multi-employer collective agreements, including collective agreements that have been declared universally applicable.

Member States shall provide the statistics and information referred to in this paragraph disaggregated by gender, age, disability, company size and sector as far as available.

The first report shall cover 2021, 2022 and 2023 and shall be delivered by 1 October 2025. The Member States may omit statistics and information which are not available before 15 November 2024.

3. The Commission shall analyse the data and information transmitted by the Member States in the reports referred to in paragraph 2 of this Article and in the action plans referred to in Article 4(2). It shall report in this regard every second year to the European Parliament and to the Council and shall simultaneously publish the data and information transmitted by Member States.

*Article 11***Information on minimum wage protection**

Member States shall ensure that information regarding statutory minimum wages as well as minimum wage protection provided for in universally applicable collective agreements, including information on redress mechanisms, is publicly available, where necessary in the most relevant language, as determined by the Member State, in a comprehensive and easily accessible way, including to persons with disabilities.

*Article 12***Right to redress and protection against adverse treatment or consequences**

1. Member States shall ensure that, without prejudice to specific forms of redress and dispute resolution provided for, where applicable, in collective agreements, workers, including those whose employment relationship has ended, have access to effective, timely and impartial dispute resolution and a right to redress, in the case of infringements of rights relating to statutory minimum wages or relating to minimum wage protection, where such rights are provided for in national law or collective agreements.

2. Member States shall take the measures necessary to protect workers and workers' representatives, including those who are trade union members or representatives, from any adverse treatment by the employer and from any adverse consequences resulting from a complaint lodged with the employer or resulting from any proceedings initiated with the aim of enforcing compliance in the case of infringements of rights relating to minimum wage protection, where such rights are provided for in national law or collective agreements.

*Article 13***Penalties**

Member States shall lay down the rules on penalties applicable to infringements of rights and obligations falling within the scope of this Directive, where those rights and obligations are provided for in national law or collective agreements. In Member States without statutory minimum wages, those rules may contain or be limited to a reference to compensation and/or contractual penalties provided for, where applicable, in rules on enforcement of collective agreements. The penalties provided for shall be effective, proportionate and dissuasive.

CHAPTER IV

FINAL PROVISIONS*Article 14***Dissemination of information**

Member States shall ensure that the national measures transposing this Directive, together with the relevant provisions already in force relating to the subject matter as set out in Article 1, are brought to the attention of workers and employers, including SMEs.

*Article 15***Evaluation and review**

By 15 November 2029, the Commission shall, after consulting the Member States and the social partners at Union level, conduct an evaluation of this Directive. The Commission shall submit thereafter a report to the European Parliament and the Council reviewing the implementation of this Directive and propose, where appropriate, legislative amendments.

*Article 16***Non-regression and more favourable provisions**

1. This Directive shall not constitute valid grounds for reducing the general level of protection already provided to workers within Member States, in particular with regard to the lowering or abolition of minimum wages.
2. This Directive shall not affect Member States' prerogative to apply or to introduce laws, regulations or administrative provisions which are more favourable to workers or to encourage or permit the application of collective agreements which are more favourable to workers. It shall not be construed as preventing Member States from increasing statutory minimum wages.
3. This Directive is without prejudice to any rights conferred on workers by other legal acts of the Union.

*Article 17***Transposition and implementation**

1. Member States shall adopt the measures necessary to comply with this Directive by 15 November 2024. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.
3. Member States shall take, in accordance with their national law and practice, adequate measures to ensure the effective involvement of the social partners with a view to the implementation of this Directive. To that end, they may entrust the social partners with that implementation, in all or in part, including with regard to the establishment of an action plan in accordance with Article 4(2), where the social partners jointly request to do so. In so doing, the Member States shall take all necessary steps to ensure that the obligations laid down in this Directive are complied with at all times.
4. The communication referred to in paragraph 2 shall include a description of the involvement of the social partners in the implementation of this Directive.

*Article 18***Entry into force**

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

*Article 19***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 19 October 2022.

For the European Parliament
The President
R. METSOLA

For the Council
The President
M. BEK

II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2022/2042**of 24 October 2022****amending Regulation (EU) No 1284/2009 imposing certain specific restrictive measures in respect of the Republic of Guinea**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215 thereof,

Having regard to Council Decision (CFSP) 2022/2052 of 24 October 2022 amending Decision 2010/638/CFSP concerning restrictive measures against the Republic of Guinea ⁽¹⁾,

Having regard to the joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission,

Whereas:

- (1) Council Regulation (EU) No 1284/2009 ⁽²⁾ gives effect to the measures provided for in Council Decision 2010/638/CFSP concerning restrictive measures against the Republic of Guinea.
- (2) Decision (CFSP) 2022/2052 introduces a modification to the title of Decision 2010/638/CFSP.
- (3) Regulatory action at the level of the Union is therefore necessary to give effect to Decision (CFSP) 2022/2052, in particular with a view to ensuring its uniform application by economic operators in all Member States.
- (4) Regulation (EU) No 1284/2009 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The title of Regulation (EU) No 1284/2009 is replaced by the following:

‘Council Regulation (EU) No 1284/2009 of 22 December 2009 concerning restrictive measures in view of the situation in Guinea’.

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

⁽¹⁾ See page 74 of this Official Journal.⁽²⁾ Council Regulation (EU) No 1284/2009 of 22 December 2009 imposing certain restrictive measures in respect of the Republic of Guinea (OJ L 346, 23.12.2009, p. 26).

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

Done at Luxembourg, 24 October 2022.

For the Council
The President
A. HUBÁČKOVÁ

COUNCIL IMPLEMENTING REGULATION (EU) 2022/2043
of 24 October 2022
implementing Regulation (EU) 2015/1755 concerning restrictive measures in view of the situation in
Burundi

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) 2015/1755 of 1 October 2015 concerning restrictive measures in view of the situation in Burundi ⁽¹⁾, and in particular Article 13(4) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 1 October 2015, the Council adopted Regulation (EU) 2015/1755.
- (2) On the basis of a review by the Council, three persons should be removed from the list of natural and legal persons, entities and bodies subject to restrictive measures, as set out in Annex I to Regulation (EU) 2015/1755.
- (3) Annex I to Regulation (EU) 2015/1755 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) 2015/1755 is amended as set out in the Annex to 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 Luxembourg, 24 October 2022.

For the Council
The President
A. HUBÁČKOVÁ

⁽¹⁾ OJ L 257, 2.10.2015, p. 1.

ANNEX

In Annex I to Regulation (EU) 2015/1755 (List of natural and legal persons, entities and bodies referred to in Article 2), the following entries are deleted:

- entry 1 (Godefroid BIZIMANA);
 - entry 2 (Gervais NDIRAKOBUCA alias NDAKUGARIKA);
 - entry 4 (Léonard NGENDAKUMANA).
-

COMMISSION IMPLEMENTING REGULATION (EU) 2022/2044**of 18 October 2022****approving amendments to the specification for a Protected Designation of Origin or a Protected Geographical Indication ('Roero' (PDO))**

THE EUROPEAN COMMISSION,

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

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

Whereas:

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 18 October 2022.

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

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ C 170, 25.4.2022, p. 21.

COMMISSION IMPLEMENTING REGULATION (EU) 2022/2045**of 18 October 2022****approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications [‘Chianti Classico’ (PDO)]**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Pursuant to the first subparagraph of Article 53(1) of Regulation (EU) No 1151/2012, the Commission has examined Italy’s application for the approval of amendments to the specification for the protected designation of origin ‘Chianti Classico’, registered under Commission Regulation (EC) No 2446/2000 ⁽²⁾, as amended by Regulation (EU) No 216/2011 ⁽³⁾ and Implementing Regulation (EU) No 267/2013 ⁽⁴⁾.
- (2) Since the amendments in question are not minor within the meaning of Article 53(2) of Regulation (EU) No 1151/2012, the Commission published the amendment application in the *Official Journal of the European Union* ⁽⁵⁾ as required by Article 50(2)(a) of that Regulation.
- (3) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the amendments to the specification should be approved,

HAS ADOPTED THIS REGULATION:

Article 1

The amendments to the specification published in the *Official Journal of the European Union* regarding the name ‘Chianti Classico’ (PDO) are hereby approved.

Article 2

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

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ Commission Regulation (EC) No 2446/2000 of 6 November 2000 supplementing the Annex to Regulation (EC) No 2400/96 on the entry of certain names in the Register of protected designations of origin and protected geographical indications provided for in Council Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ L 281, 7.11.2000, p. 12).

⁽³⁾ Commission Regulation (EU) No 216/2011 of 1 March 2011 approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications [Chianti Classico (PDO)] (OJ L 59, 4.3.2011, p. 17).

⁽⁴⁾ Commission Implementing Regulation (EU) No 267/2013 of 18 March 2013 approving a minor amendment to the specification for a name entered in the register of protected designations of origin and protected geographical indications (Chianti Classico (PDO)) (OJ L 82, 22.3.2013, p. 38).

⁽⁵⁾ OJ C 234, 17.6.2022, p. 14.

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

Done at Brussels, 18 October 2022.

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

COMMISSION REGULATION (EU) 2022/2046**of 24 October 2022****amending the Annexes to Regulation (EU) No 1408/2013 as regards their adaptation to reflect the provisions of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and its Protocol on Ireland/Northern Ireland**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

Having regard to Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid ⁽¹⁾, and in particular Article 2(1) thereof,

After consulting the Advisory Committee on State aid,

Whereas:

- (1) Annexes I and II to Commission Regulation (EU) No 1408/2013 ⁽²⁾ set out the maximum cumulative amounts of *de minimis* aid granted per Member State to undertakings active in the primary production of agricultural products over any period of 3 fiscal years referred to, respectively, in Article 3(3) and Article 3(3a) of that Regulation.
- (2) The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ⁽³⁾ ('the Withdrawal Agreement'), of which the Protocol on Ireland/Northern Ireland ('the Protocol') forms an integral part, entered into force on 1 February 2020.
- (3) The transition period provided for in Article 126 of the Withdrawal Agreement, during which Union law remained to a large extent applicable to and in the United Kingdom of Great Britain and Northern Ireland, ended on 31 December 2020.
- (4) However, Article 10 of the Protocol provides that certain provisions of Union law listed in Annex 5 to that Protocol shall apply to the United Kingdom in respect of measures affecting the trade in agricultural products between Northern Ireland and the Union.
- (5) Regulation (EU) No 1408/2013 is listed among those provisions.
- (6) In order to ensure compliance with the provisions of the Withdrawal Agreement and the Protocol, it is necessary to replace the maximum cumulative amounts for the entire United Kingdom set out in the Annexes to Regulation (EU) No 1408/2013 with the corresponding amounts for Northern Ireland alone.
- (7) In order to ensure a level playing field, the maximum cumulative amounts for Northern Ireland should be based on the same calculation method as that which was used for the Member States at the time when those Annexes were established.
- (8) Regulation (EU) No 1408/2013 should therefore be amended accordingly,

⁽¹⁾ OJ L 248, 24.9.2015, p. 1.

⁽²⁾ Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector (OJ L 352, 24.12.2013, p. 9).

⁽³⁾ OJ C 384 I, 12.11.2019.

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 1408/2013

Regulation (EU) No 1408/2013 is amended as follows:

(1) Article 1(1) point (b) is replaced by the following:

‘(b) aid to export-related activities towards third countries or Member States (*), namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity;

(*) As in accordance with Article 10 and Annex 5 to the Protocol to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ C 384 I, 12.11.2019), certain provisions of Union law relating to State aid in respect of measures affecting the trade between Northern Ireland and the Union continue to apply to the United Kingdom, any reference to a Member State in this Regulation shall be construed as a reference to a Member State or the United Kingdom in respect of Northern Ireland’;

(2) in Annex I, the row setting out the maximum cumulative amount of *de minimis* aid for the United Kingdom is replaced by the following:

‘United Kingdom in respect of Northern Ireland 29 741 417’;

(3) in Annex II, the row setting out the maximum cumulative amount of *de minimis* aid for the United Kingdom is replaced by the following:

‘United Kingdom in respect of Northern Ireland 35 689 700.’.

Article 2

Entry into force

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

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

Done at Brussels, 24 October 2022.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2022/2047**of 24 October 2022****correcting Implementing Regulation (EU) 2021/2325 as regards the recognition of certain control authorities and control bodies for the purpose of importing organic products into the Union**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 ⁽¹⁾, and in particular Article 48(3) and Article 57(2) thereof,

Whereas:

- (1) Annex II to Commission Implementing Regulation (EU) 2021/2325 ⁽²⁾ sets out the list of control authorities and control bodies recognised for the purpose of equivalence and competent to carry out controls and issue certificates in third countries.
- (2) Annex IV to Commission Regulation (EC) No 1235/2008 ⁽³⁾ had originally recognised 'Ecocert SA' for Bahrain as regards product category D. Annex II to Implementing Regulation (EU) 2021/2325 erroneously left blank the row relating to Bahrain for product category D. That error needs to be corrected.
- (3) Annex II to Implementing Regulation (EU) 2021/2325 erroneously listed 'Florida Certified Organic Growers and Consumers, Inc. (FOG), DBA as Quality Certification Services (QCS)' as a recognised body in Costa Rica for product category A. In addition, the control body had not provided details on the type of products it would like to certify for product category D in Costa Rica, therefore its recognition for that product category was granted erroneously. The relevant entry needs to be corrected.
- (4) Implementing Regulation (EU) 2021/2325 should therefore be corrected accordingly.
- (5) The geographical scope of the recognition of 'Ecocert SA' was erroneously limited. That error relating to Bahrain for product category D should therefore be corrected retroactively from the date of entry into force of Implementing Regulation (EU) 2021/2325. The recognition of 'Florida Certified Organic Growers and Consumers, Inc. (FOG), DBA as Quality Certification Services (QCS)' was erroneously extended to product categories A and D in Costa Rica. That error should therefore be corrected retroactively from the date of application of Implementing Regulation (EU) 2021/2325.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Organic Production Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EU) 2021/2325 is corrected in accordance with the Annex to this Regulation.

⁽¹⁾ OJ L 150, 14.6.2018, p. 1.⁽²⁾ Commission Implementing Regulation (EU) 2021/2325 of 16 December 2021 establishing, pursuant to Regulation (EU) 2018/848 of the European Parliament and of the Council, the list of third countries and the list of control authorities and control bodies that have been recognised under Article 33(2) and (3) of Council Regulation (EC) No 834/2007 for the purpose of importing organic products into the Union (OJ L 465, 29.12.2021, p. 8).⁽³⁾ Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (OJ L 334, 12.12.2008, p. 25).

Article 2

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

It shall apply from 1 January 2022.

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

Done at Brussels, 24 October 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Annex II to Regulation (EU) 2021/2325 is corrected as follows:

- (1) in point 3 of the entry for 'Ecocert SA', the row for Bahrain is replaced by the following:

Code number	Third country	Category of product					
		A	B	C	D	E	F
'BH-BIO-154	Bahrain	x	x	—	x	—	—'

- (2) in point 3 of the entry for 'Florida Certified Organic Growers and Consumers, Inc. (FOG), DBA as Quality Certification Services (QCS)', the row for Costa Rica is replaced by the following:

Code number	Third country	Category of product					
		A	B	C	D	E	F
'CR-BIO-144	Costa Rica	—	—	—	—	x	—'

COMMISSION IMPLEMENTING REGULATION (EU) 2022/2048**of 24 October 2022****approving L-(+)-lactic acid as an existing active substance for use in biocidal products of product-type 6 in accordance with Regulation (EU) No 528/2012 of the European Parliament and of the Council****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ⁽¹⁾, and in particular Article 89(1), third subparagraph, thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) No 1062/2014 ⁽²⁾ establishes a list of existing active substances to be evaluated for their possible approval for use in biocidal products. That list includes L-(+)-lactic acid.
- (2) L-(+)-lactic acid has been evaluated for use in biocidal products of product-type 6, preservatives for products during storage, as described in Annex V to Regulation (EU) No 528/2012.
- (3) Germany was designated as the rapporteur Member State and its evaluating competent authority submitted the assessment report together with its conclusions to the European Chemicals Agency ('the Agency') on 3 September 2020.
- (4) In accordance with Article 75(1), point (a), of Regulation (EU) No 528/2012, the Biocidal Products Committee prepares the opinion of the Agency regarding the applications for approval of active substances. In accordance with Article 7(2) of Delegated Regulation (EU) No 1062/2014, the Biocidal Products Committee adopted the opinion of the Agency ⁽³⁾ on 15 June 2021, having regard to the conclusions of the evaluating competent authority.
- (5) According to that opinion, the biocidal products of product-type 6 containing L-(+)-lactic acid may be expected to satisfy the criteria laid down in Article 19(1), point (b), of Regulation (EU) No 528/2012, provided that conditions concerning their use are complied with.
- (6) Taking into account the opinion of the Agency, it is appropriate to approve L-(+)-lactic acid for use in biocidal products of product-type 6 subject to compliance with certain conditions.
- (7) In particular, since L-(+)-lactic acid is classified for skin corrosion/irritation, sub-category 1C, and eye damage and irritation, Category 1, as specified in Part 3 of Annex VI to Regulation (EC) No 1272/2008 of the European Parliament and of the Council ⁽⁴⁾, the person responsible for placing on the market of substances or mixtures treated with or incorporating the active substance at concentrations leading to classification for skin corrosion/irritation or eye damage/eye irritation should ensure that exposure to the general public is minimised by appropriate risk mitigation measures.

