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## Legislation

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Contents

### I *Legislative acts*

#### REGULATIONS

- ★ **Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) <sup>(1)</sup>** ..... 1
  
- ★ **Regulation (EU) 2019/1239 of the European Parliament and of the Council of 20 June 2019 establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU** ..... 64
  
- ★ **Regulation (EU) 2019/1240 of the European Parliament and of the Council of 20 June 2019 on the creation of a European network of immigration liaison officers** ..... 88
  
- ★ **Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005** ..... 105

<sup>(1)</sup> Text with EEA relevance.

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

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

- ★ Regulation (EU) 2019/1242 of the European Parliament and of the Council of 20 June 2019 setting CO<sub>2</sub> emission performance standards for new heavy-duty vehicles and amending Regulations (EC) No 595/2009 and (EU) 2018/956 of the European Parliament and of the Council and Council Directive 96/53/EC <sup>(1)</sup> ..... 202
  
- ★ Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union <sup>(1)</sup> ..... 241

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<sup>(1)</sup> Text with EEA relevance.

## I

*(Legislative acts)*

## REGULATIONS

**REGULATION (EU) 2019/1238 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL****of 20 June 2019****on a pan-European Personal Pension Product (PEPP)****(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 Economic and Social Committee <sup>(1)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(2)</sup>,

Whereas:

- (1) Union households are amongst the highest savers in the world, but the bulk of those savings are held in bank accounts with short maturities. More investment into capital markets can help meet the challenges posed by population ageing and low interest rates.
- (2) Old age pensions constitute an essential part of a retiree's income and for many people, adequate pension provision makes the difference between a comfortable old age and poverty. They are a precondition for exercising fundamental rights laid down in the Charter of Fundamental Rights of the European Union, including in Article 25 on the rights of the elderly which states: 'The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life'.
- (3) The Union is facing several challenges, including demographic challenges because of the fact that Europe is an ageing continent. In addition, career patterns, the labour market and the distribution of wealth are undergoing radical changes, not least as a result of the digital revolution.

<sup>(1)</sup> OJ C 81, 2.3.2018, p. 139.

<sup>(2)</sup> Position of the European Parliament of 4 April 2019 (not yet published in the Official Journal) and decision of the Council of 14 June 2019.

- (4) A substantial part of old age pensions is provided under public schemes. Notwithstanding the exclusive national competence regarding the organisation of pension systems as determined by the Treaties, income adequacy and financial sustainability of national pension systems are crucial to the stability of the Union as a whole. By channelling more of Europeans' savings from cash and bank deposits to long-term investment products, such as voluntary pension products with a long-term retirement nature, the impact would therefore be beneficial both for individuals (who would benefit from higher returns and improved pension adequacy) and for the broader economy.
- (5) In 2015, 11,3 million Union citizens of working age (20 to 64 years old) were residing in a Member State other than the Member State of their citizenship and 1,3 million Union citizens were working in a Member State other than their Member State of residence.
- (6) A portable pan-European Personal Pension Product (PEPP) with a long-term retirement nature will increase its attractiveness as a product, particularly to young people and mobile workers, and will help to further facilitate the right of Union citizens to live and work across the Union.
- (7) Personal pensions are important in linking long-term savers with long-term investment opportunities. A larger, European market for personal pensions will support the supply of funds for institutional investors and investment into the real economy.
- (8) This Regulation enables the creation of a personal pension product which will have a long-term retirement nature and will take into account environmental, social and governance (ESG) factors as referred to in the United Nations-supported Principles for Responsible Investment, insofar as possible, will be simple, safe, reasonably-priced, transparent, consumer-friendly and portable Union-wide and complements the existing systems in the Member States.
- (9) Currently, the internal market for personal pension products does not function smoothly. In some Member States there is not yet a market for personal pension products. In others, personal pension products are available, but there is a high degree of fragmentation between national markets. As a result, personal pension products have only a limited degree of portability. This can result in difficulties for individuals to make use of their basic freedoms. For instance, they might be prevented from taking up a job or retiring in another Member State. In addition, the possibility for providers to use the freedom of establishment and the freedom to provide services is hampered by the lack of standardisation of existing personal pension products.
- (10) As the internal market for personal pension products is fragmented and diverse, the impact of PEPPs might be very different across Member States, and the target audience might be equally varied. In some Member States, PEPPs might offer solutions for people who do not currently have access to adequate provisions. In other Member States, PEPPs could broaden the consumer choice, or offer solutions to mobile citizens. However, PEPPs should not aim at replacing existing national pension systems, since it is an additional and complementary personal pension product.

- (11) The capital markets union (CMU) will help mobilise capital in Europe and channel it to all companies, including small and medium enterprises, infrastructure and long-term sustainable projects that need it to expand and create jobs. One of the main objectives of the CMU is to increase investment and choices for retail investors by putting European savings to better use. For this purpose, a PEPP will represent a step forward for the enhancement of the capital markets integration due to its support to the long-term financing of the real economy taking into account the long-term retirement nature of the product and the sustainability of investments.
- (12) As announced in the Commission's Action Plan on building a CMU of 30 September 2015, 'the Commission will assess the case for a policy framework to establish a successful European market for simple, efficient and competitive personal pensions, and determine whether EU legislation is required to underpin this market'.
- (13) In the resolution of the European Parliament of 19 January 2016 on stocktaking and challenges of the EU Financial Services Regulation: impact and the way forward towards a more efficient and effective EU framework for Financial Regulation and a Capital Markets Union <sup>(3)</sup>, the European Parliament stressed that 'an environment must be fostered that stimulates financial product innovation, creating more diversity and benefits for the real economy and providing enhanced incentives for investments, and that may also contribute to the delivery of adequate, safe and sustainable pensions, such as, for example, the development of a pan-European Pension Product (PEPP), with a simple transparent design'.
- (14) In its conclusions of 28 June 2016, the European Council called for 'swift and determined progress to ensure easier access to finance for business and to support investment in the real economy by moving forward with the Capital Markets Union agenda'.
- (15) In the Communication of the Commission of 14 September 2016 Capital Markets Union — Accelerating Reform, the Commission announced that it 'will consider proposals for a simple, efficient and competitive EU personal pension product [...] Options under consideration include a possible legislative proposal which could be tabled in 2017'.
- (16) In the Communication of the Commission of 8 June 2017 Mid-Term Review of the Capital Markets Union Action Plan, the Commission announced 'a legislative proposal on a pan-European Personal Pension Product (PEPP) by end June 2017. This will lay the foundations for a safer, more cost-efficient and transparent market in affordable and voluntary personal pension savings that can be managed on a pan-European scale. It will meet the needs of people wishing to enhance the adequacy of their retirement savings, address the demographical challenge, complement the existing pension products and schemes, and support the cost-efficiency of personal pensions by offering good opportunities for long-term investment of pension savings'.
- (17) The development of a PEPP will contribute to increasing choices for retirement saving, especially for mobile workers, and establish a Union market for PEPP providers. It should, however, only be complementary to public pension systems.
- (18) Financial education can support the understanding and awareness of households' saving choices in the area of voluntary personal pension products. Savers should also have a fair chance to fully grasp the risks and the features related to a PEPP.

<sup>(3)</sup> OJ C 11, 12.1.2018, p. 24.