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1).

⁽³⁾ Biocidal Products Committee Opinion on the application for approval of the active substance: L-(+)-lactic acid, Product type: 6; ECHA/BPC/280/2021, adopted on 15 June 2021.

⁽⁴⁾ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

- (8) Since L-(+)-lactic acid meets the criteria for classification as corrosive to the respiratory tract as specified in Part 3 of Annex VI to Regulation (EC) No 1272/2008, the person responsible for placing on the market of substances or mixtures treated with or incorporating the active substance at a concentration leading to classification for corrosion of the respiratory tract should ensure that exposure to the general public is minimised by appropriate risk mitigation measures.
- (9) In order to guarantee a safe use of biocidal products containing L-(+)-lactic acid in treated articles and enable users of treated articles to make informed choices, the person responsible for the placing on the market of a treated article treated with or incorporating L-(+)-lactic acid should ensure that the label of that treated article provides the information listed in Article 58(3), second subparagraph, of Regulation (EU) No 528/2012. Furthermore, Member States competent authorities or, in the case of a Union authorisation, the Commission should specify in the summary of the biocidal product characteristics of a biocidal product containing L-(+)-lactic acid the relevant instructions for use and precautions to be included on the label of the treated articles under Article 58(3), point (e), of Regulation (EU) No 528/2012.
- (10) A reasonable period should be allowed to elapse before an active substance is approved in order to permit interested parties to take the preparatory measures necessary to meet the new requirements.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS REGULATION:

Article 1

L-(+)-lactic acid is approved as an active substance for use in biocidal products of product-type 6, subject to the conditions set out in the Annex.

Article 2

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

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

Done at Brussels, 24 October 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Common Name	IUPAC Name Identification Numbers	Minimum degree of purity of the active substance ⁽¹⁾	Date of approval	Expiry date of approval	Product type	Specific conditions
L-(+)-lactic acid	IUPAC Name: (2S)- 2-Hydroxypropanoic acid EC No: 201-196-2 CAS No: 79-33-4	≥ 955 g/kg (dry weight)	1 November 2023	31 October 2033	6	The authorisation of biocidal products is subject to the following conditions: 1. The product assessment shall pay particular attention to the exposures, the risks and the efficacy linked to any uses covered by an application for authorisation, but not addressed in the Union-level risk assessment ⁽²⁾ of the active substance. 2. In view of the risks identified for the uses assessed, the product assessment shall pay particular attention to: (a) industrial and professional users; (b) non-professional users. The placing on the market of treated articles is subject to the following conditions: 1) The person responsible for the placing on the market of a substance or mixture treated with or incorporating L-(+)-lactic acid at concentrations in the substance or mixture leading to classification for: (a) local effects concerning skin corrosion/irritation or eye damage/eye irritation, in accordance with Regulation (EC) No 1272/2008, shall ensure that exposure to the general public is minimised by appropriate risk mitigation measures. Those measures may include using a gel-like formulation, a packaging with dosing aid or a packaging with a self-dissolving shell; (b) acute toxicity regarding corrosivity to the respiratory tract, in accordance with Regulation (EC) No 1272/2008, shall ensure that airborne exposure to the general public is minimised by appropriate risk mitigation measures. Those measures may include a label to indicate: no entry in the treated area until dry, or no application in the presence of the/in proximity to general public.

						2) The person responsible for the placing on the market of a treated article treated with or incorporating L-(+)-lactic acid shall ensure that the label of that treated article provides the information listed in Article 58(3), second subparagraph, of Regulation (EU) No 528/2012. 3) Member States competent authorities or, in the case of a Union authorisation, the Commission shall specify in the summary of the biocidal product characteristics of a biocidal product containing L-(+)-lactic acid the relevant instructions for use and precautions to be indicated on the label of the treated articles under Article 58(3), point (e), of Regulation (EU) No 528/2012.
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⁽¹⁾ The purity indicated in this column was the minimum degree of purity of the active substance evaluated. The active substance in the product placed on the market can be of equal or different purity if it has been proven to be technically equivalent to the evaluated active substance.

⁽²⁾ Biocidal Products Committee Opinion on the application for approval of the active substance: L-(+)-lactic acid, Product type: 6; ECHA/BPC/280/2021, adopted on 15 June 2021.

COMMISSION IMPLEMENTING REGULATION (EU) 2022/2049**of 24 October 2022****amending Implementing Regulation (EU) 2021/2325 as regards the recognition of certain control authorities and control bodies for the purpose of importing organic products into the Union**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 ⁽¹⁾, and in particular Articles 48(3) and 57(2) thereof,

Whereas:

- (1) Annex I to Commission Implementing Regulation (EU) 2021/2325 ⁽²⁾ sets out the list of third countries whose systems of production and control measures for organic production of agricultural products are recognised as equivalent to those laid down in Council Regulation (EC) No 834/2007 ⁽³⁾.
- (2) India has informed the Commission that its competent authority suspended the control body 'TQ Cert Services Private Limited' and therefore that control body should be removed from the list of control bodies recognised by India.
- (3) Annex II to Implementing Regulation (EU) 2021/2325 sets out the list of control authorities and control bodies recognised for the purpose of equivalence and competent to carry out controls and issue certificates in third countries. In the light of new information and requests received by the Commission since the adoption of Implementing Regulation (EU) 2021/2325, certain changes should be made to that list.
- (4) Notifications of cases of non-compliance have been made in the Organic Farming Information System (OFIS) of 'Control Union Certifications' (BIO-149), 'Ecocert SA' (BIO-154), 'Lacón GmbH' (BIO-134) and 'OneCert International PVT Ltd' (BIO-152). Those notifications concern the contamination of a large number of consignments of products, produced in India and certified as organic by those control bodies. The contaminations were with products and substances not allowed in organic production and/or conventional production in the Union, at levels above and often far above the Maximum Residue Levels as set in Regulation (EC) No 396/2005 of the European Parliament and of the Council ⁽⁴⁾. Those contaminations include, but are not limited to, contaminations with ethylene oxide, which is carcinogenic, mutagenic, and toxic for reproduction.
- (5) Moreover, those control bodies have failed to demonstrate that organic products imported under their control have been produced in accordance with production rules and subject to control arrangements equivalent to those laid down in Regulation (EC) No 834/2007 and in Commission Regulations (EC) No 889/2008 ⁽⁵⁾ and (EC) No 1235/2008 ⁽⁶⁾.

⁽¹⁾ OJ L 150, 14.6.2018, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) 2021/2325 of 16 December 2021 establishing, pursuant to Regulation (EU) 2018/848 of the European Parliament and of the Council, the list of third countries and the list of control authorities and control bodies that have been recognised under Article 33(2) and (3) of Council Regulation (EC) No 834/2007 for the purpose of importing organic products into the Union (OJ L 465, 29.12.2021, p. 8).

⁽³⁾ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

⁽⁴⁾ 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).

⁽⁵⁾ Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.9.2008, p. 1).

⁽⁶⁾ Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (OJ L 334, 12.12.2008, p. 25).

- (6) In addition, those control bodies have failed to take corrective measures in response to the irregularities and infringements observed.
- (7) For each of those reasons, and in accordance with Article 4(1), points (d)(iv), (d)(v) and (d)(vii) of Commission Delegated Regulation (EU) 2021/1342 ⁽⁷⁾, the control bodies 'Control Union Certifications', 'Ecocert SA', 'Lacón GmbH' and 'OneCert International PVT Ltd' should be withdrawn from the list of control authorities and control bodies recognised for India for the purpose of equivalence under Article 33(3) of Regulation (EC) No 834/2007.
- (8) 'A CERT European Organization for Certification S.A.' has notified the Commission of the change of its address.
- (9) The Commission has received and examined a request from 'BioGro New Zealand Limited' to withdraw its recognition for all third countries for which it is recognised in accordance with Implementing Regulation (EU) 2021/2325.
- (10) 'Bureau Veritas Certification France SAS' has notified the Commission regarding the change of its internet address.
- (11) The Commission has received and examined a request from 'Ecocert SA' to change its name. Based on the information received, the Commission has concluded that it is justified to replace the name of that control body by 'Ecocert SAS'.
- (12) The accreditation body IOAS has informed the Commission about the withdrawal of its accreditation relating to the control body 'FairCert Certification Services Pvt Ltd'. The Commission has also invited the control body to provide a valid accreditation certificate and to take appropriate and timely remedial action. However, 'FairCert Certification Services Pvt Ltd' failed to reply satisfactorily within the deadline set for the purpose. Finally, 'FairCert Certification Services Pvt Ltd' did not communicate to the Commission all of the information related to its technical dossier. For each of those three reasons, and in accordance with Article 4(1), point (d)(iii), of Delegated Regulation (EU) 2021/1342, 'FairCert Certification Services Pvt Ltd' should be withdrawn from the list of control authorities and control bodies set out in Annex II to Implementing Regulation (EU) 2021/2325 for all third countries.
- (13) 'Kiwa Sativa' has notified the Commission of the change of its internet address.
- (14) The Commission has received and examined a request from 'Lacón GmbH' to withdraw its recognition for all third countries for which it is recognised in Implementing Regulation (EU) 2021/2325.
- (15) The Commission has received and examined a request by 'LETIS S.A.' to withdraw its recognition for Afghanistan, Azerbaijan, Belarus, Côte d'Ivoire, Egypt, Ethiopia, Iran, Kazakhstan, Kyrgyzstan, Moldova, Morocco, Pakistan, Russia, Tajikistan, Turkmenistan, Ukraine, the United Arab Emirates and Uzbekistan.
- (16) The accreditation body IOAS has informed the Commission about the withdrawal of its accreditation relating to 'LETIS S.A.' in Turkey. The Commission has also invited the control body to provide a valid accreditation certificate concerning Turkey and to take appropriate and timely remedial action. However, 'LETIS S.A.' failed to reply satisfactorily within the deadline set for the purpose. For each of those two reasons, and in accordance with Article 4(1), point (d)(iii), of Delegated Regulation (EU) 2021/1342, it is justified to withdraw the recognition of 'LETIS S.A.' for Turkey.
- (17) 'OneCert International PVT Ltd' has notified the Commission of the change of its address and internet address.
- (18) The Commission has received a request from 'Oregon Tilth' to withdraw its recognition for Panama.

⁽⁷⁾ Commission Delegated Regulation (EU) 2021/1342 of 27 May 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with rules on the information to be sent by third countries and by control authorities and control bodies for the purpose of supervision of their recognition under Article 33(2) and (3) of Council Regulation (EC) No 834/2007 for imported organic products and the measures to be taken in the exercise of that supervision (OJ L 292, 16.8.2021, p. 20).

- (19) The Commission has received a request from 'Organic Standard' to withdraw its recognition for Russia.
- (20) The Commission has received and examined a request from 'Soil Association Certification Limited' to voluntarily cease its activities for all third countries for which it is recognised in accordance with Implementing Regulation (EU) 2021/2325.
- (21) 'Tse-Xin Organic Certification Corporation' has notified the Commission of the change of its address.
- (22) Implementing Regulation (EU) 2021/2325 should therefore be amended accordingly.
- (23) The measures provided for in this Regulation are in accordance with the opinion of the Organic Production Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2021/2325 is amended as follows:

- (1) Annex I is amended in accordance with Annex I to this Regulation;
- (2) Annex II is amended in accordance with Annex II to this Regulation.

Article 2

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

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

Done at Brussels, 24 October 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

In Annex I to Regulation (EU) 2021/2325, in point 5 of the entry for India, the row for code number IN-ORG-006 is deleted.

ANNEX II

Annex II to Regulation (EU) 2021/2325 is amended as follows:

- (1) in the entry for '**A CERT European Organization for Certification S.A.**', point 1 is replaced by the following:
'1. Address: 52, 19is Maiou Street, 57001 Thessaloniki, Greece';
- (2) the entry for '**BioGro New Zealand Limited**' is deleted;
- (3) in the entry for '**Bureau Veritas Certification France SAS**', point 2 is replaced by the following:
'2. Internet address: <https://www.bureauveritas.fr/besoin/agriculture-biologique-certification-bio>';
- (4) in the table in point 3 of the entry for '**Control Union Certifications**', the row for India is deleted;
- (5) the entry for '**Ecocert SA**' is amended as follows:
 - (a) the name '**Ecocert SA**' is replaced by '**Ecocert SAS**';
 - (b) in the table in point 3, the row for India is deleted;
- (6) the entry for '**FairCert Certification Services Pvt Ltd**' is deleted;
- (7) in the entry for '**Kiwa Sativa**', point 2 is replaced by the following:
'2. Internet address: www.kiwa.com/pt';
- (8) the entry for '**Lacon GmbH**' is deleted;
- (9) in the entry for '**LETIS S.A.**', point 3 is replaced by the following:
'3. Code numbers, third countries and product categories concerned:

Code number	Third country	Category of products					
		A	B	C	D	E	F
AR-BIO-135	Argentina	—	—	x	x	—	—
BO-BIO-135	Bolivia	x	—	—	x	—	—
BR-BIO-135	Brazil	x	—	x	x	—	—
BZ-BIO-135	Belize	x	—	x	x	—	—
CO-BIO-135	Colombia	x	—	x	x	—	—
CR-BIO-135	Costa Rica	—	—	x	—	—	—
DO-BIO-135	Dominican Republic	x	—	x	x	—	—
EC-BIO-135	Ecuador	x	—	—	x	—	—
GT-BIO-135	Guatemala	x	—	x	x	—	—
HN-BIO-135	Honduras	x	—	x	x	—	—
KY-BIO-135	Cayman Islands	x	—	—	x	—	—
MX-BIO-135	Mexico	x	—	—	—	—	—
PA-BIO-135	Panama	x	—	x	x	—	—
PE-BIO-135	Peru	x	—	x	—	—	—
PY-BIO-135	Paraguay	x	—	—	x	—	—
SV-BIO-135	El Salvador	x	—	x	x	—	—
UY-BIO-135	Uruguay	x	—	—	—	—	—'

- (10) the entry for '**OneCert International PVT Ltd**' is amended as follows:
- (a) points 1 and 2 are replaced by the following:
1. Address: KA-23B, Near Greenphield Public School, Shri Ram Colony, Ramnagar Ext., Sodala, Jaipur, 302019, Rajasthan, India
2. Internet address: www.onecertinternational.com;
- (b) in the table in point 3, the row for India is deleted;
- (11) in the table in point 3 of the entry for '**Oregon Tilth**', the row for Panama is deleted;
- (12) in the table in point 3 of the entry for '**Organic Standard**', the row for Russia is deleted;
- (13) the entry for '**Soil Association Certification Limited**' is deleted;
- (14) in the entry for 'Tse-Xin Organic Certification Corporation.', point 1 is replaced by the following:
1. Address: Xizhi District, City: 221416 New Taipei City, 26 F, No 95, Sec. 1, Xintai 5th Rd.'
-

DECISIONS

COUNCIL DECISION (EU) 2022/2050

of 18 October 2022

appointing a member and an alternate member, proposed by the Republic of Austria, of the Committee of the Regions

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

Having regard to Council Decision (EU) 2019/852 of 21 May 2019 determining the composition of the Committee of the Regions ⁽¹⁾,

Having regard to the proposals of the Austrian Government,

Whereas:

- (1) Pursuant to Article 300(3) of the Treaty, the Committee of the Regions is to consist of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly.
- (2) On 17 February 2020, the Council adopted Decision (EU) 2020/235 ⁽²⁾, appointing a member and an alternate member, proposed by the Republic of Austria, of the Committee of the Regions. On 21 June 2022, the Council adopted Decision (EU) 2022/1000 ⁽³⁾, appointing a member, proposed by the Republic of Austria, of the Committee of the Regions.
- (3) A member's seat on the Committee of the Regions has become vacant following the resignation of Mr Christopher DREXLER.
- (4) An alternate member's seat has become vacant following the appointment of Mr Hannes WENINGER as a member of the Committee of the Regions.
- (5) The Austrian Government has proposed Mr Werner AMON, representative of a regional body who holds a regional authority electoral mandate, *Landesrat, Steiermärkische Landesregierung* (Member of the Provincial Government, Provincial Government of Styria), as a member of the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2025.
- (6) The Austrian Government has proposed Mr Thomas STEINER, representative of a local body who holds a local authority electoral mandate, *Mitglied des Gemeinderats von Eisenstadt* (Member of the Municipal Council of Eisenstadt), as an alternate member of the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2025,

HAS ADOPTED THIS DECISION:

Article 1

The following representatives of regional or local bodies who hold an electoral mandate are hereby appointed to the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2025:

⁽¹⁾ OJ L 139, 27.5.2019, p. 13.

⁽²⁾ Council Decision (EU) 2020/235 of 17 February 2020 appointing a member and an alternate member, proposed by the Republic of Austria, of the Committee of the Regions (OJ L 47 I, 20.2.2020, p. 7).

⁽³⁾ Council Decision (EU) 2022/1000 of 21 June 2022 appointing a member, proposed by the Republic of Austria, of the Committee of the Regions (OJ L 168, 27.6.2022, p. 78).

(a) as a member:

— Mr Werner AMON, *Landesrat, Steiermärkische Landesregierung* (Member of the Provincial Government, Provincial Government of Styria),

and

(b) as an alternate member:

— Mr Thomas STEINER, *Mitglied des Gemeinderats von Eisenstadt* (Member of the Municipal Council of Eisenstadt).

Article 2

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

Done at Luxembourg, 18 October 2022.

For the Council
The President
M. BEK

COUNCIL DECISION (CFSP) 2022/2051
of 24 October 2022
amending Decision (CFSP) 2015/1763 concerning restrictive measures in view of the situation in
Burundi

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 1 October 2015, the Council adopted Decision (CFSP) 2015/1763 ⁽¹⁾ concerning restrictive measures in view of the situation in Burundi.
- (2) On the basis of a review by the Council of Decision (CFSP) 2015/1763, the restrictive measures should be renewed until 31 October 2023 and three persons should be removed from the list of natural and legal persons, entities and bodies subject to restrictive measures, as set out in the Annex to Decision (CFSP) 2015/1763.
- (3) Decision (CFSP) 2015/1763 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision (CFSP) 2015/1763 is amended as follows:

- (1) the second paragraph of Article 6 is replaced by the following:
‘This Decision shall apply until 31 October 2023.’;
- (2) the Annex is amended as set out in the Annex to this Decision.

Article 2

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

Done at Luxembourg, 24 October 2022.

For the Council
The President
A. HUBÁČKOVÁ

⁽¹⁾ Council Decision (CFSP) 2015/1763 of 1 October 2015 concerning restrictive measures in view of the situation in Burundi (OJ L 257, 2.10.2015, p. 37).

ANNEX

In the Annex to Decision (CFSP) 2015/1763 (List of natural and legal persons, entities and bodies referred to in Articles 1 and 2), the following entries are deleted:

- entry 1 (Godefroid BIZIMANA),
 - entry 2 (Gervais NDIRAKOBUCA alias NDAKUGARIKA),
 - entry 4 (Léonard NGENDAKUMANA).
-

COUNCIL DECISION (CFSP) 2022/2052
of 24 October 2022
amending Decision 2010/638/CFSP concerning restrictive measures against the Republic of Guinea

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 25 October 2010, the Council adopted Decision 2010/638/CFSP ⁽¹⁾ concerning restrictive measures against the Republic of Guinea.
- (2) On the basis of a review of Decision 2010/638/CFSP, those restrictive measures should be extended until 27 October 2023.
- (3) The Council considers that the title of Decision 2010/638/CFSP should be amended.
- (4) Decision 2010/638/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2010/638/CFSP is amended as follows:

- (1) the title is replaced by the following:
'Council Decision 2010/638/CFSP of 25 October 2010 concerning restrictive measures in view of the situation in Guinea';
- (2) in Article 8, paragraph (2) is replaced by the following:
'2. This Decision shall apply until 27 October 2023. It shall be kept under constant review. It shall be renewed or amended, as appropriate, if the Council deems that its objectives have not been met.'

Article 2

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

Done at Luxembourg, 24 October 2022.

For the Council
The President
A. HUBÁČKOVÁ

⁽¹⁾ Council Decision 2010/638/CFSP of 25 October 2010 concerning restrictive measures against the Republic of Guinea (OJ L 280, 26.10.2010, p. 10).

COMMISSION IMPLEMENTING DECISION (EU) 2022/2053**of 18 October 2022****on the request for registration of the European citizens' initiative entitled 'European citizens' initiative for vegan meal', pursuant to Regulation (EU) 2019/788 of the European Parliament and of the Council***(notified under document C(2022) 7418)***(Only the English text is authentic)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/788 of the European Parliament and of the Council of 17 April 2019 on the European citizens' initiative ⁽¹⁾, and in particular Article 6(2) and (3) thereof,

Whereas:

- (1) A request for registration of a European citizens' initiative entitled 'European citizens' initiative for vegan meal' was submitted to the Commission on 30 August 2022.
- (2) The objective of the initiative as expressed by the organisers is to 'explicitly make the vegan alternative always present in the private and public spaces selling food and drinks in Europe. The EU Citizens' Initiative for VEGAN MEAL for those who are vegan and for those who respect the right to the vegan alternative and also to take action for climate change offering more easily plant-based food to the EU consumers in their daily life. Cruelty-free vegan diet does not imply the exploitation and killing of animals, responding to the emerging collective awareness of animal rights. Furthermore the vegan diet changes the territory in the choice of production and employment activities, structures and logistics with less pollution. The European Citizens' Initiative for VEGAN MEAL asks for the introduction of the vegan alternative in the sale of food and beverages to the public in Europe by law with the hope the participation of European citizens leads to the approval of an EU law with great benefits for the planet, i.e. in mitigation of the climate crisis, extinction of wild species, deforestation, better use of land, defence of marine life, food waste and malnutrition.'
- (3) An annex, as well as an additional document, provide further details on the subject matter, objectives and background to the initiative, by setting out and specifying the reasons to support the initiative. The organisers claim that making available the vegan alternative in the sale of food and drinks to the public in private and public spaces allows to make easier the access to the vegan alternative, to help fight the climate crisis by increasing the consumption of plant-based food and to reduce the cost of food. 'Facilitating the availability of vegan food in public and private sectors of food and beverage sales concern less pollution in CO₂ emissions, less environmental contamination, less water use and generate less suffering for animals' according to organisers.
- (4) As regards the objective of the initiative asking for the introduction of a legal obligation for operators in the retail market of food and beverages to offer vegan products, the Commission has the power to present a proposal for a legal act on the basis of Article 114 TFEU. In addition, inasmuch as the initiative may affect or require specific measures under the common agricultural policy, the Commission has the power to present proposals for legal acts on the basis of Article 43 TFEU.
- (5) For those reasons, none of the parts of the initiative manifestly fall outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties.
- (6) This conclusion is without prejudice to the assessment of whether the concrete substantive conditions required for the Commission to act, including compliance with the principles of proportionality and subsidiarity and compatibility with fundamental rights, would be met in this case.

⁽¹⁾ OJ L 130, 17.5.2019, p. 55.

- (7) The group of organisers has provided appropriate evidence that it fulfils the requirements laid down in Article 5(1) and (2) of Regulation (EU) 2019/788 and has designated the contact persons in accordance with Article 5(3), first subparagraph, of that Regulation.
- (8) The initiative is not manifestly abusive, frivolous or vexatious, nor is it manifestly contrary to the values of the Union as set out in Article 2 of the Treaty on European Union and rights enshrined in the Charter of Fundamental Rights of the European Union.
- (9) The initiative entitled 'European citizens' initiative for vegan meal' should therefore be registered.
- (10) The conclusion that the conditions for registration under Article 6(3) of Regulation (EU) 2019/788 are fulfilled does not imply that the Commission in any way confirms the factual correctness of the content of the initiative, which is the sole responsibility of the group of organisers of the initiative. The content of the initiative only expresses the views of the group of organisers, and can in no way be taken to reflect the views of the Commission,

HAS ADOPTED THIS DECISION:

Article 1

The European citizens' initiative entitled 'European citizens' initiative for vegan meal' shall be registered.

Article 2

This Decision is addressed to the group of organisers of the citizens' initiative entitled 'European citizens' initiative for vegan meal', represented by Ms Paola SGARBAZZINI and Ms Nora PAGLIONICO acting as contact persons.

Done at Strasbourg, 18 October 2022.

For the Commission
Věra JOUROVÁ
Vice-President

COMMISSION IMPLEMENTING DECISION (EU) 2022/2054**of 21 October 2022****on the unresolved objections regarding the conditions for granting an authorisation for the biocidal product Preventol A 12 TK 50 in accordance with Regulation (EU) No 528/2012 of the European Parliament and of the Council***(notified under document C(2022) 7408)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) On 29 November 2016, the company Lanxess Deutschland GmbH ('the applicant') submitted an application for the mutual recognition in parallel in accordance with Article 34 of Regulation (EU) No 528/2012 of the biocidal product Preventol A 12 TK 50 ('the biocidal product') to the competent authorities of a number of Member States, including France, Sweden and Germany. The biocidal product, containing propiconazole as an active substance, is a film preservative of product-type 7, to be used by industrial users to preserve water-based and solvent-based paints and coatings. The Netherlands is the reference Member State responsible for the evaluation of the application as referred to in Article 34(1) of Regulation (EU) No 528/2012.
- (2) On 16 September 2020, Germany referred objections to the coordination group indicating that the conditions of the authorisation set by the Netherlands do not ensure that the biocidal product meets the requirements laid down in Article 19(1), point (b)(iii), of Regulation (EU) No 528/2012.
- (3) On 17 September 2020, the secretariat of the coordination group invited the other concerned Member States and the applicant to submit written comments on the referral. The applicant submitted written comments on 29 September 2020. The referral was discussed in the coordination group on 21 October 2020 with the participation of the applicant.
- (4) Germany considers that risk mitigation measures for placing on the market of treated articles treated with or incorporating the product can only be included in an authorisation of a biocidal product if they were referred to in the conditions of approval of the active substance. As Commission Implementing Regulation (EU) 2015/1609 ⁽²⁾ does not include the necessary risk mitigation measures for placing on the market of treated articles treated with or incorporating the product, Germany considers that the risk mitigation measures for placing on the market of treated articles proposed by the Netherlands cannot be included in the authorisation of the biocidal product. Consequently, according to Germany, as unacceptable effects on human health and the environment from the use of the biocidal product cannot be properly addressed in the authorisation of the product, the product therefore should not be authorised.

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) 2015/1609 of 24 September 2015 approving propiconazole as an existing active substance for use in biocidal products for product-type 7 (OJ L 249, 25.9.2015, p. 17).

- (5) As no agreement was reached by the coordination group on the objection raised by Germany, on 16 December 2021 the Netherlands referred the unresolved objection to the Commission pursuant to Article 36(1) of Regulation (EU) No 528/2012. It thereby provided the Commission with a detailed statement of the matter on which Member States were unable to reach agreement and the reasons for their disagreement. That statement was forwarded to the Member States concerned and to the applicant.
- (6) Article 19(1), points (b)(iii) and (b)(iv), of Regulation (EU) No 528/2012 provides that one of the conditions for granting an authorisation is that it is established, according to the common principles for the evaluation of dossiers for biocidal products laid down in Annex VI to that Regulation, that the biocidal product has no unacceptable effects itself, or as a result of its residues, on the health of humans and animals, and on the environment.
- (7) Article 19(2), point (b), of Regulation (EU) No 528/2012 provides that the evaluation of whether a biocidal product fulfils the criteria set out in paragraph 1, point (b), of that Article is to take into account the way in which treated articles treated with the biocidal product or containing the biocidal product may be used.
- (8) Article 58(2) of Regulation (EU) No 528/2012 provides that a treated article is not to be placed on the market unless all active substances contained in the biocidal product that it was treated with or incorporates are included in the list drawn up in accordance with Article 9(2) of that Regulation, for the relevant product-type and use, or in Annex I to that Regulation, and any conditions or restrictions specified therein are met. The Netherlands concluded that there would be unacceptable effects on human health and the environment arising from the use of the biocidal product which necessitate risk mitigation measures on the placing on the market and use of treated articles treated with or incorporating the biocidal product to be included in the authorisation of the biocidal product. The conditions set in Implementing Regulation (EU) 2015/1609 do not include specific risk mitigation measures related to placing on the market of treated articles treated with or incorporating propiconazole, and that Implementing Regulation does not provide the possibility for the competent authorities of Member States to set those risk mitigation measures in the authorisation of biocidal products containing propiconazole for product-type 7, which would be needed to address the unacceptable risks identified for human health and the environment from the use of treated articles treated with or incorporating the biocidal product.
- (9) After having carefully examined all the information the Commission understands that the fulfilment of the conditions in Article 19(1), points (b)(iii) and (b)(iv), of Regulation (EU) No 528/2012 for the biocidal product cannot be ensured by imposing conditions on the use of the biocidal products in the treated articles without simultaneously imposing obligations on the persons placing on the market treated articles incorporating those biocidal products. However, as the necessary conditions or restrictions for ensuring a safe use of the biocidal product taking into account the way in which treated articles treated with or containing the biocidal product may be used were not set in Implementing Regulation (EU) 2015/1609 and cannot be laid down in the authorisation of the biocidal product, the use of the biocidal product in the treated articles would have unacceptable effects on human health and the environment.
- (10) Consequently, the Commission considers that given that the safe use of the biocidal product in treated articles cannot be ensured only by imposing conditions on the use of the biocidal products in the treated articles without simultaneously imposing obligations on the persons placing on the market of treated articles, the product does not meet the conditions laid down in Article 19(1), points (b)(iii) and (b)(iv), of Regulation (EU) No 528/2012.
- (11) On 21 June 2022, the Commission provided the applicant with the opportunity to provide written comments in accordance with Article 36(2) of Regulation (EU) No 528/2012. On 18 July 2022 the applicant provided written comments that the Commission has taken into account.
- (12) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

Article 1

Given that the safe use of the biocidal product in treated articles cannot be ensured only by imposing conditions on the use of the biocidal products in the treated articles, the biocidal product identified by the case number BC-HH028132-58 in the Register for Biocidal Products does not meet the conditions laid down in Article 19(1), points (b)(iii) and (b)(iv), of Regulation (EU) No 528/2012.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 21 October 2022.

For the Commission
Stella KYRIAKIDES
Member of the Commission

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

Only the original UN/ECE texts have legal effect under international public law. The status and date of entry into force of this Regulation should be checked in the latest version of the UN/ECE status document TRANS/WP.29/343, available at:

<https://unece.org/status-1958-agreement-and-annexed-regulations>

UN Regulation No 147 – Uniform provisions concerning the approval of mechanical coupling components of combinations of agricultural vehicles [2022/2055]

Date of entry into force: 2 January 2019

This document is meant purely as documentation tool. The authentic and legally binding text is: ECE/TRANS/WP.29/2018/69.

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1. SCOPE

- 1.1. This Regulation lays down the requirements which mechanical coupling devices and components shall meet in order to be regarded internationally as being mutually compatible and interchangeable.
- 1.2. This Regulation applies to devices and components intended for vehicles of category T, R or S ⁽¹⁾ (agricultural vehicles) intended to form a combination of vehicles. ⁽²⁾
- 1.3. This Regulation applies to:
 - 1.3.1. Standard devices and components as defined in paragraph 2.2.;
 - 1.3.2. Non-standard devices and components as defined in paragraph 2.3.;
 - 1.3.3. Non-standard miscellaneous devices and components as defined in paragraph 2.4.
- 1.4. This regulation does not apply to power lifts (three-point hitch) or tractor lower link arms and their connections to the towed vehicle.

2. DEFINITIONS

For the purposes of this Regulation:

- 2.1. "*Mechanical coupling devices and components*" means all those items on the frame, load-bearing parts of the bodywork and the chassis of the motor vehicle and trailer by means of which they are connected together to form the combination of vehicles or the articulated vehicles. Fixed, movable or detachable parts for the attachment or operation of the mechanical coupling device or component are included.
 - 2.1.1. Automatic coupling requirement is achieved if reversing the towing vehicle against the trailer is sufficient to engage the coupling completely, to lock it automatically and to indicate proper engagement of the locking devices without any external intervention.
- 2.2. "*Standard mechanical coupling devices and components*" conform to standard dimensions and characteristic values as given in this Regulation. They are interchangeable within their class, independent of manufacturer with regard to mounting dimensions and may be connected to standard mechanical coupling devices and components of the appropriate class in accordance with Annex 5 Table 2.
- 2.3. "*Non-standard mechanical coupling devices and components*" do not conform in all respects to the standard dimensions and characteristic values given in this Regulation but can be connected to standard coupling devices and components in the relevant class.
- 2.4. "*Non-standard miscellaneous mechanical coupling devices and components*" do not conform to standard dimensions and characteristic values as given in this Regulation and cannot be connected to standard coupling devices and components. They include, for example, devices which do not correspond with any of the classes a to r listed in paragraph 2.6., but conforming to existing national and international standards.
- 2.5. Towing frames may comprise more than one component and can be quick height adjustable or adjusted by pins.

This Regulation applies to towing frames which are separate units, not a structural part of the tractor.

⁽¹⁾ As defined in the Consolidated Resolution on the Construction of Vehicles (R.E.3.), document ECE/TRANS/WP.29/78/Rev.6, para. 2 - www.unece.org/trans/main/wp29/wp29wgs/wp29gen/wp29resolutions.html

⁽²⁾ Within the meaning of the Convention on Road Traffic (Vienna, 1968, article 1, sub-paragraphs (t) and (u)).