- (19) A legislative framework for a PEPP will lay the foundations for a successful market in affordable and voluntary retirement-related investments that can be managed on a pan-European scale. By complementing the existing statutory and occupational pension schemes and products, it will contribute to meeting the needs of people wishing to enhance the adequacy of their retirement savings, addressing the demographic challenge and providing a powerful new source of private capital for long-term investment. This framework will not replace or harmonise existing national personal pension products or schemes, nor will it affect existing national statutory and occupational pension schemes and products.
- (20) A PEPP is an individual non-occupational pension product subscribed to voluntarily by a PEPP saver in view of retirement. Because a PEPP should provide for long-term capital accumulation, possibilities for the early withdrawal of capital should be limited and might be penalised.
- (21) This Regulation harmonises a set of core features for the PEPP, which concern key elements such as distribution, minimum content of contracts, investment policy, provider switching, or cross-border provision and portability. The harmonisation of those core features will improve the level playing field for personal pension providers at large and help boost the completion of the CMU and the integration of the internal market for personal pensions. It will lead to the creation of a largely standardised pan-European product, available in all Member States, empowering consumers to make full use of the internal market by transferring their pension rights abroad and offering a broader choice between different types of providers, including in a cross-border way. As a result of fewer barriers to the provision of pension services across borders, a PEPP will increase competition between providers on a pan-European basis and create economies of scale that should benefit savers.
- (22) Article 114 of the Treaty on the Functioning of the European Union (TFEU) allows the adoption of acts both in the shape of regulations or directives. The adoption of a regulation has been preferred as it would become directly applicable in all Member States. Therefore, a regulation would allow a quicker uptake of the PEPP and contribute more rapidly to address the need for more pension savings and investments in the CMU context. This Regulation is harmonising the core features of PEPPs which do not have to be subject to specific national rules and so, a regulation appears better suited than a directive in this case. On the contrary, the features which are outside the scope of this Regulation (e.g. accumulation phase conditions) are subject to national rules.
- (23) This Regulation should lay down uniform rules on the registration, provision, distribution and supervision of PEPPs. PEPPs should be subject to the provisions in this Regulation, relevant sectorial Union law as well as the corresponding delegated and implementing acts. In addition, the laws adopted by Member States in implementation of sectorial Union law should apply. If not already covered by this Regulation or by sectorial Union law, the respective laws of Member States should apply. A PEPP should also be subject to a contract concluded between the PEPP saver and the PEPP provider (the 'PEPP contract'). There is a set of key characteristics of the product that should be included in the PEPP contract. This Regulation should be without prejudice to the Union rules on private international law, in particular rules related to court jurisdiction and applicable law. This Regulation should also be without prejudice to national contractual, social, labour and tax law.
- (24) This Regulation should make clear that the PEPP contract has to comply with all applicable rules. Moreover, the PEPP contract should set the rights and obligations of the parties and include a set of key characteristics of the product. A PEPP contract might also be concluded by the representative of a group of PEPP savers, such as an independent savers association, acting on behalf of that group provided that this is done in compliance with this Regulation and applicable national law and that PEPP savers subscribing in this way obtain the same information and advice as PEPP savers concluding a PEPP contract either directly with a PEPP provider or through a PEPP distributor.

- (25) PEPP providers should have access to the whole Union market with one single product registration to be granted on the basis of a single set of rules. In order to market a product under the designation 'PEPP', applicant PEPP providers should apply for registration to their competent authorities. This Regulation does not prevent registration of an existing personal pension product which fulfils the conditions laid down by this Regulation. Competent authorities should take a decision for registration if the applicant PEPP provider has provided all the necessary information and if suitable arrangements to comply with the requirements of this Regulation are in place. After a decision for registration has been taken by the competent authorities, they should notify the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (EIOPA) established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council<sup>(4)</sup> accordingly to register the PEPP provider and the PEPP in the central public register. Such registration should be valid across the entire Union. In order to ensure effective supervision of compliance with the uniform requirements laid down in this Regulation, any subsequent modifications to the information and documents provided in the registration procedure should be immediately notified to the competent authorities and to EIOPA, where applicable.
- (26) A central public register should be created by EIOPA to contain information about PEPPs that have been registered and could be provided and distributed in the Union, as well as about the PEPP providers and a list of Member States in which the PEPP is offered. Where PEPP providers are not distributing PEPPs within the territory of a Member State but are able to open a sub-account for that Member State in order to ensure the portability for their PEPP customers, that register should also contain information about the Member States for which the PEPP provider offers sub-accounts.
- (27) The way in which institutions for occupational retirement provision (IORPs), as referred to in Directive (EU) 2016/2341 of the European Parliament and of the Council<sup>(5)</sup>, are organised and regulated varies significantly between Member States. In some Member States, those institutions are only allowed to carry out occupational pension activities whereas in other Member States, those institutions, including the authorised entities responsible for operating them and acting on their behalf, where IORPs do not have legal personality, are allowed to carry out occupational and personal pension activities. This has not only led to different organisational structures of IORPs but is also accompanied by different supervision on national level. In particular, prudential supervision of IORPs which are authorised to provide occupational and personal pension activities is broader than of those IORPs which only carry out occupational pension activities.

In order not to jeopardise financial stability and to take into account the different organisational structure and supervision, only those IORPs which are also authorised and supervised to provide personal pension products pursuant to national law should be allowed to provide PEPPs. Moreover and to further safeguard financial stability, all assets and liabilities corresponding to the PEPP provision business should be ring-fenced, without any possibility to transfer them to the other retirement provision business of the institution. IORPs that provide PEPPs should also at all times comply with the relevant standards set by Directive (EU) 2016/2341, including the more detailed investment rules laid down by the Member States where they are registered or authorised in accordance with Directive (EU) 2016/2341 when transposing that Directive, and the provisions of their system of governance. As with other PEPP providers, when this Regulation lays down more stringent provisions, such provisions should apply.

- (28) The single PEPP passport will ensure the creation of an internal market for PEPP.
- (29) PEPP providers should be able to distribute PEPPs that they have manufactured and PEPPs that they have not manufactured provided that this would be in compliance with the relevant sectorial law. PEPP distributors should be entitled to distribute PEPPs which they have not manufactured. PEPP distributors should distribute only those products for which they have the appropriate knowledge and competence in accordance with the relevant sectorial law.

<sup>(4)</sup> Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

<sup>(5)</sup> Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37).

- (30) Advice should be given to prospective PEPP savers by PEPP providers or PEPP distributors prior to the conclusion of the PEPP contract taking into account the long-term retirement nature of the product, the individual demands and needs of the PEPP saver and the limited redeemability. Advice should particularly aim at informing a PEPP saver about the features of the investment options, the level of capital protection and the forms of out-payments.
- (31) Under the freedom to provide services or the freedom of establishment, PEPP providers can provide PEPPs and PEPP distributors can distribute PEPPs within the territory of a host Member State after opening of a sub-account for that host Member State. In order to ensure a high quality of service and effective consumer protection, home and host Member States should closely cooperate in the enforcement of the obligations set out in this Regulation. Where PEPP providers and PEPP distributors pursue business in different Member States under the freedom to provide services, the competent authorities of the home Member State should be responsible for ensuring compliance with the obligations set out in this Regulation, because of their closer links with the PEPP provider. In order to ensure fair sharing of responsibilities between the competent authorities from the home and the host Member States, if the competent authorities of a host Member State become aware of any infringement of obligations occurring within their territory, they should inform the competent authorities of the home Member State which should then be obliged to take the appropriate measures. Moreover, the competent authorities of the host Member State should be entitled to intervene if the competent authorities of the home Member State fail to take appropriate measures or if the measures taken are insufficient.
- (32) The competent authorities of the Member States should have at their disposal all means necessary to ensure the orderly pursuit of business by PEPP providers and PEPP distributors throughout the Union, whether pursued in accordance with the freedom of establishment or the freedom to provide services. In order to ensure the effectiveness of supervision, all actions taken by the competent authorities should be proportionate to the nature, scale and complexity of the risks inherent in the business of a particular provider or distributor.
- (33) The pan-European dimension of the PEPP can be developed not only at the level of the provider, through the possibilities for its cross-border activity, but also at the level of the PEPP saver, through the portability of the PEPP and the switching service, thereby contributing to the safeguarding of personal pension rights of persons exercising their right to free movement under Articles 21 and 45 TFEU. Portability involves the PEPP saver changing residence to another Member State without changing PEPP providers, whereas the switching of PEPP providers does not necessarily involve a change of residence.
- (34) A PEPP should comprise national sub-accounts, each of them accommodating personal pension product features allowing that contributions to the PEPP or out-payments qualify for incentives if available in the Member States in relation to which a sub-account is made available by the PEPP provider. The sub-account should be used to keep a record of the contributions made during the accumulation phase and the out-payments made during the decumulation phase in compliance with the law of the Member State for which the sub-account has been opened. At the level of the PEPP saver, a first sub-account should be created upon the conclusion of a PEPP contract.
- (35) In order to allow a smooth transition for PEPP providers, the obligation to provide PEPPs comprising sub-accounts for at least two Member States should apply within three years of the date of application of this Regulation. Upon launching a PEPP, the PEPP provider should provide information on which sub-accounts are immediately available, in order to avoid a possible misleading of PEPP savers. If a PEPP saver moves to another Member State and if no sub-account for that Member State is available, the PEPP provider should make it possible for the PEPP saver to switch without delay and free of charge to another PEPP provider which provides a sub-account for that Member State. The PEPP saver could also continue to contribute to the sub-account where contributions were made before changing residence.