2.6. Mechanical coupling devices and components are classified according to type as follows:

- | | | |
|----------|-------------|---|
| 2.6.1. | Class a80 | Coupling ball 80 and keeper plate employing a spherical device and brackets on the towing vehicle for connecting to the trailer by means of a ball-shaped scraper Coupling head 80. |
| 2.6.2. | Class b80 | Coupling head 80 have a 80mm spherical cavity, fitted to the drawbar of trailer for connecting to Coupling ball 80. |
| 2.6.3. | Class c40 | Clevis-type drawbar couplings with a pin (30 mm to 38 mm diameter), a jaw and an automatic or non-automatic closing and locking pin on the towing vehicle for connecting to the trailer by means of a coupling ring |
| 2.6.4. | Class d40-1 | Drawbar eyes 40 having a cylindrical hole suitable for a pin (30 mm to 38 mm diameter) and a nominal thickness of 30,5 mm, and fitted to the drawbar of trailers for connecting to clevis-type couplings. |
| 2.6.5. | Class d40-2 | Drawbar eyes 40 having a cylindrical hole suitable for a pin (30 mm to 38 mm diameter) and a nominal thickness of 42 mm, fitted to the drawbar of a trailer for connecting to a clevis-type coupling. |
| 2.6.6. | Class d50 | Toroidal drawbar eye having a hole with a 50 mm diameter, which are fitted to trailer drawbars for connecting to a hitch hook (class g) or a piton-type coupling (class h) |
| 2.6.6.1. | Class d50-1 | Toroidal drawbar eye having a hole with a 50 mm diameter and a nominal diameter of the cross section of 30 mm, which are fitted to trailer drawbars for connecting to a hitch hook (class g) or a piton-type coupling (class h) |
| 2.6.6.2. | Class d50-2 | Toroidal drawbar eye having a hole with a 50 mm diameter and a diameter of the cross section of 41 mm max., which are fitted to trailer drawbars for connecting to a hitch hook (class g) |
| 2.6.7. | Class e | <p>Non-standard drawbars comprising forked and other drawbars, overrun devices and similar items of equipment mounted on the front of the towed vehicle, or on the vehicle chassis, which are suitable for coupling to the towing vehicle by means of coupling rings. Drawbar eyes, ball-shaped scrapers coupling head or similar coupling devices.</p> <p>Drawbars may be hinged to move freely in a vertical plane and not support any vertical load or be fixed in a vertical plane so as to support a vertical load (rigid drawbars). Rigid drawbars can be entirely rigid or be spring-mounted or adjustably (e.g. hydraulically) mounted.</p> <p>Drawbars may also comprise more than one component and may be adjustable or cranked.</p> |
| 2.6.8. | Class f | Non-standard towing frames comprising all components and devices between the coupling devices, such as clevis coupling, ball coupling etc, and the rear part of the tractor (for example transmission, the load-bearing bodywork or the chassis). |
| 2.6.9. | Class g | Hitch hooks with a keeper plate and a lowering device operated using external power for remote-controlled coupling and uncoupling for connecting to the trailer using hitch rings or drawbar eyes. |
| 2.6.10. | Class h | Piton-type couplings with a keeper plate which are connected to the trailer by means of hitch rings or drawbar eyes. |
| 2.6.11. | Class i | Tractor drawbar couplings non-swivel around longitudinal axis. |

- 2.6.12. Class j Drawbar eyes which are fitted to trailer drawbars for connecting to a tractor drawbar (class i).
- 2.6.13. Class q Clevis-type drawbar couplings non-swivel around longitudinal axis.
- 2.6.14. Class r Drawbar eye, swivel around longitudinal axis, having a circular cross-section and fitted to the drawbar of trailers for connection with non-swivel clevis type couplings (class q).
- 2.6.15. Class s Coupling devices and components which do not conform to any of the classes a to r and which are used for special applications and which are generally covered by existing national or international standards (unique to some countries).
- 2.7. "Remote control systems" are devices and components which enable the coupling device to be operated from the side of the vehicle or from the driving cab of the vehicle.
- 2.8. "Remote indicators" are devices and components which give an indication that coupling has been effected and that the locking devices have engaged.
- 2.9. "Type of coupling device or component" means a device or component which does not differ in such essential respects as:
- 2.9.1. The manufacturer's or supplier's trade name or mark;
- 2.9.2. The class of coupling as defined in paragraph 2.6.;
- 2.9.3. The external shape, principal dimensions or fundamental difference in design including materials used; and
- 2.9.4. The characteristic values D, D_c, S, A_v and V as defined in paragraph 2.10.
- 2.10. The characteristic values D, D_c, S, A_v and V are defined or determined as:
- 2.10.1. The D or D_c value is the theoretical reference value for the horizontal forces in the towing vehicle and the trailer and is used as the basis for horizontal loads in the dynamic tests.
- For mechanical coupling devices and components not designed to support imposed vertical loads, the value is:

$$D = g \frac{T \cdot R}{T + R} \text{ [kN]}$$

For mechanical coupling devices and components for rigid drawbar trailers as defined in 2.12., the value is:

$$D_c = g \frac{T \cdot C}{T + C} \text{ [kN]}$$

Where:

- T is the technically permissible maximum mass of the towing vehicle, in tonnes. Where relevant, this includes the vertical load imposed by a rigid drawbar trailer. ⁽¹⁾
- R is the technically permissible maximum mass, in tonnes, of a trailer with drawbar free to move in a vertical plane, or of a semitrailer.³
- C is the mass, in tonnes, transmitted to the ground by the axle or axles of the rigid drawbar trailer, as defined in paragraph 2.12., when coupled to the towing vehicle and loaded to the technically permissible maximum mass.²
- g is the acceleration due to gravity (assumed to be 9,81 m/s²)
- S is as defined in paragraph 2.10.2.

⁽¹⁾ The mass T and R and the technically permissible maximum mass, may be greater than the permissible maximum mass prescribed by national legislation.

- 2.10.2. The S value is the vertical mass, in kilograms, imposed on the coupling, under static conditions, by the rigid drawbar trailer, as defined in paragraph 2.12., of technically permissible maximum mass.³
- 2.10.3. The Av value is the maximum permitted axle mass of the steered axle in tonnes in case of trailers with hinged drawbars.
- 2.10.4. The V value is the theoretical reference value of the amplitude of the vertical force imposed on the coupling by the rigid drawbar trailer of technically permissible maximum mass greater than 3,5 tonnes. The V value is used as the basis for vertical forces in the dynamic tests.

$$V = 1.44 \cdot 1.8 \frac{m}{s^2} \cdot C \text{ [kN]}$$

- 2.11. Symbols and definitions used in Annex 6 to this Regulation.

A_v =	maximum permitted axle mass of the steered axle in tonnes in case of trailers with hinged drawbars.
C =	mass of rigid drawbar trailer in tonnes – see paragraph 2.10.1. of this Regulation.
D =	D value in kN - see paragraph 2.10.1. of this Regulation.
D_c =	D_c value in kN for rigid drawbar trailers - see paragraph 2.10.1. of this Regulation.
R =	mass of towed vehicle in tonnes - see paragraph 2.10.1. of this Regulation.
T =	mass of towing vehicle in tonnes - see paragraph 2.10.1. of this Regulation.
F_s =	static lifting force in kN.
F_h =	horizontal component of test force in longitudinal axis of vehicle in kN.
F_v =	vertical component of test force in kN.
S =	static vertical mass in kg.
V =	V-value in kN - see paragraph 2.10.4. of this Regulation.
g =	acceleration due to gravity, assumed as 9,81 m/s ² .
$v_{\max}$ =	$v_{\max}$ is the maximum design speed for which the coupling device resp. the vehicle is tested and approved with regards to this regulation

Subscripts:

O =	maximum test force
U =	minimum test force
s =	static force
h =	horizontal
p =	pulsating
res =	resultant
v =	vertical
w =	alternating force

- 2.12. "Rigid drawbar trailer" means a towed vehicle with one axle or axle group, a drawbar which is not able to rotate relative to the vehicle or, due to the presence of a suspension system (for example), can only rotate to a limited extent about one axis – parallel to the road surface and transverse to the direction of travel – and is therefore able to transmit vertical forces to the towing vehicle. A part of the weight of such a trailer is borne by the towing vehicle. A hydraulically adjustable articulated drawbar is considered to be a rigid drawbar. ⁽⁴⁾

⁽⁴⁾ The mass T and R and the technically permissible mass may be greater than the maximum permissible mass prescribed by national legislation.

- 2.13. "Positive mechanical engagement" means that the design and geometry of a device and its component parts shall be such that it will not open or disengage under the action of any forces or components of forces to which it is subject during normal use or testing.
- 2.14. "Vehicle type" means vehicles which do not differ in such essential respects as the structure, dimensions, shape and materials in areas to which the mechanical coupling device or component is affixed. This applies to both the towing vehicle and trailer.
3. APPLICATION FOR APPROVAL OF A MECHANICAL COUPLING DEVICE OR COMPONENT
- 3.1. The application for approval shall be submitted by the holder of the trade name or mark or by his duly accredited representative.
- 3.2. For each type of mechanical coupling device or component the application shall be accompanied by the following information, for example, by means of the Communication form given in Annex 1:
- 3.2.1. Details of all manufacturer's or supplier's trade names or marks to be applied to the coupling device or component;
- 3.2.2. Drawings which are sufficiently detailed to define the device or component and which specify how it is to be fitted to the vehicle; the drawings shall show the position and space provided for the approval number and other marking as given in paragraph 7.;
- 3.2.3. A statement of the values of D, D_c, S, A_v and V as applicable and as defined in paragraph 2.10.
- 3.2.3.1. The characteristic values of the coupling devices shall be at least equal to those applicable to the maximum permissible towing vehicle, trailer and combination masses.
- 3.2.4. A detailed technical description of the device or component, specifying, in particular, the type and the materials used;
- 3.2.5. Samples as requested by the Type Approval Authority or Technical Service;
- 3.2.6. All samples shall be fully finished with the final surface treatment applied. However, if the final treatment is by painting or epoxy powder coating, this should be omitted;
4. GENERAL REQUIREMENTS FOR MECHANICAL COUPLING DEVICES OR COMPONENTS
- 4.1. Each sample shall conform to the dimensional and strength specifications set out in Annexes 5 and 6. Following the tests specified in Annex 6 there shall not be any cracks, fractures or any excessive permanent distortion which would be detrimental to the satisfactory operation of the device or component.
- 4.2. All parts of the mechanical coupling device or component whose failure could result in separation of the vehicle and trailer shall be made of steel or cast iron. Other materials may be used provided that equivalence has been demonstrated by the manufacturer to the satisfaction of the Type Approval Authority or Technical Service of the Contracting Party applying this Regulation.
- 4.3. The mechanical coupling devices or components shall be safe to operate and coupling and uncoupling shall be possible by one person without the use of tools. Coupling devices intended for trailers having a maximum technically permissible mass greater than 3,5 tonnes shall be of either one of the following type:
- (a) Automatic coupling defined in 2.2, or

- (b) Automated coupling and locking process were the initiated coupling process is automatically finalized and the locked position indicated in the drivers' field of vision, or
- (c) Manually locked and secured with no automatization or self-locking device.

4.4. The mechanical coupling devices or components shall be designed and manufactured such that in normal use and with correct maintenance and replacement of wearing parts they will continue to function satisfactorily and retain the characteristics prescribed by this Regulation.

4.5. All mechanical coupling devices or components shall be designed to have positive mechanical engagement and the closed position shall be locked at least once by further positive mechanical engagement unless further requirements are stated in Annex 5. Alternatively there may be two or more separate arrangements to ensure the integrity of the device but each arrangement shall be designed to have positive mechanical engagement and shall be tested individually to any requirements given in Annex 6. Positive mechanical engagement shall be as defined in paragraph 2.13.

Spring forces may be used only to close the device and to prevent the effects of vibration from causing component parts of the device to move to positions where it may open or disengage.

The failure or omission of any one single spring shall not allow the complete device to open or disengage.

Remote indication devices, when installed in the vehicle cab, shall be mounted within the driver's field of vision, and be clearly identified.

When installed on the side of the vehicle, the remote indication devices shall be permanently and clearly identified. The remote indication device shall be automatically activated and reset during every opening and closing of the coupling.

4.6. Every device or component shall be accompanied by installation and operating instructions giving sufficient information for any competent person to install it correctly on the vehicle and operate it properly - see also Annex 7. The instructions shall be in at least the language of the country in which it will be offered for sale. In the case of devices and components supplied for original equipment fitting by a vehicle manufacturer or bodybuilder, installation instructions may be dispensed with but the vehicle manufacturer or bodybuilder will be responsible for ensuring that the vehicle operator is supplied with the necessary instructions for correct operation of the coupling device or component.

4.7. Quick height-adjustable towing devices with no power assistance may not exceed an operating force of 40 daN.

5. APPLICATION FOR APPROVAL OF A VEHICLE FITTED WITH A MECHANICAL COUPLING DEVICE OR COMPONENT

5.1. The application for approval of a vehicle type with regard to the fitting of a mechanical coupling device or component shall be submitted by the vehicle manufacturer or by his duly accredited representative.

5.2. It shall be accompanied by the following information to enable the type approval authority to complete the communication form given in Annex 2.

5.2.1. Drawings which are sufficiently detailed to identify the device or component and which specify how it is to be fitted to the vehicle; the drawings shall show the position and space provided for the approval number and other marking as given in paragraph 7.;

5.2.2. A detailed technical description of the device or component, specifying, in particular, the type and the materials used;

5.2.3. A statement of the values of D, D_c, S, A_v and V as applicable and as defined in paragraph 2.10.;

- 5.2.3.1. The characteristic values shall be at least equal to those applicable to the maximum permissible towing vehicle, trailer and combination masses.
- 5.2.4. A vehicle, representative of the type to be approved and fitted with a mechanical coupling device, shall be submitted to the Type Approval Authority or Technical Service which may also request additional samples of the device or component;
- 5.2.5. A vehicle not having all of the components appropriate to the type may be accepted provided that the applicant can show, to the satisfaction of the Type Approval Authority or Technical Service, that the absence of the components does not have any effect on the results of the inspection as far as the requirements of this Regulation are concerned.
6. GENERAL REQUIREMENTS FOR VEHICLES FITTED WITH A MECHANICAL COUPLING DEVICE OR COMPONENT
- 6.1. The mechanical coupling device or component fitted to the vehicle shall be approved in accordance with the requirements of paragraphs 3. and 4. and Annexes 5 and 6 to this Regulation.
- 6.2. The installation of the mechanical coupling device or component shall meet the requirements of Annex 7 to this Regulation.
- 6.3. Operating instructions shall be provided for use of the coupling device or component which shall contain any special instructions for operations which are different from those normally associated with the type of coupling device or component and instructions for coupling and uncoupling with different modes of operation, for example, at various angles between the towing and towed vehicles. Each vehicle shall be accompanied by these operating instructions which shall be at least in the language of the country in which it will be offered for sale.
7. MARKINGS
- 7.1. Types of mechanical coupling devices and components submitted for approval shall bear a type plate with the trade name or mark of the manufacturer, supplier or applicant.
- 7.2. There shall be a sufficiently large space for application of the approval mark referred to in paragraph 8.5. and shown in Annex 3. This space shall be shown on the drawings referred to in paragraph 3.2.2.
- 7.3. Adjacent to the approval mark referred to in paragraphs 7.2. and 8.5., the mechanical coupling device or component shall be marked with the class of coupling, as defined in paragraph 2.6. and the relevant characteristic values as defined in paragraph 2.10. and shown in Annex 4 and the maximum design speed defined in 2.11. The position for these markings shall be shown on the drawings referred to in paragraph 3.2.2.
- 7.4. Where the mechanical coupling device or component is approved for alternative characteristic values within the same class of coupling or device, a maximum of two alternatives shall be marked on the device or component.
- 7.5. If the application of the mechanical coupling device or component is restricted in any way, for example, if the use of the device is limited to a certain speed, then that restriction shall be marked on the device or component.
- 7.6. All markings shall be permanent and legible when the device or component is installed on the vehicle.
8. APPROVAL
- 8.1. If the sample(s) of a type of mechanical coupling device or component meets (meet) the requirements of this Regulation, approval shall be granted subject to the requirements of paragraph 10. being satisfactorily met.

- 8.2. An approval number shall be assigned to each type approved. Its first two digits (at present 00) shall indicate the series of amendments incorporating the most recent major technical amendments made to the Regulation at the time of issue of the approval. The same Contracting Party may not assign the same number to another type of device or component referred to in this Regulation.
- 8.3. Notice of approval or of extension, refusal or withdrawal of approval or of production definitely discontinued, relating to a type of mechanical coupling device or component approved pursuant to this Regulation, shall be communicated to the Parties to the 1958 Agreement applying this Regulation, by means of a communication form conforming to the model in either Annex 1 or Annex 2 to this Regulation.
- 8.4. In addition to the mark prescribed in paragraph 7.1., there shall be affixed to every mechanical coupling device or component approved under this Regulation, in the space referred to in paragraph 7.2., an approval mark as described in paragraph 8.5.
- 8.5. The approval mark shall be an international mark comprising:
- 8.5.1. A circle surrounding the letter "E" followed by the distinguishing number of the country which has granted approval; ⁽ⁱ⁾
- 8.5.2. The approval number prescribed in paragraph 8.2.;
- 8.5.3. A capital letter D when tested according to Annex 6 paragraph 3.1.3 (dynamic endurance test) or
- 8.5.4. a capital letter S when tested according to Annex 6 paragraph 3.3.3.2 (static test);
- 8.5.5. A capital letter T for two-component testing;
- 8.5.6. The approval mark and number shall be arranged as shown in the example in Annex 3.
9. MODIFICATIONS OF THE MECHANICAL COUPLING DEVICE OR COMPONENT, OR OF THE VEHICLE AND EXTENSION OF APPROVAL
- 9.1. Any modification to the type of mechanical coupling device or component, or of the vehicle as defined in paragraph 2.9. shall be notified to the Type Approval Authority or Technical Service which granted the approval. The Type Approval Authority or Technical Service may then either:
- 9.1.1. Consider that the modifications are unlikely to have any appreciable adverse effect and that in any case the device, component or vehicle still conforms to requirements; or
- 9.1.2. Require a further test report.
- 9.2. Confirmation of, or refusal of approval, specifying the modification, shall be communicated by the procedure prescribed in paragraph 8.3. to the Contracting Parties applying this Regulation.
- 9.3. The Type Approval Authority or Technical Service issuing an extension of approval shall assign a series number for such an extension and shall inform the other Contracting Parties applying this Regulation by the procedure prescribed in paragraph 8.3.
10. CONFORMITY OF PRODUCTION PROCEDURES
- The conformity of production procedures shall comply with those set out in the 1958 Agreement, Schedule 1 (E/ECE/TRANS/505/Rev.3), with the following requirements:

⁽ⁱ⁾ The distinguishing numbers of the Contracting Parties to the 1958 Agreement are reproduced in Annex 3 to the Consolidated Resolution on the Construction of Vehicles (R.E.3), document ECE/TRANS/WP.29/78/Rev. 6, Annex 3- www.unece.org/trans/main/wp29/wp29wgs/wp29gen/wp29resolutions.html.

- 10.1. The holder of the approval shall ensure that results of the conformity of production tests are recorded and that the annexed documents remain available for a period determined in agreement with the Type Approval Authority or Technical Service. This period shall not exceed 10 years counted from the time when production is definitively discontinued.
 - 10.2. The Type Approval Authority or Technical Service which has granted type approval may at any time verify the conformity control methods applied in each production facility. The normal frequency of these verifications shall be once every two years.
 11. PENALTIES FOR NON-CONFORMITY OF PRODUCTION
 - 11.1. The approval granted in respect of a type of mechanical coupling device or component pursuant to this Regulation may be withdrawn if the requirements are not complied with or if a device or component bearing the approval mark does not conform to the type approved.
 - 11.2. If a Contracting Party to the Agreement applying this Regulation withdraws an approval it has previously granted, it shall forthwith so notify the other Contracting Parties applying this Regulation by means of a communication form conforming to the model in either Annex 1 or Annex 2 to this Regulation.
 12. PRODUCTION DEFINITELY DISCONTINUED

If the holder of the approval completely ceases to manufacture a type of mechanical coupling device or component approved in accordance with this Regulation, he shall so inform the Type Approval Authority or Technical Service which granted the approval. Upon receiving the relevant communication, that Type Approval Authority or Technical Service shall inform thereof the other Contracting Parties to the 1958 Agreement applying this Regulation by means of a communication form conforming to the model in either Annex 1 or Annex 2 to this Regulation.
 13. NAMES AND ADDRESSES OF TECHNICAL SERVICES RESPONSIBLE FOR CONDUCTING APPROVAL TESTS AND OF TYPE APPROVAL AUTHORITIES
 - 13.1. The Contracting Parties to the 1958 Agreement applying this Regulation shall communicate to the United Nations Secretariat the names and addresses of the Technical Services responsible for conducting approval tests and of the Type Approval Authorities which grant approval and to which forms certifying approval or extension or refusal or withdrawal of approval, or production definitively discontinued, issued in other countries, are to be sent.
-

ANNEX 1

Communication concerning devices and components

(Maximum format: A4 (210 × 297 mm))



Issued by:

Name of administration:

.....

.....

.....

Concerning ⁽²⁾:

Approval granted

Approval extended

Approval refused

Approval withdrawn

Production definitively discontinued

of a type of mechanical coupling technical unit or component pursuant to UN Regulation No 147

Approval No Extension No

1. Trade name or mark of the technical unit or component:
2. Manufacturer's name for the type of technical unit or component:
3. Manufacturer's name and address:
4. If applicable, name and address of the manufacturer's representative:
5. Alternative supplier's names or trademarks applied to the technical unit or component:
6. In case of a technical unit: type and make of the vehicle, where the technical unit is intended for
7. Name and address of company or body taking responsibility for the conformity of production:
8. Submitted for approval on:
9. Technical Service responsible for conducting approval tests:
10. Brief description:
- 10.1. Type and class of technical unit or component:
- 10.2. Characteristic values:

⁽¹⁾ Distinguishing number of the country which has granted/extended/refused/withdrawn approval (see approval provisions in the Regulation).

⁽²⁾ Strike out what does not apply.

10.2.1. Primary values:

D kN Dc kN S kg

Av tonnes $v_{\max}$ km/h V kN

Alternative values:

D kN Dc kN S kg

Av tonnes $v_{\max}$ km/h V kN

11. Instructions for the attachment of the coupling device or component type to the vehicle and photographs or drawings of the mounting points given by the vehicle manufacturer:
12. Information on the fitting of any special reinforcing brackets or plates or spacing components necessary for the attachment of the coupling device or component:
13. Date of test report:
14. Number of test report:
15. Approval mark position:
16. Reason(s) for extension of approval:
17. Approval granted/extended/refused/withdrawn (?):
18. Place:
19. Date:
20. Signature:
21. The list of documents deposited with the Type Approval Authority which has granted approval is annexed to this communication and may be obtained on request:

ANNEX 2

Communication concerning vehicles

(Maximum format: A4 (210 × 297 mm))



issued by:

Name of administration:

.....

.....

.....

Concerning ⁽²⁾:

Approval granted

Approval extended

Approval refused

Approval withdrawn

Production definitively discontinued

of a vehicle type with regard to the fitting of a mechanical coupling device or component pursuant to UN Regulation No 147

Approval No. Extension No.

1. Trade name or mark of vehicle:

2. Vehicle type:

3. Manufacturer's name and address:

4. If applicable, name and address of the manufacturer's representative:

5. Vehicle category, for example, T, R ⁽³⁾:

6. Maximum permissible vehicle mass: kg

Distribution of maximum permissible vehicle mass between the axles:

Maximum permissible towable trailer mass: kg

Maximum permissible static mass on coupling point: kg

Maximum mass of the vehicle, with bodywork, in running order, including coolant, oils, fuel, tools and spare wheel (if supplied) but not including driver: kg

7. Required characteristic values

D kN D_c kN S kgA_v tonnes v_{max} km/h V kN

⁽¹⁾ Distinguishing number of the country which has granted/extended/refused/withdrawn approval (see approval provisions in the Regulation).

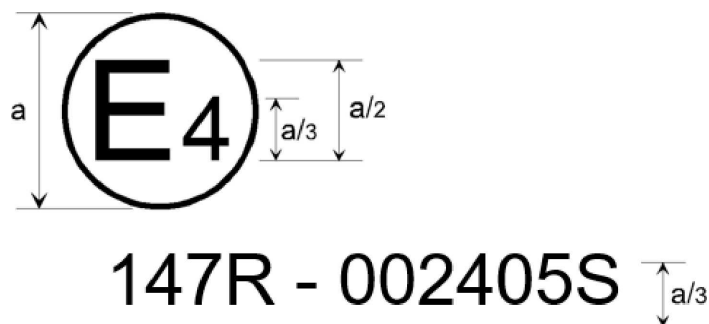
⁽²⁾ Strike out what does not apply.

⁽³⁾ As defined in the Consolidated Resolution on the Construction of Vehicles (R.E.3.), document ECE/TRANS/WP.29/78/Rev.6, para. 2 - www.unece.org/trans/main/wp29/wp29wgs/wp29gen/wp29resolutions.html.

8. Instructions for the attachment of the coupling device or component type to the vehicle and photographs or drawings of the mounting points:
9. Information on the fitting of any special reinforcing brackets or plates or spacing components necessary for the attachment of the coupling device or component:
10. Trade name or mark of the mechanical coupling device or component and the approval number:
11. Class of coupling device or component:
12. Submitted for approval on:
13. Technical service responsible for conducting approval tests:
14. Date of test report:
15. Number of test report:
16. Approval mark position
17. Reason(s) for extension of approval:
18. Approval granted/extended/refused/withdrawn (*):
19. Place:
20. Date:
21. Signature:
22. The list of documents deposited with the Type Approval Authority which has granted approval is annexed to this communication and may be obtained on request.

(*) Strike out what does not apply.

ANNEX 3

Example of an arrangement of the approval mark

a = 8 mm minimum

The mechanical coupling device or component or vehicle bearing the approval mark shown above is a device or component approved in the Netherlands (E 4), under approval number 2405, meeting the requirements of the 00 series of amendments to this Regulation and was tested statically (S).

Note: The approval number and additional symbols shall be placed close to the circle and either above or below the letter "E", or to the right or left of that letter. The digits of the approval number shall be on the same side of the letter "E" and face in the same direction. The use of Roman numerals as approval numbers should be avoided so as to prevent any confusion with other symbols.

ANNEX 4

Examples of arrangements of marking of the characteristic values

1. All mechanical coupling devices or components shall be marked with the class of the device or component. In addition, there shall be marking to indicate the capacity in terms of characteristic values as defined in paragraph 2.10. of this Regulation.
- 1.1. The height of all letters and numbers shall be not less than those of the approval number, that is $a/3$ where a is 8 mm minimum.
- 1.2. The characteristic values applicable to each device or component which are to be marked are as shown in the Table below - see also paragraph 7.3. of this Regulation:

Table 1

Relevant characteristics values to be marked on coupling devices or components

Description of mechanical coupling device or component	Relevant characteristic values to be marked						T (**)
	Class	D	D _c	S	V	V _{max}	
Coupling balls 80 (Class a)	★	★	★	★	★	★	-
Coupling head (Class b)	★	★	★	★	★	★	-
Clevis-type couplings (Class c or q)	★	★	★	★	★	★	★
Hook-type couplings (Class g)	★	★	★	★	★	★	-
Tractor drawbars (Class i)	★	★	★	★	★	★	★
Towing frames (Class f)	★	★	★	★	★	★	-
Piton-type couplings (Class h)	★	★	★	★	★	★	-
Drawbar eyes (Class d or r)	★	★	★	★	★	★	★
Drawbars (Class e) (*)	★	★	★	★	★	★	-

(*) Hinged drawbars shall in addition have the Av-value marked on the type plate, but no S- or V-value

(**) Towable mass when tested according to Annex 6 paragraph 3.3.3.2. (static test) (should be defined in the definitions, if needed)

Examples: a80 D130 D_c90 S2000 would identify a standard coupling ball 80 of Class a80 with a maximum D value of 130 kN, a maximum permitted D_c value of 90 kN and a maximum permitted static vertical imposed load of 2 000 kg.

ANNEX 5

Requirements for mechanical coupling devices or components for vehicles of categories T, R and S

1. Coupling balls 80 and keeper plates (Class a80)
 - 1.1. General requirements for coupling balls 80
 - 1.1.1. All coupling balls 80 and keeper plates shall be designed such that the coupling balls satisfy the tests prescribed in paragraph 3.1 of Annex 6 and keeper plates satisfy the tests prescribed in paragraph 3.3.5 of Annex 6.
 - 1.1.2. Coupling balls 80 of class a shall conform to Figure 1 in external shape and external dimensions. The position of the keeper plate is shown in Figure 2.

Figure 1

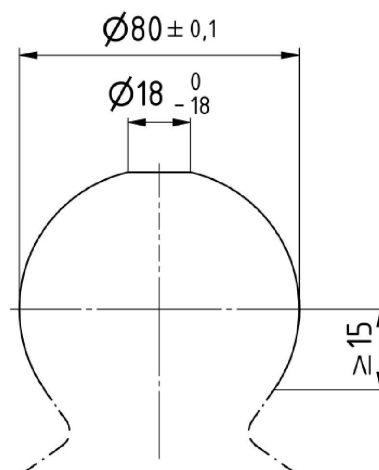
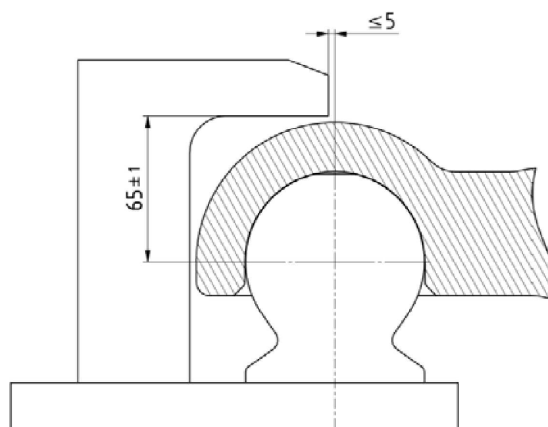
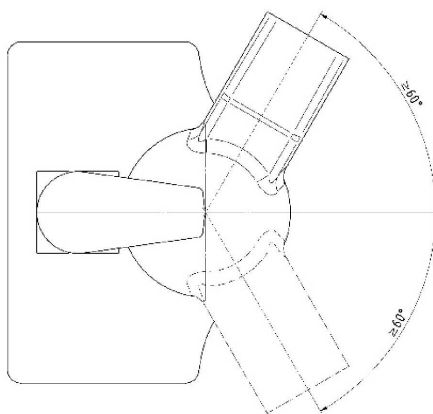
Coupling ball of Class a (all dimensions in mm)

Figure 2

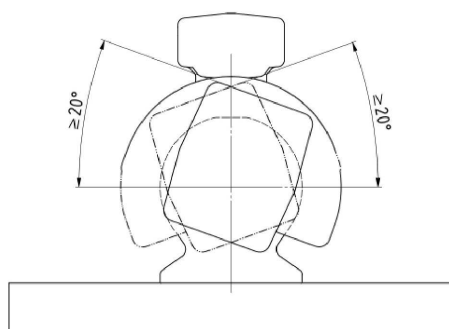
Keeper plate dimensions (all dimensions in mm)

- 1.1.3. The coupling balls 80 shall have at least the following angles of articulation, which do not have to be reached simultaneously:

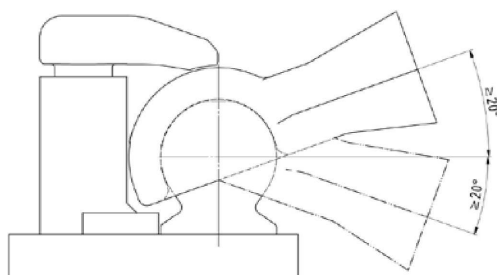
Figure 3

Angles of articulation

Vertical axis: $\pm 60^\circ$ min.



Longitudinal axis: $\pm 20^\circ$ min.

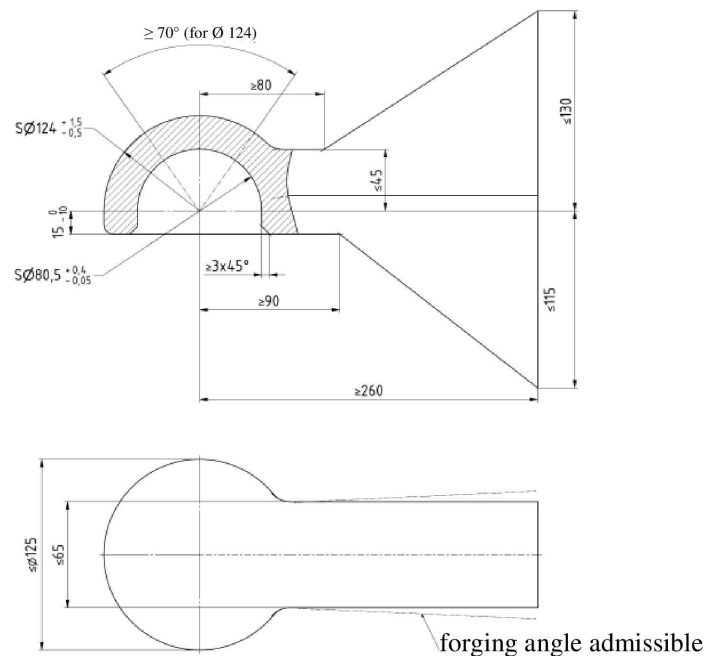


Transverse axis: $\pm 20^\circ$ min.

2. Coupling head 80 (Class b80)
 - 2.1. General requirements for coupling head 80
 - 2.1.1. All coupling head 80 shall be designed so that they are able to satisfy the tests given in paragraph 3.2 of Annex 6.
 - 2.1.2. Coupling head 80 of class b shall conform to Figure 4 in external shape and external dimensions.

Figure 4

Dimensions of coupling head 80 of Class b (all dimensions in mm)



3. Clevis-type drawbar couplings (Class c40)

3.1. General requirements for clevis-type drawbar couplings

- 3.1.1. All clevis-type drawbar couplings shall be designed so that they satisfy the tests prescribed in paragraph 3.3.1 of Annex 6 and locking devices so that they satisfy the tests prescribed in paragraph 3.3.1.3 of Annex 6.
- 3.1.2. Clevis-type drawbar couplings of class c shall conform to Figures 5, 6 and 7 in external shape and external dimensions. For all classes, the maximum height of the jaw shall be constant over at least half the width of the jaw.

3.1.3. Requirements:

In the case of automatic couplings, the closed and locked position shall be clearly and conspicuously indicated externally after coupling by at least one control indicator.

- 3.1.4 Clevis-type drawbar couplings shall have the following angles of articulation (see also Figures 5 and 6):

- (a) Vertical axis: $\pm 70^\circ$ min.
- (b) Transverse axis: $\pm 20^\circ$ min.
- (c) Longitudinal axis: $\pm 20^\circ$ min.