- (36) Taking into account the long-term retirement nature of the PEPP and the administrative burden involved, PEPP providers and PEPP distributors should provide clear, easy to understand, and adequate information to prospective PEPP savers and PEPP beneficiaries to support their decision-making about their retirement. For the same reason, PEPP providers and PEPP distributors should equally ensure a high level of transparency throughout the various phases of a PEPP including the pre-contractual stage, the conclusion of the contract, the accumulation phase (including pre-retirement) and the decumulation phase. In particular, information concerning accrued retirement entitlements, projected levels of PEPP retirement benefits, risks and guarantees, the integration of ESG factors and costs should be given. Where projected levels of PEPP retirement benefits are based on economic scenarios, that information should also include a best-estimate scenario and an unfavourable scenario, which should be extreme but realistic.
- (37) Before concluding a PEPP contract, prospective PEPP savers should be given all the necessary information to make an informed choice. Prior to the conclusion of the PEPP contract, retirement-related demands and needs should be specified and advice should be provided.
- (38) In order to ensure optimal product transparency, PEPP providers should draw up a PEPP key information document (PEPP KID) for the PEPPs that they manufacture before those PEPPs can be distributed to PEPP savers. They should also be responsible for the accuracy of the PEPP KID. The PEPP KID should replace and adapt the key information document for packaged retail and insurance-based investment products under Regulation (EU) No 1286/2014 of the European Parliament and of the Council <sup>(6)</sup> which, as a consequence, would not have to be provided for PEPPs. A stand-alone PEPP KID should be drawn up for the Basic PEPP. Where the PEPP provider offers alternative investment options, a generic KID for the alternative investment options which could also contain references to other documents should also be provided. Alternatively, where the information required on the alternative investment options cannot be provided within a single stand-alone KID, a stand-alone KID for every alternative investment option should be provided. However, this should only be the case if the provision of a generic KID for the alternative investment options would not be in the interest of PEPP customers. Therefore, when the competent authorities assess the compliance of the PEPP KID with this Regulation, they should ensure optimal comparability of different investment options, if applicable, taking into account in particular up-to-date knowledge of behavioural analysis to avoid any cognitive bias caused by the presentation of the information.
- (39) In order to ensure widespread dissemination and availability of PEPP KIDs, this Regulation should provide for the publication by the PEPP provider of the PEPP KIDs on its website. The PEPP provider should publish the PEPP KID for each Member State where the PEPP is distributed under the freedom to provide services or the freedom of establishment containing the specific information for the conditions related to the accumulation phase and to the decumulation phase for that Member State.
- (40) Personal pension product calculators are already being developed at national level. However, in order for the calculators to be as useful as possible to consumers, they should cover the costs and fees charged by various PEPP providers, together with any further costs or fees charged by intermediaries or other parts of the investment chain not already included by the PEPP providers.

<sup>(6)</sup> Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352, 9.12.2014, p. 1).

- (41) The details of the information to be included in the PEPP KID and the presentation of this information should be further harmonised through regulatory technical standards taking into account existing and ongoing research into consumer behaviour, including results from testing the effectiveness of different ways of presenting information with consumers. The Commission should be empowered to adopt regulatory technical standards. The draft regulatory technical standards should be developed by EIOPA after consulting the other European supervisory authorities (ESAs) — the European Supervisory Authority (European Banking Authority) (EBA) established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council <sup>(7)</sup> and the European Supervisory Authority (the European Securities and Markets Authority) (ESMA) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council <sup>(8)</sup> where applicable as well as with the European Central Bank, competent authorities and after consumer and industry testing as provided for in this Regulation, specifying the details and presentation of the information to be included in the PEPP KID; the conditions under which the PEPP KID should be reviewed and revised; the conditions for fulfilling the requirement to provide the PEPP KID; the rules to determine the assumptions on pension benefit projections; the details of the presentation of the information to be contained in the PEPP Benefit Statement; and the minimum criteria that the risk-mitigation techniques have to satisfy. When developing the draft regulatory technical standards, EIOPA should take into account the various possible types of PEPPs, the long-term nature of PEPPs, the capabilities of PEPP savers, and the features of PEPPs. Before submitting the draft regulatory technical standards to the Commission, consumer testing and industry testing with real data should take place where applicable. The Commission should adopt those regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010. The Commission should also be empowered to adopt implementing technical standards developed by EIOPA regarding the details for cooperation and the exchange of information together with the requirements needed to present that information in a standardised format allowing for comparison and, after consulting the other ESAs and the competent authorities and after industry testing, regarding the format of supervisory reporting by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1094/2010.
- (42) The PEPP KID should be clearly distinguishable and separate from any marketing material.
- (43) PEPP providers should draw up a PEPP benefit statement addressed to PEPP savers, in order to present them with key personal and generic data about the PEPP and to ensure up-to-date information on it. The PEPP benefit statement should be clear and comprehensive and should contain relevant and appropriate information to facilitate the understanding of pension entitlements over time and across pension products and serve labour mobility. The PEPP benefit statement should also contain key information on the investment policy relating to ESG factors and should indicate where and how PEPP savers can obtain supplementary information on the integration of ESG factors. The PEPP benefit statement should be provided annually to PEPP savers.
- (44) PEPP providers should inform PEPP savers two months before the dates on which PEPP savers have the possibility to modify their pay-out options about the upcoming start of the decumulation phase, the possible forms of out-payments and the possibility to modify the form of out-payments. Where more than one sub-account has been opened, PEPP savers should be informed about the possible start of the decumulation phase of each sub-account.
- (45) During the decumulation phase, PEPP beneficiaries should continue to receive information on their PEPP benefits and corresponding pay-out options. This is particularly important when a significant level of investment risk is borne by PEPP beneficiaries in the pay-out phase.

<sup>(7)</sup> 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).

<sup>(8)</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

- (46) In order to adequately protect the rights of PEPP savers and PEPP beneficiaries, PEPP providers should be able to opt for an asset allocation that suits the precise nature and duration of their liabilities, including those having a long-term horizon. Therefore, efficient supervision is required as well as an approach to investment rules that allows PEPP providers sufficient flexibility to decide on the most secure and efficient investment policy, while obliging them to act prudently and in the best long-term interests of PEPP savers as a whole. Compliance with the prudent person rule therefore requires an investment policy geared to the customers' structure of the PEPP provider.
- (47) By setting the prudent person rule as the underlying principle for capital investment and making it possible for PEPP providers to operate across borders, the redirection of savings into the sector of personal retirement provision is encouraged, thereby contributing to economic and social progress. The prudent person rule should also take into explicit consideration the role played by ESG factors in the investment process.
- (48) This Regulation should ensure an appropriate level of investment freedom for PEPP providers. As very long-term investors with low liquidity risks, PEPP providers are in a position to contribute to the development of the CMU by investing in non-liquid assets such as shares and in other instruments that have a long-term economic profile and are not traded on regulated markets, multilateral trading facilities (MTFs) or organised trading facilities (OTFs) within prudent limits. They can also benefit from the advantages of international diversification. Investments in shares in currencies other than those of the liabilities and in other instruments that have a long-term economic profile and are not traded on regulated markets, MTFs or OTFs should therefore not be restricted, in line with the prudent person rule so as to protect the interest of PEPP savers and PEPP beneficiaries, except on prudential grounds.
- (49) In the context of deepening the CMU, the understanding of what constitutes instruments with a long-term economic profile is broad. Such instruments are non-transferable securities and therefore do not have access to the liquidity of secondary markets. They often require fixed term commitments which restrict their marketability and should be understood to include participation and debt instruments in, and loans provided to, non-listed undertakings. Non-listed undertakings include infrastructure projects, unlisted companies seeking growth, real estate or other assets that could be suitable for long-term investment purposes. Low-carbon and climate-resilient infrastructure projects are often non-listed assets and rely on long-term credits for project financing. Considering the long-term nature of their liabilities, PEPP providers are encouraged to allocate a sufficient part of their asset portfolio to sustainable investments in the real economy with long-term economic benefits, in particular to infrastructure projects and corporates.
- (50) ESG factors are important for the investment policy and risk management systems of PEPP providers. PEPP providers should be encouraged to consider such factors in investment decisions and to take into account how they form part of their risk management system in order to avoid 'stranded assets'. The information on ESG factors should be available to EIOPA, to the competent authorities and to PEPP savers.
- (51) One of the objectives of regulating PEPPs is to create a safe, cost-friendly long-term retirement savings product. Because the investments concerning personal pension products are long-term, special regard should be given to the long-term consequences of asset allocation. In particular, ESG factors should be taken into account. PEPP savings should be invested taking into account ESG factors such as those set out in the Union's climate and sustainability objectives as set out in the Paris Agreement on Climate Change (Paris Agreement), the United Nations Sustainable Development Goals, and the United Nations Guiding Principles on Business and Human Rights.