- 3.1.5 The jaw shall permit the drawbar rings to swivel axially at least 90° to the right or left around the longitudinal axis of the coupling with a fixed braking momentum of between 30 and 150 Nm.

Figure 5

Automatic coupling device with bulged pin (left) and automatic trailer coupling with cylindrical pin (right) (all dimensions in mm)

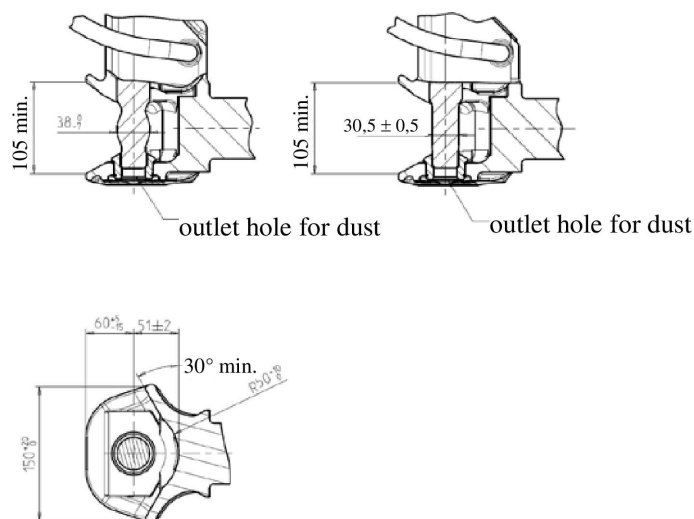
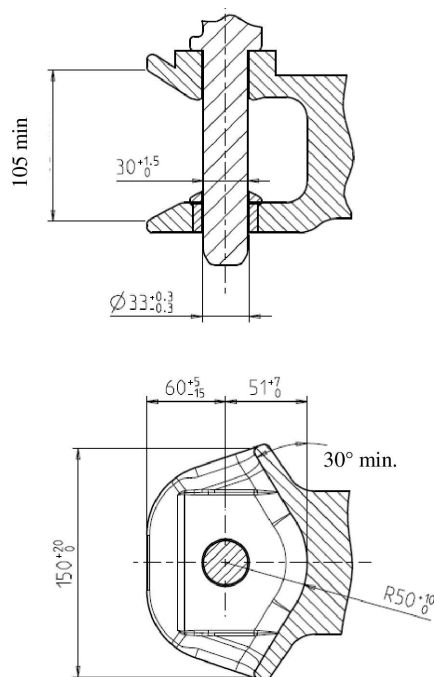


Figure 6

Non-automatic trailer coupling with cylindrical pin (all dimensions in mm)



4. Drawbar eyes (Class d40-1 and d40-2)

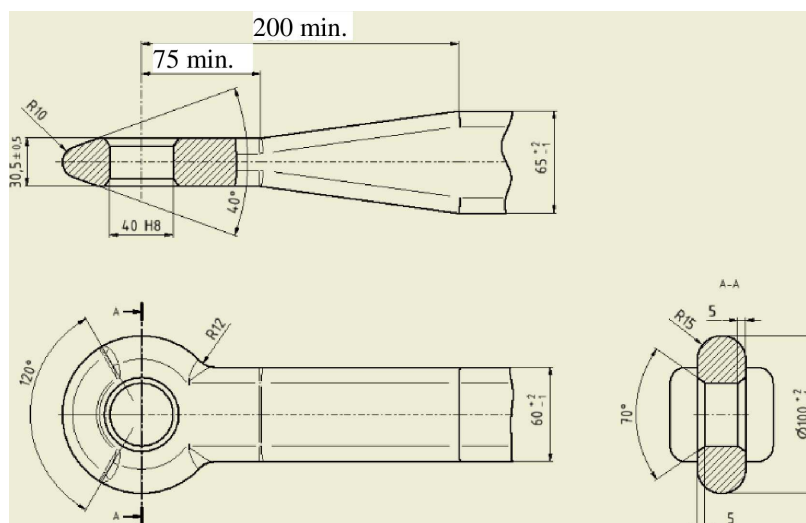
4.1. Drawbar eyes d40-1

4.1.1 General requirements for drawbar eyes d40-1

All drawbar eyes of class d40-1 shall be designed so that they are able to satisfy the tests given in paragraph 3.4 of Annex 6. Drawbar eyes d40-1 may be equipped with or without socket.

Drawbar eyes shall conform to Figure 7 in the external shape and external dimensions of the ring.

Figure 7

Principal dimensions of standard drawbar eyes d40-1 (all dimensions in mm)

4.2. Drawbar eyes d40-2

4.2.1. General requirements for drawbar eyes d40-2

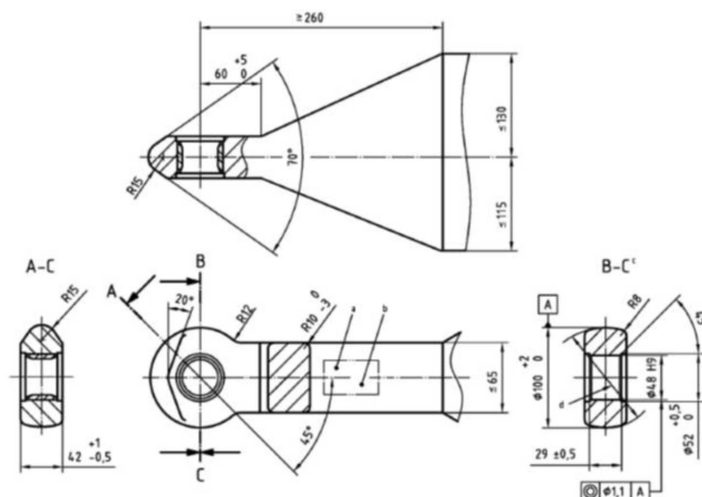
All drawbar eyes of class d40-2 shall be designed so that they are able to satisfy the tests given in Annex 6.

Drawbar eyes shall conform to Figure 8 in the external shape and external dimensions of the ring.

Figure 8

Principal dimensions of standard coupling ring d40-2

Dimensions in millimetres



4.3. Toroidal drawbar eye (Class d50-1 and d50-2)

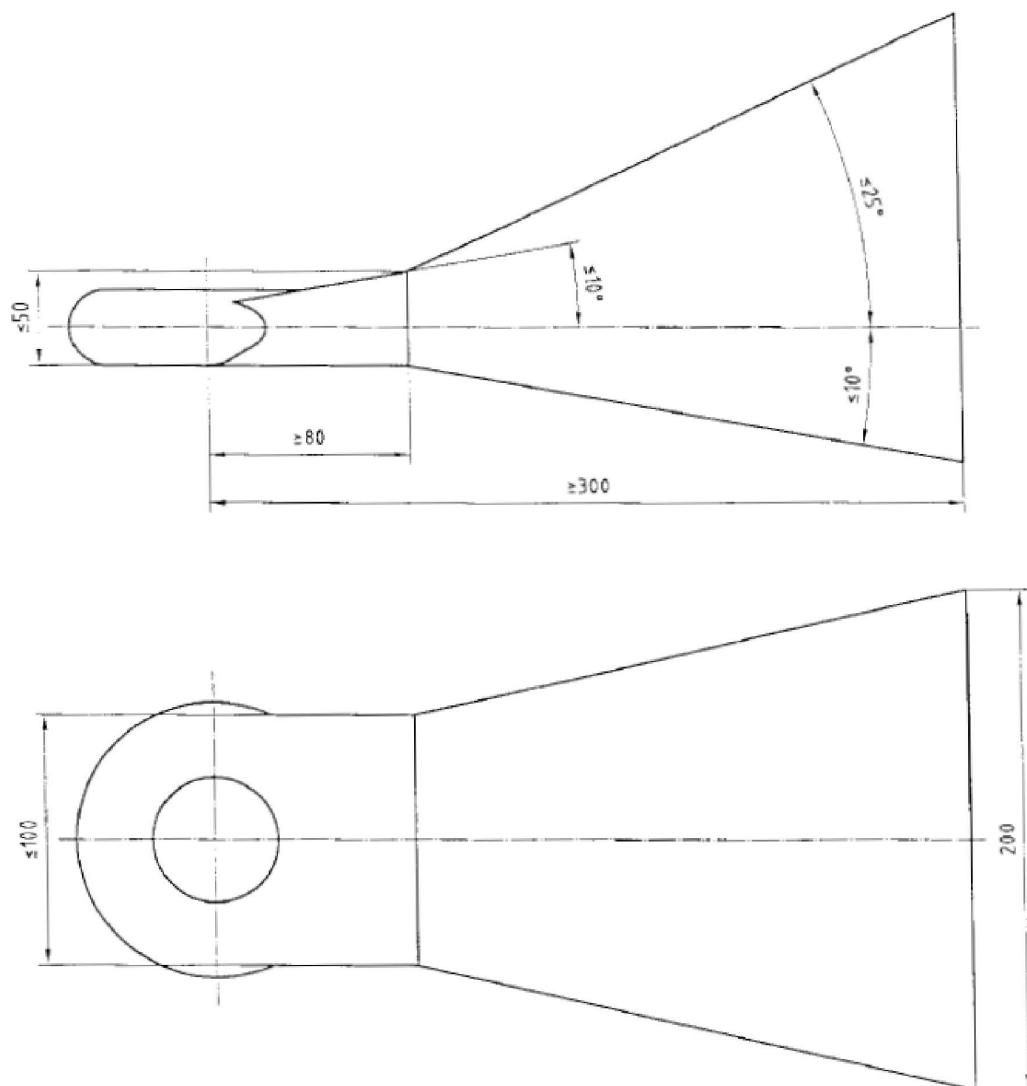
4.3.1. General requirements

All drawbar eyes of class d50 shall be designed so that they are able to satisfy the tests given in Annex 6.

Drawbar eyes of class d50 shall conform to Figure 9 in external shape and external dimensions.

Figure 9

Principal dimensions of toroidal drawbar eye of class d50 (all dimensions in mm)



4.3.2. In addition, toroidal drawbar eye of class d50-1 shall have the dimensions according to Figure 10 and toroidal drawbar eye of class d50-2 shall have the dimensions according to Figure 11.

Figure 10

Dimensions of toroidal drawbar eye of class d50-1 (all dimensions in mm)

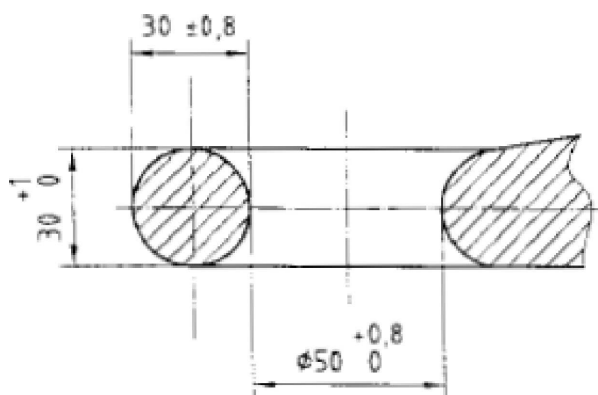
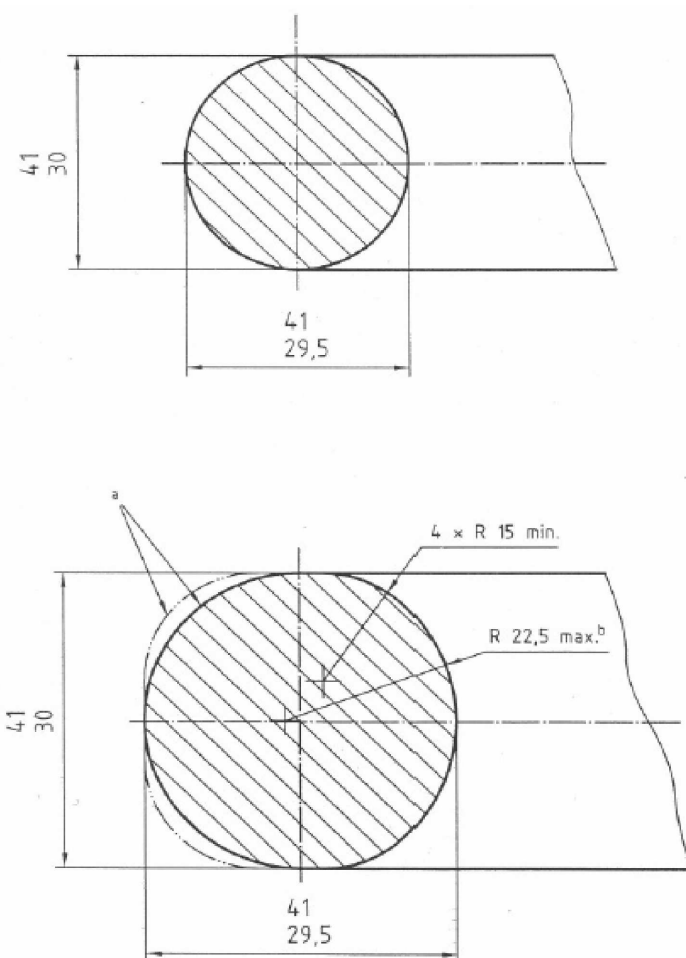


Figure 11

Dimensions of toroidal drawbar eye of class d50-2 (all dimensions in mm)



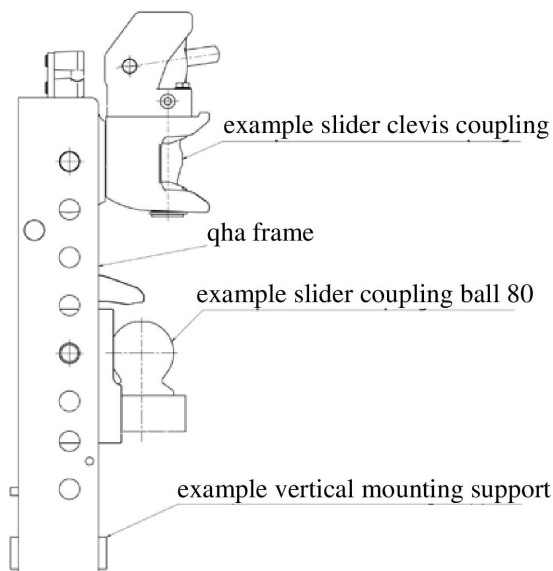
^a Alternative outer contour : outer radius 22,5 max. and 15 min. blend radius top and bottom, or min. top and bottom blend radius to flat outer surface.

^b Internal contour.

5. Drawbars (Class e)
 - 5.1. Drawbars of class e shall satisfy the tests given in paragraph 3.7 of Annex 6.
 - 5.2. In order to provide a connection to the towing vehicle, the drawbars can be fitted with either coupling head or drawbar eyes of classes b, d or s. coupling head and drawbar eyes can be attached by screwing, bolting or welding.
 - 5.3. Height adjusting devices for hinged drawbars
 - 5.3.1. Hinged drawbars shall be fitted with devices for adjusting the drawbar to the height of the coupling device or jaw. These devices shall be designed so that the drawbar can be adjusted by one person without tools or any other aids.
 - 5.3.2. Height adjusting devices shall be able to adjust the drawbar eyes or coupling head 80 from the horizontal above the ground at least 300 mm upwards and downwards. Within this range the drawbar shall be adjustable steplessly, or in maximum steps of 50 mm measured at the coupling ring or coupling head.
 - 5.3.3. Height adjusting devices shall not interfere with the easy movement of the drawbar after coupling.
 - 5.3.4. The height adjusting devices shall not interfere with the action of any inertia, overrun type, brake.
 - 5.4. In the case of drawbars combined with inertia, overrun, brakes, the distance between the centre of the drawbar eye and the end of the free shank of the drawbar eye shall not be less than 200 mm in the brake application position. With the shank of the drawbar eye fully inserted the distance shall not be less than 150 mm.
 - 5.5. Drawbars for use on rigid drawbar trailers shall possess at least half the moment of resistance against lateral forces as against vertical forces.
6. Towing frames and rail plates (Class f)

Figure 12

Example of a towing frame of class f



- 6.1. Towing frames of class f shall satisfy the tests given in paragraph 3.6 of Annex 6.
- 6.2. If the towing frames are intended to be mounted to specified vehicle types the fixing points and the coupling shall be in conformity with the vehicle- or the transmission manufacturers provisions.
- 6.3. Towing frames can be designed as quick height-adjustable (qha), pin height-adjustable (pha) frame or as frame without height adjustment. The mostly used types are qha-frames for qha-sliders, so called ladder frames as shown in Figure 12.
- 7. Hitch hooks and keeper plates (Class g)
- 7.1. General requirements for hitch hooks

All hitch hooks of class g and keeper plates shall be designed such that hitch hooks satisfy the tests given in Annex 6 and keeper plates satisfy the tests given in Annex 6.

Hitch hooks of class g shall conform to Figure 13 in external shape and external dimensions. The position of the keeper plate is shown in Figure 14.

The hitch hook shall permit angles of articulation in accordance with 1.1.3.

Figure 13

Principal dimensions of hitch hook (all dimensions in mm)

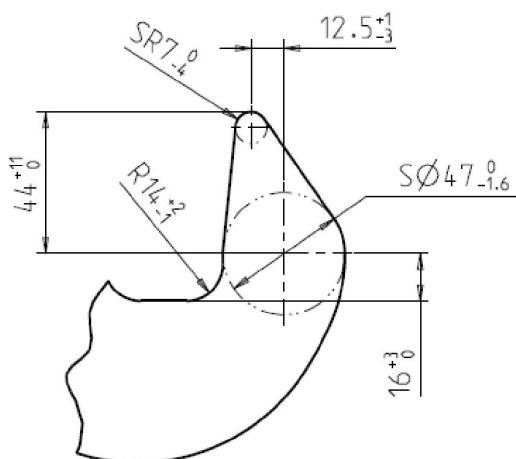
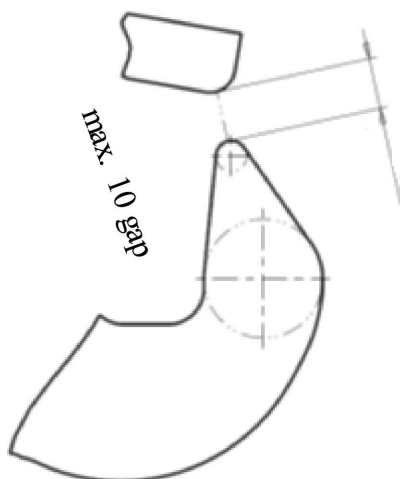


Figure 14

Position of the keeper plate (all dimensions in mm)



8. Piton-type couplings and keeper plates (Class h)

8.1. General requirements for piton-type couplings

All piton-type couplings of class h and keeper plates shall be designed such that piton-type couplings satisfy the tests given in Annex 6 and keeper plates satisfy the tests given in Annex 6.

Piton-type couplings of class h shall conform to Figure 15 in external shape and external dimensions. The position of the keeper plate is shown in Figure 16.

The piton-type coupling shall permit angles of articulation in accordance with 1.1.3.

Figure 15

Principal dimensions of piton-type coupling (all dimensions in mm)

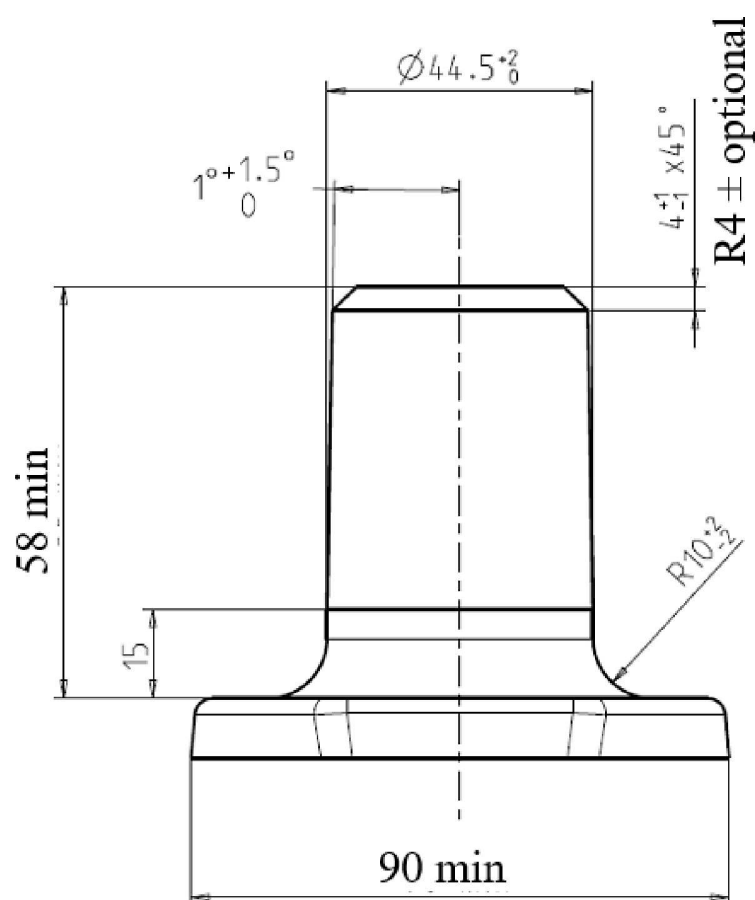
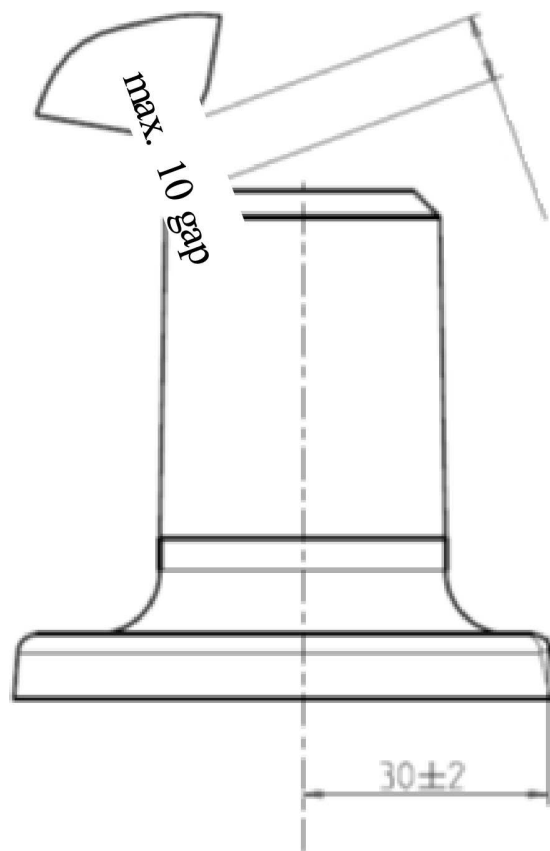


Figure 16

Position of the keeper plate (all dimensions in mm)

9. Tractor drawbar couplings non-swivel around longitudinal axis (Class i)
- 9.1. Tractor drawbar couplings shall have the following angles of articulation (see also Figure 17)
 - a) Vertical axis: $\pm 90^\circ$ min
 - b) Transverse axis: $\pm 20^\circ$ min. ($\pm 15^\circ$ for cat.4 and 5)
 - c) Longitudinal axis: $\pm 20^\circ$ min. ($\pm 15^\circ$ for cat.4 and 5)These angles of articulation do not have to be reached simultaneously.
- 9.2. The coupling unit shall be tested as in 3.3.3 of Annex 6.
- 9.3. The drawbar coupling non-swivel clevis unit shall be provided with a device to prevent unintentional uncoupling.
- 9.4. Drawbar and clevis of Class i shall conform to Figure 17 and Table 2.

Figure 17

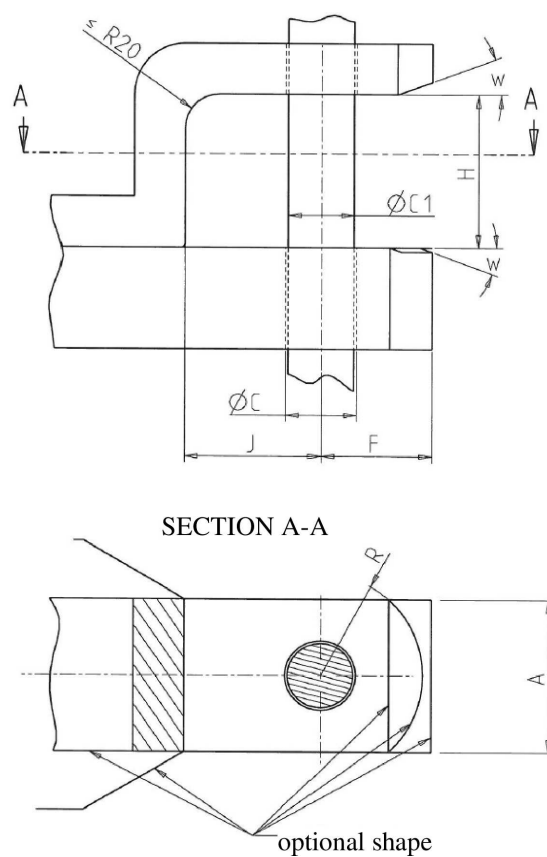
Tractor drawbar and clevis dimensions (class i) (all dimensions in mm)

Table 2

Tractor drawbar and clevis- Dimension values

Dimensions in millimetres							
Dimension		Drawbar category					
		0	1	2	3	4	5
Drawbar width A ^(a)	max.	60	67	90	100	130	160
Drawbar thickness B	max.	20	36	52	57	64	80
Pin hole diameter C	+1,00/-0,25	20	33	33	41	52,5	72,5
Pin diameter C1	+1,00/-1,50	18,5	31	31	39	51	71
F	max.	30	45	45	55	70	80
G ^(b)	min.	140	210	210	210	210	210
Height H	min.	50	70	70	90	90	100
Throat depth J	min.	50	70	80	80	90	110

Dimensions in millimetres							
Dimension		Drawbar category					
		0	1	2	3	4	5
End radius of drawbar and clevis R ^(a)	max.	30	45	50	60	80	80
W ^(c)	min.	20°	20°	20°	20°	15°	15°

(^a) The drawbar pin handle, retention devices of clevis may extend beyond width A but must not interfere with the implement articulation angles specified in clause 10.

(^b) G is the distance over which the specified dimensions A and B shall be maintained.

(^c) The profile shown in Figure 17 represents the maximum envelope for the drawbar and clevis. The radius R and the angle W may differ from the values given so long as the maximum envelope is not exceeded.

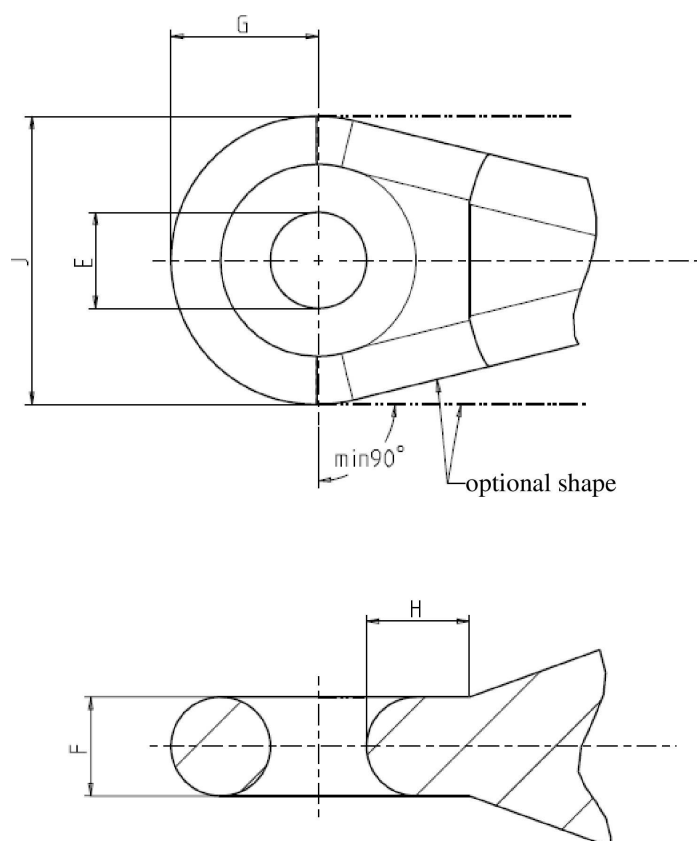
10. Drawbar eyes which are fitted to trailer drawbars for connecting to a tractor drawbar (Class j)

10.1. The coupling unit shall be tested as in 3.3.3 of Annex 6.

10.2. Drawbar eyes of Class j shall conform to Figure 18 and Table 3.

Figure 18

Hitch ring of implement (Class j)



Dimensions in millimetres

Table 3

Hitch ring specifications (Class j)

Dimension		Drawbar category					
		0	1	2	3	4	5
Hole E ^(a)	min.	23	38	38	47	56	78
Thickness F	max.	30	36	38	46	50	60
Distance G	max.	40	55	55	75	85	100
Distance H	min.	35	40	50	50	65	80
Width J	max.	85	107	115	140	160	190
Radius M		As required to provide adequate articulation between the tractor and the implement $M_{\max} = F/2$					
Pin diameter	min.	In accordance with Table 2					

^(a) For special applications hole E can be an elongated hole

11. Clevis-type drawbar coupling non-swivel around longitudinal axis (Class q)

11.1. The coupling unit shape shall allow the swivel hitch ring the following minimum angles:

±60° in the horizontal plane (yaw)

±20° in the vertical plane (pitch)

±20° around its longitudinal axis (roll)

The non-swivel clevis coupling unit shall be provided with a device to prevent unintentional uncoupling.

11.2. The coupling unit shall be tested as in 3.3.3 of Annex 6.

11.3. Clevis type drawbar Class q shall conform to Figure 19 and Table 4.

Figure 19

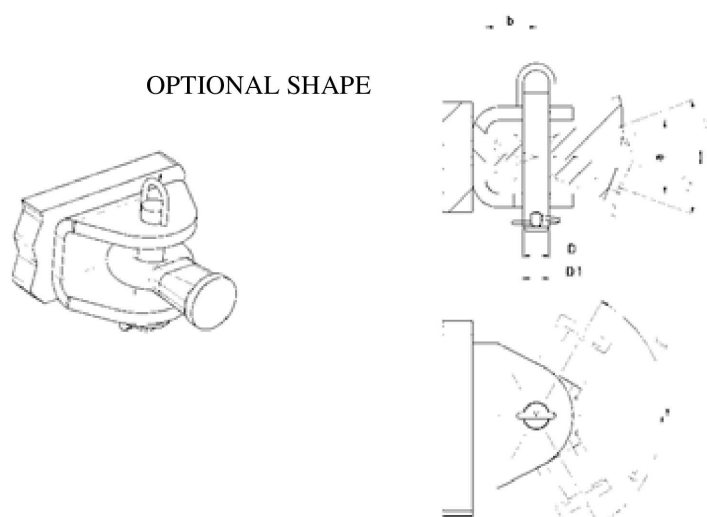
Clevis type drawbar (Class q)

Table 4

Shapes and dimensions of trailer or implement clevis coupling (Class q)

Shape	Dimension (mm)		
	D $\pm 0,5$	a min.	b min.
w	18	50	40
x	28	70	55
y	43	100	80
z	50	110	95

12. Drawbar eye, swivel around longitudinal axis and fitted to the drawbar of trailers for connection with non-swivel clevis type couplings (Class r)
- 12.1. The coupling unit shall be tested as in 3.3.3 of Annex 6.
- 12.2. Drawbar Eyes Class r shall conform to Figure 20 and Table 5.

Figure 20

Hitch ring dimensions shall be as shown (class r)

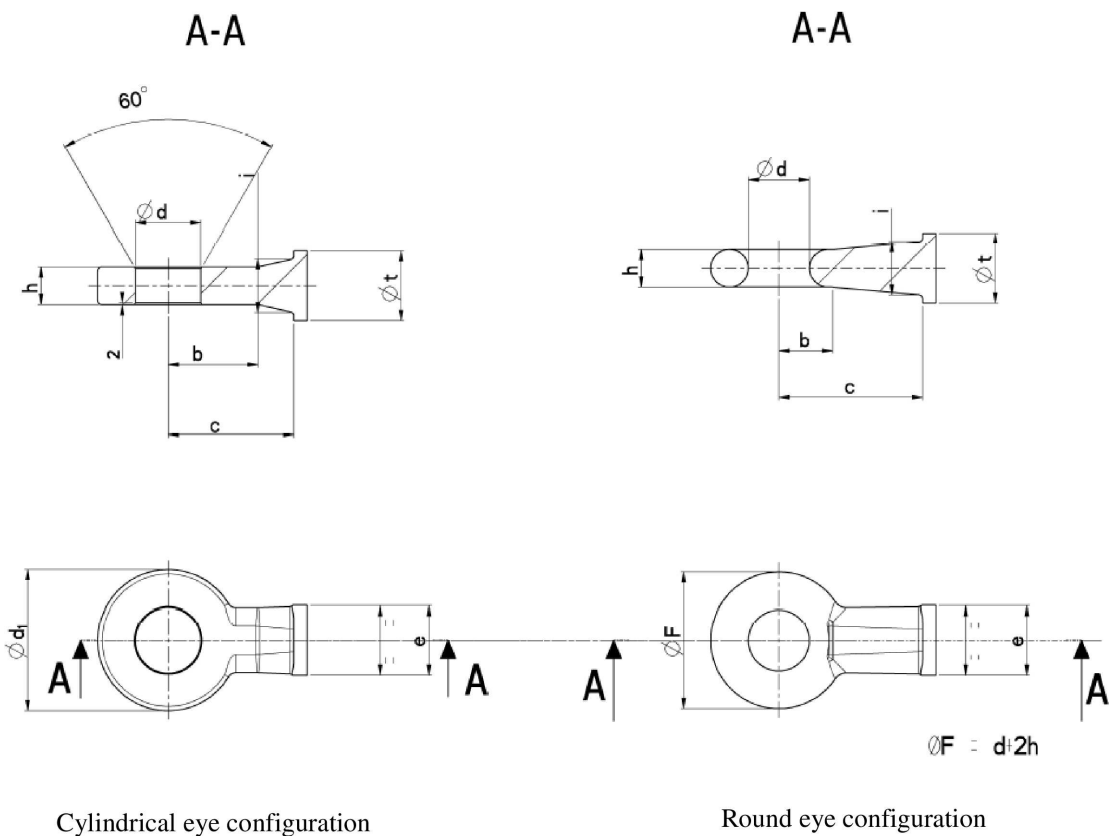


Table 5

Shapes and dimensions (Class r)

Shape	Coupling ring (mm)														
	Cylindrical eye configuration								Round eye configuration						
	<i>d</i>	<i>b</i>	<i>c</i>	<i>e</i>	<i>i</i>	<i>h</i>	<i>d</i> ₁	<i>t</i>	<i>d</i>	<i>b</i>	<i>c</i>	<i>e</i>	<i>i</i>	<i>t</i>	<i>h</i>
	±0,5	min.	min.	ma-x.	ma-x.	±1	±3	min.	±0,5	min.	min.	ma-x.	ma-x.	min.	±1
W	28	50	80	30	30	20	70	44	22	40	80	30	30	44	20
X	45	70	100	60	40	32	105	63	35	50	100	60	40	63	30
Y	62	90	120		55	40	132	73	50	55	140		55	73	35
Z	73	100	140	75	60	42	157	78	68	60	160	75	60	78	42

13. Coupling devices (Class s)

For coupling devices of class s and p, the relevant requirements in Annexes 5 and 6 for the closest standard or non-standard device or component shall be used.