- (52) In ensuring compliance with their obligation to develop an investment policy in accordance with the prudent person rule, PEPP providers should be prevented from investing in non-cooperative jurisdictions identified in the applicable Council's conclusions on the list of non-cooperative jurisdictions for tax purposes, nor in a high-risk third country with strategic deficiencies identified by the applicable Commission Delegated Regulation adopted on the basis of Article 9 of Directive (EU) 2015/849 of the European Parliament and of the Council <sup>(9)</sup>.
- (53) In view of the long-term retirement objective of the PEPP, the investment options granted to the PEPP savers should be framed, covering the elements which allow investors to make an investment decision, including the number of investment options they can choose from. After the initial choice made upon the subscription of a PEPP, the PEPP saver should have the possibility to modify that choice after a minimum of five years from the subscription of a PEPP or in case of subsequent modification, from the most recent modification of the investment option, so that sufficient stability is offered to providers for their long-term investment strategy whilst at the same time investor protection is ensured. However, it should be possible for PEPP providers to allow PEPP savers to modify the chosen investment option more frequently.
- (54) The Basic PEPP should be a safe product and should act as a default investment option. It could take the form of either a risk-mitigation technique consistent with the objective of allowing the PEPP saver to recoup the capital, or a guarantee on the capital invested. A risk-mitigation technique consistent with the objective to allow the PEPP saver to recoup the capital could be a conservative investment strategy or a life-cycle strategy which progressively reduces the overall risk exposure over time. Guarantees provided under the default investment option should at least cover the contributions during the accumulation phase after deduction of all fees and charges. Guarantees could also cover the fees and charges and could provide for full or partial coverage of inflation. A guarantee on the capital invested should be due at the start of the decumulation phase and during the decumulation phase, where applicable.
- (55) In order to guarantee PEPP savers cost-efficiency and a sufficient performance, the costs and fees for the Basic PEPP should be limited to a fixed percentage of the accumulated capital. While that limit should be fixed at 1 % of the accumulated capital, it would be appropriate to further specify the types of costs and fees to be taken into account by regulatory technical standards, in order to ensure a level playing field between different PEPP providers and different types of PEPPs with their particular cost and fee structures. The Commission should be empowered to adopt such regulatory technical standards which should be developed by EIOPA. In drawing up the draft regulatory technical standards, EIOPA should, in particular, consider the long-term nature of the PEPP, the different types of PEPPs and the cost-relevant factors linked to their specific features, so as to ensure a fair and equal treatment of the different PEPP providers and their products while taking into account the character of the Basic PEPP as a simple, cost-efficient and transparent product providing a sufficient long-term real investment return. Moreover, with the aim of preserving the long-term retirement nature of the product, the form of out-payments, in particular with respect to lifelong annuities, should be carefully assessed. Within that framework, in order to ensure that PEPP providers offering a capital guarantee benefit of a level playing field with other providers, EIOPA should duly take into account the structure of costs and fees. Furthermore, the percentage values for costs and fees should be regularly revised in order to ensure their continued adequacy taking into account any changes in the level of costs. The Commission should adopt those regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.

In order to ensure continued cost-efficiency and to protect PEPP customers from overly burdensome cost structures, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending the percentage value, taking into account its reviews, in particular the actual level and changes in the actual level of costs and fees and the impact of the cost cap on the availability of PEPPs, and appropriate market access of different PEPP providers providing different types of PEPPs.

- (56) The competent authorities should exercise their powers having as their prime objectives the protection of the rights of PEPP savers and PEPP beneficiaries and the stability and soundness of PEPP providers.

<sup>(9)</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

- (57) Where the PEPP provider is an IORP or an EU Alternative Investment Fund Manager (EU AIFM), it should appoint a depositary in relation to the safekeeping of the assets corresponding to the PEPP provision business. Additional safeguards are needed in relation to the entity acting as a depositary and its functions as currently the rules set out in relation to the depositary in Directive 2011/61/EU of the European Parliament and of the Council<sup>(10)</sup> are targeted to funds marketed only to professional investors, with the exception of European long-term investment funds under Regulation (EU) 2015/760 of the European Parliament and of the Council<sup>(11)</sup>, marketed to retail investors, and the sectorial law applicable to IORPs does not require appointment of a depositary in all cases. In order to ensure the highest level of investor protection in relation to the safekeeping of assets corresponding to the PEPP provision business, this Regulation requires IORPs and EU AIFM providing PEPP to follow the rules of Directive 2009/65/EC of the European Parliament and of the Council<sup>(12)</sup> as regards the appointment of the depositary, the execution of its tasks and its oversight duties.
- (58) Transparency and fairness of costs and fees is essential to develop PEPP savers' trust and allow them to make informed choices. Accordingly, the use of non-transparent pricing methods should be prohibited.
- (59) In order to fulfil the objectives set out in this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of specifying the conditions for the exercise of intervention powers by EIOPA and the competent authorities and the criteria and factors to be applied by EIOPA to determine when there is a significant PEPP saver protection concern. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>(13)</sup>. 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.
- (60) Without prejudice to the right of PEPP customers to bring action in the courts, easily accessible, adequate, independent, impartial, transparent and effective alternative dispute resolution (ADR) procedures should be established between PEPP providers or PEPP distributors and PEPP customers for resolving disputes arising from the rights and obligations set out in this Regulation.
- (61) With a view to establishing an efficient and effective dispute resolution procedure, PEPP providers and PEPP distributors should put in place an effective complaints procedure that can be followed by their customers before the dispute is referred to be resolved in an ADR procedure or before a court. The complaints procedure should contain short and clearly defined timeframes within which the PEPP provider or PEPP distributor should reply to a complaint. ADR bodies should have sufficient capacity to engage in an adequate and efficient way in cross-border cooperation with regard to disputes concerning rights and obligations pursuant to this Regulation.

<sup>(10)</sup> Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

<sup>(11)</sup> Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds (OJ L 123, 19.5.2015, p. 98).

<sup>(12)</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

<sup>(13)</sup> OJ L 123, 12.5.2016, p. 1.

- (62) In order to find better conditions for their investments, thus also stimulating the competition among PEPP providers, PEPP savers should have the right to switch to a different PEPP provider located in the same or another Member State during the accumulation phase, through a clear, quick and safe procedure. However, PEPP providers should not be obliged to provide the switching service for PEPPs, where savers are receiving out-payments in the form of lifetime annuities. During switching, transferring PEPP providers should transfer the corresponding amounts or, where applicable, assets-in-kind from the PEPP account and close it. PEPP savers should conclude contracts with receiving PEPP providers for the opening of a new PEPP account. The new PEPP account should have the same sub-account structure as the former PEPP account.
- (63) During the switching service, PEPP savers can choose to transfer assets-in-kind only when the switching is between PEPP providers, such as investment firms or other eligible providers holding an additional licence, engaged in portfolio management for PEPP savers. Written consent of the receiving provider is needed in that case. In the case of collective investment management, the switching of assets-in-kind is not possible as there is no separation of assets for every PEPP saver.
- (64) The switching process should be straightforward for the PEPP saver. Accordingly, the receiving PEPP provider should be responsible for initiating and managing the process on behalf of the PEPP saver and upon his request. PEPP providers should be able to use additional means, such as a technical solution, on a voluntary basis when establishing the switching service. Considering the pan-European nature of the product, PEPP savers should be able to switch without delay and free of charge when no sub-account is available in the Member State the PEPP saver moves to.
- (65) Before giving the authorisation for switching, the PEPP saver should be informed of all the steps of the procedure and costs necessary to complete the switching, in order to enable the PEPP saver to make an informed decision about the switching service.
- (66) The cooperation of the transferring PEPP provider is necessary in order for the switching to be successful. Therefore, the receiving PEPP provider should be provided by the transferring PEPP provider with all the information necessary to reinstate the payments on the other PEPP account. However, such information should not exceed what is necessary in order to carry out the switching.
- (67) PEPP savers should not be subject to financial losses, including charges and interest, caused by any mistakes made by either of the PEPP providers involved in the switching process. In particular, PEPP savers should not bear any financial loss deriving from the payment of additional fees, interest or other charges as well as fines, penalties or any other type of financial detriment due to delay in the execution of the switching. As capital protection should be ensured at the start of the decumulation phase and during the decumulation phase, where applicable, the transferring PEPP provider should not be obliged to ensure the capital protection or guarantee at the moment of switching. The PEPP provider might also decide to ensure the capital protection or provide the guarantee at the moment of switching.
- (68) PEPP savers should have the possibility to make an informed decision before switching. The receiving PEPP provider should comply with all the distribution and information requirements, including the provision of a PEPP KID, advice and adequate information regarding the costs related to the switching and the possible negative implications on the capital protection when a PEPP with a guarantee is being switched. Costs for the switching applied by the transferring PEPP provider should be kept to an amount that does not constitute an obstacle to mobility and in any case, be limited to 0,5 % of the corresponding amounts or monetary value of the assets-in-kind to be transferred.