14. Assignment of mechanical coupling devices of towing vehicles or self-propelled machines and towed vehicles

The assignment of mechanical coupling devices of towing vehicles or self-propelled machines and towed vehicles shall conform to Table 6.

Table 6

Assignment of mechanical coupling devices of towing vehicles or self-propelled machines and towed vehicles

Coupling device on the towing vehicle	Coupling device on the towed vehicle
Class a80	Class b80
Class c40	Class d40-1, d40-2
Class g	Class d50-1, d50-2
Class h	Class d50-2
Class i	Class j
Class q	Class r

15. Remote operated and/or automatic coupling

If the coupling is remote operated or automatic there must always be a remote indication visible to the operator to indicate that coupling has been effected and that the locking devices have engaged.

The remote indication shall be in the vehicle cab if the coupling is achieved without leaving the vehicle cab.

ANNEX 6

Testing of mechanical coupling devices or components for vehicles of categories T, R and S**1. General testing requirements**

1.1. Samples of coupling devices shall be tested for both strength and function. With coupling devices, the strength shall be verified by a dynamic test. The strength of the mechanical coupling shall be established by alternating traction on a test bed. Should the design of the mechanical coupling (e.g. excessive play, towing hook) make it impossible to carry out the test with an alternating test load, the test load may also be applied on a rising basis in the direction of traction or pressure, whichever is the greater. In certain cases, additional static tests may be necessary. Instead of the dynamic test, mechanical couplings of classes i, q and r intended to be mounted to agricultural vehicles with a maximum design speed not exceeding 40 km/h may be tested according to 3.3.3.2 of this Annex (static test). Mechanical couplings of all classes intended to be mounted to agricultural vehicles with a maximum design speed exceeding 60 km/h shall be tested in accordance with Annex 6 of Regulation 55.01. In addition, the type approval authority or technical service may waive a dynamic or static test if the simple design of a component makes a theoretical check possible in case of coupling classes d, e, f, i, j and class s similar to this coupling classes. Theoretical checks may also be carried out to determine worst case conditions. In all cases, theoretical checks shall ensure the same quality of results as with dynamic or static testing. In cases of doubt it is the results of physical testing that are overriding.

1.2. The dynamic test shall be performed with approximately sinusoidal load (alternating and/or pulsating) with a number of stress cycles appropriate to the material. No cracks or fractures shall be allowed which affects the functioning of the coupling device.

1.3. Only slight permanent deformation is permitted with the static tests prescribed. Unless stated otherwise the permanent (plastic) deformation after releasing shall not be more than 10 per cent of the maximum deformation measured during the test.

1.4. The loading assumptions in the dynamic tests are based on the horizontal force component in the longitudinal axis of the vehicle and the vertical force component. Horizontal force components transverse to the longitudinal axis of the vehicle, and moments, are not taken into account provided they are of only minor significance.

If the design of the coupling device or its attachment to the vehicle or the attachment of additional systems (such as equipment drives, force compensators, positive steering systems, etc.) generates additional forces or moments, these shall be taken into account during the homologation procedure. Additional tests may also be required by the type approval authority or technical service.

The horizontal force component in the longitudinal axis of the vehicle is represented by a theoretically determined reference force, the D or D_c value. The vertical force component, where applicable, is represented by the static vertical bearing load, S , at the point of coupling and the assumed vertical force component, V .

1.5. The characteristic values D , D_c , S , A_v and v_{max} , on which the tests are based and which are defined in paragraph 2.10 of this Regulation, shall be taken from the manufacturer's information given in the application for type approval – see communication form shown in Annex 1 and 2.

1.6. Any positive locking device, which is retained in position by spring force, shall remain in its secured position when subjected to a force applied in the least favourable direction and equivalent to three times the mass of the locking mechanism.

1.7. Loading assumptions

Dynamic pulsating endurance test with resultant test force:

$$F_{res} = \sqrt{F_h^2 + F_v^2} \text{ (kN)}$$

$$\alpha = \arctan \frac{F_v}{F_h}$$

within the range for tensile or compressive pulsating stresses (whichever is the greater)

Where

Horizontal load (kN):

$$F_h = 1,0 \cdot D_c$$

$$F_h = 1,0 \cdot D \text{ for full trailers}$$

Vertical load (kN)

$$F_s = g \cdot S + 0,3 \cdot V$$

2. Test procedures

2.1. For the dynamic tests and static tests, the sample shall be placed in a suitable rig with a means of force application, such that it is not subjected to any additional forces or moments apart from the specified test force. In the case of alternating tests, the direction of force application shall not deviate by more than $\pm 1^\circ$ from the specified direction. In the case of pulsating and static tests, the angle shall be set for the maximum test force. This will normally require a joint at the point of force application (for example at the point of coupling) and a second joint a given distance away.

2.2. The test frequency shall not exceed 35 Hz. The selected frequency shall be well separated from resonance frequencies of the test set up including the tested device. With asynchronous testing the frequencies of the two force components shall be between approximately one per cent and a maximum of three per cent apart. For coupling devices made from steel the number of stress cycles is 2×10^6 . For devices made from materials other than steel a higher number of cycles may be necessary. The dye-penetration method of crack testing or an equivalent method shall be used to determine any cracking during test.

2.3. With pulsating tests, the test force varies between the maximum test force and a minimum test force, which may not be greater than 5 per cent of the maximum test force unless otherwise stated in the specific testing procedure.

2.4. With static tests the test force shall be applied smoothly and quickly and be maintained for at least 60 seconds.

2.5. The coupling devices or components on test should normally be mounted as rigidly as possible on a test rig in the position in which they will be used on the vehicle. The fixing devices should be those specified by the manufacturer or applicant and should be those intended for the attachment of the coupling device or component to the vehicle and/or shall have identical mechanical characteristics.

2.6. Coupling devices or components shall be tested in the form used on the road. However, at the discretion of the manufacturer, and in agreement with the technical service, flexible components may be clamped if this is necessary for the test procedure and if this will not have any unrealistic influence on the test result.

Flexible components which are overheated during these accelerated test procedures may be replaced during the test. The test loads may be applied by means of special slack-free devices.

3. Specific testing requirements

3.1. Coupling balls 80 (Class a)

3.1.1. The basic test is a dynamic pulsating endurance test with resultant test force. Alternatively, a two-component synchronous dynamic endurance test is also permissible. The test sample comprises the coupling ball and the mountings necessary for attaching the assembly to the vehicle. The coupling ball shall be rigidly mounted to a test rig, capable of producing an alternating or pulsating force, in the actual position in which it is intended for use.

3.1.2. A suitable Coupling head 80 shall be used as a means of force application. The sample shall be mounted on the test rig with the coupling elements applied for and arranged such that its relative position corresponds to that of the intended use. The sample shall not be subjected to any additional forces or moments apart from the test force. The test force shall be applied along a line of action through the point of coupling, directed at a resultant angle derived from the horizontal and vertical loading assumptions.

3.1.3. Loading assumptions

As in paragraph 1.7. of this annex.

3.2. Coupling head 80 (Class b)

3.2.1. The basic test is a dynamic endurance test in which an alternating or pulsating test force is applied. Alternatively, a two-component synchronous dynamic endurance test is also permissible.

3.2.2. The dynamic test shall be performed using a separate assembly with a coupling ball 80 of an equivalent or higher strength.

The sample shall be mounted on the test rig with the coupling elements applied for and arranged such that its relative position corresponds to that of the intended use.

The sample shall not be subjected to any additional forces or moments apart from the test force.

The test force shall be applied along a line of action through the point of coupling, directed at a resultant angle derived from the horizontal and vertical loading assumptions.

3.2.3. Loading assumptions

As in paragraph 1.7. of the annex.

3.3. Drawbar couplings

3.3.1. Clevis-type couplings (Class c)

A dynamic endurance test shall be carried out on a sample. The coupling device shall be equipped with all the fixings needed to attach it to the vehicle.

3.3.1.1. For rigid drawbar trailers

Dynamic pulsating endurance test within the range for pulsating tensile stresses with resultant test force (direction of pull rearwards and down)

As in paragraph 1.7. of this annex.

3.3.1.2. Clevis-type couplings on trailers

Loading assumptions taking into account the D value

$$D = g \cdot \frac{R_1 \cdot R_2}{R_1 + R_2}$$

is used.

R_1 and R_2 as specified by the manufacturer ($R_2 \cdot R_1$). Dynamic endurance tests as in paragraph 3.3.1.1. of this annex.

3.3.1.3. Static tests on locking device for coupling pin

With clevis-type couplings with non-cylindrical pins, it is also necessary to test the closure and any locking devices by means of a static force of $0,25 \cdot D$ acting in the direction of opening.

A test force of $0,1 \cdot D$ is sufficient in the case of cylindrical coupling pins.

This force shall be raised to the above value smoothly and quickly and be maintained for 10 seconds.

The test shall not cause the closure to open and it shall not cause any damage.

3.3.2. Hitch hooks (Class g)

As in paragraph 3.3.1. of this annex.

3.3.3. Tractor drawbars (Class i)

3.3.3.1. Either as in paragraph 3.3.1. or a static test instead of the dynamic test as described in paragraph 3.3.3.2. if the drawbar is intended to be mounted to agricultural vehicles with a maximum design speed not exceeding 40 km/h.

3.3.3.2. Static Test Method

3.3.3.2.1. Test specifications

3.3.3.2.1.1. General

Subject to a check on its construction characteristics, the mechanical coupling shall undergo static tests in accordance with the requirements of paragraphs 3.3.3.2.1.2, 3.3.3.2.1.3 and 3.3.3.2.1.4.

3.3.3.2.1.2. Test preparation

The tests shall be carried out on a special machine, with the mechanical coupling and any structure coupling it to the body of the tractor attached to a rigid structure by means of the same components used to mount it on the tractor.

3.3.3.2.1.3. Test instruments

The instruments used to record loads applied and movements shall have the following degree of accuracy:

- (a) Loads applied ± 50 daN,
- (b) Movements $\pm 0,01$ mm.

3.3.3.2.1.4. Test procedure

3.3.3.2.1.4.1. The coupling device shall first be subjected to a pre-traction load which does not exceed 15 % of the traction test load defined in paragraph 3.3.3.2.1.4.2.

The operation described in paragraph 3.3.3.2.1.4.1 shall be repeated at least twice, starting with a zero load, which is gradually increased until the value prescribed in paragraph 3.3.3.2.1.4.1 is reached, and then decreased to 500 daN; the settling load shall be maintained for at least 60 seconds.

- 3.3.3.2.1.4.2. The data recorded for plotting the load/deformation curve under traction, or the graph of that curve provided by the printer linked to the traction machine, shall be based on the application of increasing loads only, starting from 500 daN, in relation to the reference centre of the coupling device.

There shall be no breaks for values up to and including the traction test load which is established as 1,5 times the technically permissible trailer mass; in addition, the load/deformation curve shall show a smooth progression, without irregularities, in the interval between 500 daN and 1/3 of the maximum traction load.

Permanent deformation is recorded on the load/deformation curve in relation to the load of 500 daN after the test load has been brought back to that value.

The permanent deformation value recorded shall not exceed 25 % of the maximum elastic deformation occurring.

- 3.3.3.2.1.5. The test referred to in paragraph 3.3.3.2.1.4.2 shall be preceded by a test in which an initial load of three times the maximum permissible vertical force (in daN, equal to $g \cdot S/10$) recommended by the manufacturer is applied in a gradually increasing manner, starting from an initial load of 500 daN, to the reference centre of the coupling device.

During the test, deformation of the coupling device shall not exceed 10 % of the maximum elastic deformation occurring.

The check is carried out after removing the vertical force (in daN, equal to $g \cdot S/10$) and returning to the initial load of 500 daN.

- 3.3.4. Piton-type couplings (Class h)

As in paragraph 3.3.1. of this Annex.

- 3.3.5. Clevis-type drawbar coupling, non-swivel around longitudinal axis (Class q)

As in paragraph 3.3.3 of this Annex.

- 3.3.6. Keeper plates (for all drawbar couplings of classes a, g and h, where present)

For ball, hook and piton-type couplings and equivalent devices, the keeper plate shall be tested using a static force of $F_{s \text{ stat}} = 0,6 \cdot D$ (vertically upwards). No cracks or fractures shall be allowed which affects the functioning of the coupling device.

- 3.4. Drawbar eyes (Classes d)

- 3.4.1. Drawbar eyes (classes d40-1 and d40-2) for clevis-type couplings shall be subjected to the same dynamic tests and equivalent loading assumptions (see paragraph 3.3.1).

For drawbar eyes which are used exclusively on full trailers, a test using the horizontal loading assumptions shall be performed.

The test may be performed applying either an alternating or a pulsating test force as specified in paragraph 3.3.1.

- 3.4.2. Drawbar eyes (class d50) for hitch hooks, tractor drawbars or piton-type couplings shall be tested in the same way as drawbar eyes for clevis-type couplings.

- 3.5. Drawbar eyes (class r)

As in paragraph 3.3.3 of this Annex.

- 3.6. Towing frames (Class f)

- 3.6.1. Towing frames shall be subjected to the same forces during testing as the coupling. The test load shall be applied at a horizontal and vertical distance corresponding to the position of the coupling device which exerts the most critical case on the towing frame.

3.6.2. Test preparation

The tests must be carried out according to paragraph 3.3.3.2.1.2.

3.6.3. Test instruments

The instruments used to record loads applied and movements must conform to paragraph 3.3.3.2.1.3.

3.6.4. Comparison of towing frames

Instead of the mandatory tests, towing frames may be evaluated by comparing calculations. The compared frame must be similar in the major design characteristics to an already tested frame.

3.7. Drawbars (class e)

3.7.1. Drawbars shall be tested in the same way as drawbar couplings (see paragraph 3.3.1.). The Type Approval Authority or Technical Service may waive an endurance test if the simple design of a component makes a theoretical check of its strength possible.

The design forces for the theoretical verification shall be calculated as follows:

$$F_{sc} = 9,81 \cdot \frac{S}{1000} + 0,375 \cdot V$$

Where

V is the force amplitude given in paragraph 3.3.1.1.

F_{sc} is the calculated vertical load.

The permissible stresses shall be in accordance with 5.3. of ISO 7641-1:1983.

Permissible stress of weld shall not exceed 90 N/mm².

For bended drawbars (e.g. swan neck) and for the drawbars of full trailers, the horizontal force component $F_{hp} = 1,0 \cdot D$ shall be taken into consideration

3.7.2. For drawbars for full trailers with free movement in the vertical plane, in addition to the endurance test or theoretical verification of strength, the resistance to buckling shall be verified either by a theoretical calculation with a design force of $3,0 \cdot D$ or by a buckling test with a force of $3,0 \cdot D$.

The permissible stresses in the case of calculation shall be in accordance with paragraph 3.7.1

3.7.3. In the case of steered axles, the resistance to bending shall be verified by theoretical calculations or by a bending test. A horizontal, lateral static force shall be applied in the centre of the coupling point. The magnitude of this force shall be chosen so that a moment of $0,6 \cdot A_v \cdot g$ (kNm) is exerted about the front axle centre. The permissible stresses shall be in accordance with paragraph 3.7.1.

ANNEX 7

Installation and special requirements

1. Tractors

- 1.1. A tractor may be equipped with one or more mechanical coupling devices according to 2.6. in connection with Table 6 of Annex 5.
- 1.2. If a tractor is equipped with mechanical coupling devices according to 2.6. in connection with Table 6 of Annex 5, at least one of the devices shall have the characteristic values D , D_c , S , A_v and $v_{\max}$ corresponding to the maximum permissible characteristic values of the tractor as stated by the tractor manufacturer.

2. Towed vehicles

Mechanical coupling devices of towed vehicles according to 2.6. in connection with Table 6 of Annex 5 for connecting the towed vehicle to a tractor shall have at least the characteristic values D , D_c , S , A_v and $v_{\max}$ corresponding to the maximum permissible characteristic values of the towed vehicle as stated by the towed vehicle manufacturer.

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