- (69) PEPP savers should be given the freedom to decide upon subscription of a PEPP and when opening a new sub-account about their pay-out choice (annuities, lump sum, or other) in the decumulation phase, but with a possibility to revise their choice one year before the start of the decumulation phase, at the start of the decumulation phase and at the moment of switching, in order to be able to best adapt their pay-out choice to their needs when they near retirement. If the PEPP provider makes available more than one form of out-payments, it should be possible for the PEPP saver to opt for a different pay-out choice for each sub-account opened in his PEPP account.
- (70) PEPP providers should be allowed to make available to PEPP savers a wide range of forms of out-payments. That approach would achieve the goal of enhanced take-up of the PEPP through increased flexibility and choice for PEPP savers. It would allow providers to design their PEPPs in the most cost-effective way. It is coherent with other Union policies and politically feasible, as it preserves enough flexibility for Member States to decide about which forms of out-payments they wish to encourage. In line with the long-term retirement nature of the product, it should be possible for Member States to adopt measures to privilege particular forms of out-payments such as quantitative limits for lump sum payments to further encourage lifelong annuities and drawdown payments.
- (71) In view of the pan-European character of the PEPP, there is a need to ensure a consistent high level of PEPP saver protection throughout the internal market. This requires adequate tools to effectively combat infringements and prevent consumer detriment. Therefore, the powers of EIOPA and the competent authorities should be complemented by an explicit mechanism for prohibiting or restricting the marketing, distribution or sale of any PEPP giving rise to serious concerns regarding PEPP saver protection, including with respect to the long-term retirement nature of the product, the orderly functioning and integrity of financial markets, or the stability of the whole or part of the financial system, together with appropriate coordination and contingency powers for EIOPA.

The powers of EIOPA should be based on Article 9(5) of Regulation (EU) No 1094/2010 so as to ensure that such mechanisms for intervention can be applied in the case of significant PEPP saver protection concerns, including with respect to the particular long-term retirement nature of the PEPP. Where the conditions are met, the competent authorities should be able to impose a prohibition or restriction on a precautionary basis before a PEPP has been marketed, distributed or sold to PEPP savers. Those powers do not relieve the PEPP provider of its responsibility to comply with all the relevant requirements under this Regulation.

- (72) Full transparency on costs and fees related to the investment in a PEPP should be guaranteed. A level-playing field between providers would be established, whilst ensuring consumer protection. Comparative information would be available between different products, thus incentivising competitive pricing.
- (73) Although the ongoing supervision of PEPP providers is to be exercised by the respective competent authorities, EIOPA should coordinate the supervision with regards to PEPPs, in order to guarantee the consistent application of a unified supervisory methodology, contributing in that way to the pan-European and long-term retirement nature of PEPPs.
- (74) In order to strengthen consumer rights and to facilitate access to a complaints procedure, PEPP savers should be able, either individually or collectively, to submit complaints to the competent authorities of their Member State of residence, regardless of where the infringement occurred.
- (75) EIOPA should cooperate with competent authorities and facilitate cooperation and consistency between them. In this respect, EIOPA should play a role in the power of competent authorities to apply supervisory measures by providing evidence about PEPP-related infringements. EIOPA should also provide binding mediation in the event of disagreement between competent authorities in cross-border situations.
- (76) In order to ensure compliance with this Regulation by PEPP providers and PEPP distributors and to ensure that they are subject to similar treatment across the Union, administrative penalties and other measures which are effective, proportionate and dissuasive should be provided.
- (77) In line with the Communication of the Commission of 8 December 2010 'Reinforcing sanctioning regimes in the financial services sector' and in order to ensure that the requirements of this Regulation are fulfilled, it is important that Member States take necessary steps to ensure that infringements of this Regulation are subject to appropriate administrative penalties and other measures.

- (78) Although Member States can lay down rules for administrative and criminal penalties for the same infringements, Member States should not be required to lay down rules for administrative penalties for infringements of this Regulation which are subject to national criminal law. However, the maintenance of criminal penalties instead of administrative penalties for infringements of this Regulation should not reduce or otherwise affect the ability of competent authorities to cooperate, access and exchange information in a timely way with competent authorities in other Member States for the purposes of this Regulation, including after any referral of the relevant infringements to the competent judicial authorities for criminal prosecution.
- (79) Competent authorities should be empowered to impose pecuniary penalties which are sufficiently high to offset the actual or potential profits, and to be dissuasive even for larger financial undertakings and their managers.
- (80) In order to ensure a consistent application of penalties across the Union, the competent authorities should take into account all relevant circumstances when determining the type of administrative penalty or other measures and the level of pecuniary penalties.
- (81) In order to ensure that decisions on infringements and penalties by competent authorities have a dissuasive effect on the public at large and to strengthen consumer protection by warning them about PEPPs distributed in infringement of this Regulation, those decisions should be published unless such disclosure jeopardises the stability of financial markets or an ongoing investigation.
- (82) In order to detect potential infringements, the competent authorities should have the necessary investigatory powers, and should establish effective mechanisms, to enable reporting of potential or actual infringements.
- (83) This Regulation should be without prejudice to any provisions in the laws of Member States in respect of criminal offences.
- (84) Any processing of personal data carried out within the framework of this Regulation, such as the exchange or transmission of personal data by the competent authorities or the processing of personal data by PEPP providers or PEPP distributors, should be undertaken in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>(14)</sup> and Directive 2002/58/EC of the European Parliament and of the Council<sup>(15)</sup>. Any exchange or transmission of information by the ESAs should be undertaken in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>(16)</sup>.
- (85) Given the sensitivity of personal financial data, strong data protection is of the utmost importance. Therefore it is recommended that data protection authorities are closely involved in the implementation and supervision of this Regulation.
- (86) The registration and notification procedure laid down in this Regulation should not replace any additional national procedure in place to have the possibility to benefit from the advantages and incentives fixed at national level.
- (87) An evaluation of this Regulation is to be carried out, inter alia, by assessing market developments, such as the emergence of new types of PEPPs, as well as developments in other areas of Union law and the experiences of Member States. Such an evaluation should take account of the different aims and purposes of establishing a well-functioning PEPP-market, and in particular should evaluate whether this Regulation has resulted in more European citizens saving for sustainable and adequate pensions. The importance of minimum European standards for the supervision of PEPP providers also requires the evaluation of the PEPP providers in terms of compliance with this Regulation and the applicable sectorial law.

<sup>(14)</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>(15)</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

<sup>(16)</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).



- (88) Given the possible long-term implications of this Regulation, it is essential to closely monitor developments during the initial phase of application. When carrying out the evaluation the Commission should also reflect the experiences of EIOPA, stakeholders and experts, and report to the European Parliament and to the Council any observations it might have.
- (89) This Regulation should ensure respect for fundamental rights and observe the principles recognised in particular by the Charter of the Fundamental Rights of the European Union, in particular the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life, the right to the protection of personal data, the right to property, the freedom to conduct a business, the principle of equality between men and women and the principle of a high level of consumer protection.
- (90) Since the objectives of this Regulation, namely to enhance PEPP saver protection and improve PEPP saver confidence in PEPPs, including where those products are distributed cross-border, cannot be sufficiently achieved by the Member States but can rather, by reason of its effects, be better achieved at Union level the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. 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,

HAVE ADOPTED THIS REGULATION:

#### CHAPTER I

#### GENERAL PROVISIONS

##### *Article 1*

##### **Subject matter**

This Regulation lays down uniform rules on the registration, manufacturing, distribution and supervision of personal pension products that are distributed in the Union under the designation 'pan-European Personal Pension product' or 'PEPP'.

##### *Article 2*

##### **Definitions**

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

(1) 'personal pension product' means a product which:

- (a) is based on a contract between an individual saver and an entity on a voluntary basis and is complementary to any statutory or occupational pension product;

- (b) provides for long-term capital accumulation with the explicit objective of providing income on retirement and with limited possibilities for early withdrawal before that time;
- (c) is neither a statutory nor an occupational pension product;
- (2) 'pan-European Personal Pension Product' or 'PEPP' means a long-term savings personal pension product, which is provided by a financial undertaking eligible according to Article 6(1) under a PEPP contract, and subscribed to by a PEPP saver, or by an independent PEPP savers association on behalf of its members, in view of retirement, and which has no or strictly limited possibility for early redemption and is registered in accordance with this Regulation;
- (3) 'PEPP saver' means a natural person who has concluded a PEPP contract with a PEPP provider;
- (4) 'PEPP contract' means a contract between a PEPP saver and a PEPP provider which fulfils the conditions laid down in Article 4;
- (5) 'PEPP account' means a personal pension account held in the name of a PEPP saver or a PEPP beneficiary which is used for the recording of transactions allowing the PEPP saver to contribute periodically sums towards retirement and the PEPP beneficiary to receive PEPP benefits;
- (6) 'PEPP beneficiary' means a natural person receiving PEPP benefits;
- (7) 'PEPP customer' means a PEPP saver, a prospective PEPP saver or a PEPP beneficiary;
- (8) 'PEPP distribution' means advising on, proposing, or carrying out other work preparatory to the conclusion of contracts for providing a PEPP, concluding such contracts, or assisting in the administration and performance of such contracts, including the provision of information concerning one or more PEPP contracts in accordance with criteria selected by PEPP customers through a website or other media and the compilation of a PEPP ranking list, including price and product comparison, or a discount on the price of a PEPP, when the PEPP customer is able to directly or indirectly conclude a PEPP contract using a website or other media;
- (9) 'PEPP retirement benefits' means benefits paid by reference to reaching, or the expectation of reaching, retirement in one of the forms referred to in Article 58(1);
- (10) 'PEPP benefits' means PEPP retirement benefits and other additional benefits to which a PEPP beneficiary is entitled in accordance with the PEPP contract, in particular for the strictly limited cases of early redemption or if the PEPP contract provides a coverage of biometric risks;
- (11) 'accumulation phase' means the period during which assets are accumulated in a PEPP account and ordinarily runs until the decumulation phase starts;
- (12) 'decumulation phase' means the period during which assets accumulated in a PEPP account may be drawn upon to fund retirement or other income requirements;

- (13) 'annuity' means a sum payable at specific intervals over a period, such as the PEPP beneficiary's life or a certain number of years, in return for an investment;
- (14) 'drawdown payments' means discretionary amounts which PEPP beneficiaries may draw up to a certain limit on a periodic basis;
- (15) 'PEPP provider' means a financial undertaking as referred to in Article 6(1) authorised to manufacture a PEPP and to distribute that PEPP;
- (16) 'PEPP distributor' means a financial undertaking as referred to in Article 6(1) authorised to distribute PEPPs not manufactured by it, an investment firm providing investment advice, or an insurance intermediary as defined in point (3) of Article 2(1) of Directive (EU) 2016/97 of the European Parliament and of the Council <sup>(17)</sup>;
- (17) 'durable medium' means any instrument which:
- (a) enables a PEPP customer to store information addressed personally to that customer in a way accessible for future reference and for a period of time adequate for the purposes of the information; and
  - (b) allows the unchanged reproduction of the information stored;
- (18) 'competent authorities' means the national authorities designated by a Member State to supervise PEPP providers or PEPP distributors, as the case may be or to carry out the duties provided for in this Regulation;
- (19) 'home Member State of the PEPP provider' means home Member State as defined in the relevant legislative act referred to in Article 6(1);
- (20) 'home Member State of the PEPP distributor' means:
- (a) where the distributor is a natural person, the Member State in which his or her residence is situated;
  - (b) where the distributor is a legal person, the Member State in which its registered office is situated or, where the distributor under its national law has no registered office, the Member State in which its head office is situated;
- (21) 'host Member State of the PEPP provider' means a Member State, other than the home Member State of the PEPP provider, in which the PEPP provider provides PEPPs under the freedom to provide services or the freedom of establishment or for which the PEPP provider has opened a sub-account;

<sup>(17)</sup> Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19).

- (22) 'host Member State of the PEPP distributor' means a Member State, other than the home Member State of the PEPP distributor, in which the PEPP distributor distributes PEPPs under the freedom to provide services or the freedom of establishment;
- (23) 'sub-account' means a national section which is opened within each PEPP account and which corresponds to the legal requirements and conditions for using possible incentives fixed at national level for investing in a PEPP by the Member State of the PEPP saver's residence; accordingly, an individual may be a PEPP saver or a PEPP beneficiary in each sub-account, depending on the respective legal requirements for the accumulation phase and decumulation phase;
- (24) 'capital' means aggregate capital contributions, calculated on the basis of amounts investible after deduction of all fees, charges and expenses that are directly or indirectly borne by PEPP savers;
- (25) 'financial instruments' means those instruments specified in Section C of Annex I to Directive 2014/65/EU of the European Parliament and of the Council <sup>(18)</sup>;
- (26) 'depository' means an institution charged with the safekeeping of assets and oversight of compliance with the fund rules and applicable law;
- (27) 'Basic PEPP' means an investment option as laid down in Article 45;
- (28) 'risk mitigation techniques' means techniques for a systematic reduction in the extent of exposure to a risk and/or the likelihood of its occurrence;
- (29) 'biometric risks' means risks linked to death, disability and/or longevity;
- (30) 'switching provider' means, upon a PEPP saver's request, transferring from one PEPP provider to another the corresponding amounts, or where applicable assets-in-kind in accordance with Article 52(4), from one PEPP account to the other, with closing the former PEPP account without prejudice to point (e) of Article 53(4);
- (31) 'advice' means a personal recommendation provided by the PEPP provider or PEPP distributor to a PEPP customer in respect of one or more PEPP contracts;
- (32) 'partnership' means cooperation between PEPP providers to offer sub-accounts for different Member States in the context of the portability service, as referred to in Article 19(2);
- (33) 'environmental, social and governance factors' or 'ESG factors' means environmental, social and governance matters such as those referred to in the Paris Agreement, the United Nations Sustainable Development Goals, the United Nations Guiding Principles on Business and Human Rights and the United Nations-supported Principles for Responsible Investment.

<sup>(18)</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

*Article 3***Applicable rules**

The registration, manufacturing, distribution and supervision of PEPPs shall be subject to:

- (a) this Regulation; and
- (b) in the case of matters not regulated by this Regulation:
  - (i) relevant sectorial Union law including the corresponding delegated and implementing acts;
  - (ii) the laws adopted by Member States in implementation of relevant sectorial Union law and implementation of measures relating specifically to PEPPs;
  - (iii) other national laws which apply to PEPPs.

*Article 4***PEPP contract**

1. The PEPP contract shall lay down the specific provisions for the PEPP in accordance with the applicable rules referred to in Article 3.
2. The PEPP contract shall in particular include the following:
  - (a) a description of the Basic PEPP, as referred to in Article 45, including information on the guarantee on the capital invested or the investment strategy directed at ensuring the capital protection;
  - (b) a description of the alternative investment options, as referred to in Article 42(2), where applicable;
  - (c) the conditions related to the modification of the investment option referred to in Article 44;
  - (d) where the PEPP offers biometric risk coverage, details of that coverage, including the circumstances that would trigger it;
  - (e) a description of the PEPP retirement benefits, in particular the possible forms of out-payments and the right to change the form of out-payment referred to in Article 59;
  - (f) the conditions related to the portability service referred to in Articles 17 to 20 including information on the Member States for which a sub-account is available;
  - (g) the conditions related to the switching service referred to in Articles 52 to 55;

- (h) the categories of costs and total aggregate costs expressed in percentage terms and in monetary terms, where applicable;
- (i) the conditions related to the accumulation phase for the sub-account corresponding to the Member State of residence of the PEPP saver referred to in Article 47;
- (j) the conditions related to the decumulation phase for the sub-account corresponding to the Member State of residence of the PEPP saver referred to in Article 57;
- (k) where applicable, the conditions under which advantages or incentives granted are to be repaid to the Member State of residence of the PEPP saver.

## CHAPTER II

### REGISTRATION

#### *Article 5*

#### **Registration**

1. A PEPP may only be provided and distributed in the Union where it has been registered in the central public register kept by EIOPA in accordance with Article 13.
2. Registration of a PEPP shall be valid in all Member States. It entitles the PEPP provider to provide the PEPP and PEPP distributor to distribute the PEPP registered in the central public register referred to in Article 13.

Supervision of compliance with this Regulation on an ongoing basis shall be carried out in accordance with Chapter IX.

#### *Article 6*

#### **Application for registration of a PEPP**

1. Only the following financial undertakings authorised or registered under Union law may apply for registration of a PEPP:
  - (a) credit institutions authorised in accordance with Directive 2013/36/EU of the European Parliament and of the Council <sup>(19)</sup>;
  - (b) insurance undertakings authorised in accordance with Directive 2009/138/EC of the European Parliament and of the Council <sup>(20)</sup>, engaged in direct life insurance according to Article 2(3) of Directive 2009/138/EC and Annex II to that Directive;
  - (c) institutions for occupational retirement provision (IORPs) authorised or registered in accordance with Directive (EU) 2016/2341 which, pursuant to national law, are authorised and supervised to provide also personal pension products. In that case, all assets and liabilities corresponding to PEPP provision business shall be ring-fenced, without any possibility to transfer them to the other retirement provision business of the institution;

<sup>(19)</sup> 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).

<sup>(20)</sup> Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

(d) investment firms authorised in accordance with Directive 2014/65/EU, providing portfolio management;

(e) investment companies or management companies authorised in accordance with Directive 2009/65/EC;

(f) EU alternative investment fund managers (EU AIFM) authorised in accordance with Directive 2011/61/EU.

2. Financial undertakings listed in paragraph 1 of this Article shall submit the application for registration of a PEPP to their competent authorities. The application shall include the following:

(a) the standard contract terms of the PEPP contract to be proposed to PEPP savers, as referred to in Article 4;

(b) information on the identity of the applicant;

(c) information on arrangements regarding portfolio and risk management and administration with regard to the PEPP, including arrangements as referred to in Articles 19(2), 42(5) and 49(3);

(d) a list of Member States where the applicant PEPP provider intends to market the PEPP, where applicable;

(e) information on the identity of the depositary, where applicable;

(f) PEPP key information as referred to in Article 26;

(g) a list of Member States for which the applicant PEPP provider will be able to ensure the immediate opening of a sub-account.

3. The competent authorities shall assess whether the application referred to in paragraph 2 is complete within 15 working days of receipt of the application.

The competent authorities shall set a time limit by which the applicant is to provide additional information, if the application is not complete. After the application is considered to be complete, the competent authorities shall notify the applicant accordingly.

4. Within three months of the date of the submission of the complete application under paragraph 3, the competent authorities shall take a decision for registration of a PEPP only if the applicant is eligible to provide PEPPs according to paragraph 1 and if the information and documents submitted in the application for registration referred to in paragraph 2 comply with this Regulation.

5. Within five working days of taking a decision for registration of the PEPP, competent authorities shall communicate to EIOPA the decision as well as the information and documents referred to in points (a), (b), (d), (f) and (g) of paragraph 2 and shall inform the applicant PEPP provider accordingly.

EIOPA shall not be responsible or be held liable for a decision for registration taken by competent authorities.

Where the competent authorities refuse to grant registration, they shall issue a reasoned decision which shall be subject to a right to appeal.

6. In the event that there is more than one competent authority in a Member State for a specific type of financial undertaking as referred to in paragraph 1, that Member State shall designate a single competent authority for each type of financial undertaking referred to in paragraph 1 to be responsible for the registration procedure and for the communication with EIOPA.

Any subsequent modifications to the information and documents provided in the application referred to in paragraph 2 shall be immediately notified to the competent authorities. Where modifications are in relation to the information and documents referred to in points (a), (b), (d), (f) and (g) of paragraph 2, the competent authorities shall communicate those modifications to EIOPA without undue delay.

#### *Article 7*

##### **Registration of a PEPP**

1. Within five working days from the date of communication of the decision for registration as well as the information and documents in accordance with Article 6(5), EIOPA shall register the PEPP in the central public register referred to in Article 13 and shall notify the competent authorities accordingly without undue delay.

2. Within five working days after receiving the notification for the registration of the PEPP referred to in paragraph 1, competent authorities shall inform the applicant PEPP provider accordingly.

3. The PEPP provider may provide the PEPP and the PEPP distributor may distribute the PEPP as from the date of the registration of the PEPP in the central public register referred to in Article 13.

#### *Article 8*

##### **Conditions for deregistration of a PEPP**

1. The competent authorities shall issue a decision for deregistration of the PEPP when:

(a) the PEPP provider expressly renounces the registration;



(b) the PEPP provider has obtained the registration by making false statements or by any other irregular means;

(c) the PEPP provider has seriously or systematically infringed this Regulation; or

(d) the PEPP provider or the PEPP no longer meets the conditions under which registration was granted.

2. Within five working days after taking a decision for deregistration of the PEPP, the competent authorities shall communicate it to EIOPA and shall inform the PEPP provider accordingly.

3. Within five working days after receiving the notification of the decision for deregistration referred to in paragraph 2, EIOPA shall deregister the PEPP and shall notify the competent authorities accordingly.

4. Within five working days after receiving the notification for the deregistration of the PEPP referred to in paragraph 3, including the date of the deregistration, competent authorities shall notify the PEPP provider accordingly.

5. The PEPP provider shall no longer provide the PEPP and the PEPP distributor shall no longer distribute the PEPP as from the date of the deregistration of the PEPP in the central public register referred to in Article 13.

6. Where EIOPA has received information regarding the existence of one of the circumstances referred to in point (b) or (c) of paragraph 1 of this Article, in accordance with the duty of cooperation between competent authorities and EIOPA referred to in Article 66, EIOPA shall request the competent authorities of the PEPP provider to verify the existence of such circumstances and the competent authorities shall submit to EIOPA their findings and the corresponding information.

7. Before taking a decision for deregistration of the PEPP, the competent authorities and EIOPA shall give their best efforts to ensure that the PEPP savers interests are safeguarded.

#### *Article 9*

#### **Designation**

The designation 'pan-European Personal Pension Product' or 'PEPP' in relation to a personal pension product may only be used where the personal pension product has been registered by EIOPA to be distributed under the designation 'PEPP' in accordance with this Regulation.

*Article 10***Distribution of PEPPs**

1. Financial undertakings referred to in Article 6(1) may distribute PEPPs which they have manufactured. They may also distribute PEPPs which they have not manufactured provided they comply with the relevant sectorial law in accordance with which they may distribute products which they have not manufactured.
2. Insurance intermediaries registered in accordance with Directive (EU) 2016/97 and investment firms authorised in accordance with Directive 2014/65/EU for the provision of investment advice as defined in point 4 of Article 4(1) of Directive 2014/65/EU may distribute PEPPs which they have not manufactured.

*Article 11***Prudential regime applicable to different types of providers**

PEPP providers and PEPP distributors shall comply with this Regulation, as well as with the relevant prudential regime applicable to them in accordance with the legislative acts referred to in Articles 6(1) and 10(2).

*Article 12***Publication of national provisions**

1. The texts of the national laws, regulations and administrative provisions governing the conditions related to the accumulation phase referred to in Article 47 and the conditions related to the decumulation phase referred to in Article 57, including information about additional national procedures put in place for applying for advantages and incentives set at national level, where applicable, shall be made public and kept up to date by the relevant national authority.
2. All competent authorities in a Member State shall maintain and keep up to date on their website a link to the texts referred to in paragraph 1.
3. The publication of the texts referred to in paragraph 1 shall only be for informational purposes and shall not create legal obligations or liabilities for the relevant national authorities.

*Article 13***Central public register**

1. EIOPA shall keep a central public register identifying each PEPP registered under this Regulation, the registration number of the PEPP, the PEPP provider of this PEPP, the competent authorities of the PEPP provider, the date of the registration of the PEPP, a complete list of Member States in which this PEPP is offered and a complete list of Member States for which the PEPP provider offers a sub-account. The register shall be publicly available in electronic format and shall be kept up to date.
2. Competent authorities shall inform EIOPA of the links referred to in Article 12(2) and shall keep this information up to date.
3. EIOPA shall publish and keep up to date the links referred to in paragraph 2 in the central public register referred to in paragraph 1.

## CHAPTER III

**CROSS-BORDER PROVISION AND PORTABILITY OF PEPP**

## SECTION I

***Freedom to provide services and freedom of establishment****Article 14***Exercise of the freedom to provide services and freedom of establishment by PEPP providers and PEPP distributors**

1. PEPP providers may provide and PEPP distributors may distribute PEPPs within the territory of a host Member State under the freedom to provide services or the freedom of establishment, provided they do so in compliance with the relevant rules and procedures established by or under the Union law applicable to them referred to in points (a), (b), (d) and (e) of Article 6(1) or in Article 10(2) and after notifying their intention to open a sub-account for this host Member State in accordance with Article 21.

2. PEPP providers as referred to in points (c) and (f) of Article 6(1) shall comply with the rules set out in Article 15.

*Article 15***Exercise of the freedom to provide services by IORPs and EU AIFM**

1. PEPP providers as referred to in points (c) and (f) of Article 6(1) which intend to provide PEPPs to PEPP savers within the territory of a host Member State for the first time under the freedom to provide services and after notifying their intention to open a sub-account for this host Member State in accordance with Article 21, shall communicate the following information to the competent authorities of their home Member State:

(a) the name and address of the PEPP provider;

(b) the Member State in which the PEPP provider intends to provide or distribute PEPPs to PEPP savers.

2. The competent authorities of the home Member State shall transmit the information within 10 working days of the date of receipt to the host Member State together with a confirmation that the PEPP provider referred to in paragraph 1 of this Article complies with the requirements set out in Article 6(1). The information is communicated to the competent authorities of the host Member State unless the competent authorities of the home Member State have reason to doubt the adequacy of the administrative structure in relation to the provision of PEPP or the financial situation of the PEPP provider as referred to in points (c) and (f) of Article 6(1).

Where the competent authorities of the home Member State refuse to communicate the information to the competent authorities of the host Member State, they shall give reasons for such refusal to the PEPP provider concerned within one month of receiving all the information and documents. The refusal or any failure to reply shall be subject to the right to appeal to the courts in the PEPP provider's home Member State.

3. The competent authorities of the host Member State shall within 10 working days acknowledge receipt of the information referred to in paragraph 1. The competent authorities of the home Member State shall then inform the PEPP provider that the information has been received by the competent authorities of the host Member State and that the PEPP provider can start the provision of PEPP to PEPP savers in that Member State.

4. In the absence of acknowledgment of receipt as referred to in paragraph 3 within 10 working days of the date of the transmission of the information as referred to in paragraph 2, the competent authorities of the home Member State shall inform the PEPP provider that the PEPP provider can start providing services in that host Member State.

5. In the event of a change in any of the information referred to in paragraph 1, the PEPP provider shall notify that change to the competent authorities of the home Member State at least one month before implementing the change. The competent authorities of the home Member State shall inform the competent authorities of the host Member State about the change as soon as possible and no later than one month from receipt of the notification.

6. Host Member States may, for the purposes of this procedure, designate other competent authorities than those referred to in point 18 of Article 2 in order to exercise the powers conferred on the competent authorities of the host Member State. They shall inform the Commission and EIOPA, indicating any division of those duties.

#### *Article 16*

##### **Powers of the competent authorities of the host Member State**

1. Where the competent authorities of the host Member State have reason to consider that a PEPP is distributed within its territory or a sub-account for that Member State has been opened in infringement of any obligations resulting from the applicable rules, as referred to in Article 3, they shall refer their findings to the competent authorities of the home Member State of the PEPP provider or the PEPP distributor.

2. After assessing the information received pursuant to paragraph 1, the competent authorities of the home Member State shall, where applicable, take appropriate measures without delay to remedy the situation. They shall inform the competent authorities of the host Member State of any such measures.

3. Where the measures taken by the competent authorities of the home Member State prove to be inadequate or are lacking, and the PEPP provider or the PEPP distributor continues to distribute the PEPP in a manner that is clearly detrimental to the interests of the host Member State's PEPP savers or to the orderly functioning of the market for personal pension products in that Member State, the competent authorities of the host Member State may, after informing the competent authorities of the home Member State, take appropriate measures to prevent further irregularities, including, in so far as is strictly necessary, preventing the PEPP provider or the PEPP distributor from continuing the distribution of PEPPs within their territory.

In addition, the competent authorities of the home Member State or the competent authorities of the host Member State may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010.

4. Paragraphs 1 to 3 shall not affect the power of the host Member State to take appropriate and non-discriminatory measures to prevent or penalise irregularities committed within its territory, in situations where immediate action is strictly necessary in order to protect the rights of consumers in the host Member State, and where equivalent measures of the home Member State are inadequate or lacking, or in cases where the irregularities are contrary to national legal provisions protecting the general good, in so far as strictly necessary. In such situations, host Member States shall have the possibility of preventing the PEPP provider or the PEPP distributor from carrying on new business within their territory.

5. Any measure adopted by the competent authorities of the host Member State under this Article shall be communicated to the PEPP provider or the PEPP distributor in a well-reasoned document and notified to the competent authorities of the home Member State without undue delay.

## SECTION II

### **Portability**

#### *Article 17*

#### **The portability service**

1. PEPP savers shall have the right to use a portability service which gives them the right to continue contributing into their existing PEPP account, when changing their residence to another Member State.

2. When using the portability service, PEPP savers are entitled to retain all advantages and incentives granted by the PEPP provider and connected with continuous investment in their PEPP.

#### *Article 18*

#### **Provision of the portability service**

1. PEPP providers shall provide the portability service referred to in Article 17 to PEPP savers holding a PEPP account with them and requesting this service.

2. When proposing a PEPP, the PEPP provider or PEPP distributor shall provide prospective PEPP savers with information on the portability service and on which sub-accounts are immediately available.

3. Within three years of the date of application of this Regulation, each PEPP provider shall offer national sub-accounts for at least two Member States upon request addressed to the PEPP provider.

#### *Article 19*

#### **Sub-accounts of the PEPP**

1. Where PEPP providers provide a portability service to PEPP savers in accordance with Article 17, PEPP providers shall ensure that when a new sub-account is opened within a PEPP account, it shall correspond to the legal requirements and conditions, as referred to in Articles 47 and 57, determined at national level for the PEPP by the new Member State of residence of the PEPP saver. All transactions in the PEPP account shall be entered into a corresponding sub-account. The contributions made to and withdrawals from the sub-account may be subject to separate contract terms.

2. Without prejudice to applicable sectorial law, PEPP providers may also ensure compliance with the requirements referred to in paragraph 1 by establishing a partnership with another registered PEPP provider (the 'partner').

Having regard to the scope of the functions to be carried out by the partner, the partner shall be qualified and capable of undertaking the delegated functions. The PEPP provider shall enter into a written agreement with the partner. The agreement shall be legally enforceable and shall clearly define the rights and obligations of the PEPP provider and of the partner. The agreement shall comply with the relevant rules and procedures for delegation and outsourcing established by or under the Union law applicable to them, as referred to in Article 6(1). Notwithstanding that agreement, the PEPP provider shall remain solely liable for its responsibilities under this Regulation.

*Article 20***Opening of a new sub-account**

1. Without delay after being informed about the PEPP saver's change of residence to another Member State, the PEPP provider shall inform the PEPP saver about the possibility to open a new sub-account within the PEPP saver's PEPP account and about the timeframe within which such a sub-account could be opened.

In that case, the PEPP provider shall provide the PEPP saver free of charge with the PEPP KID, containing the specific requirements referred to in point (g) of Article 28(3) for the sub-account corresponding to the new Member State of residence of the PEPP saver.

In the case that a new sub-account is not available, the PEPP provider shall inform the PEPP saver about the right to switch without delay and free of charge and of the possibility to continue saving in the last sub-account opened.

2. If the PEPP saver intends to make use of the possibility to open a sub-account, the PEPP saver shall inform the PEPP provider of the following:

(a) the PEPP saver's new Member State of residence;

(b) the date from which the contributions shall be directed to the new sub-account;

(c) any relevant information about other conditions for the PEPP.

3. The PEPP saver may continue contributing to the last sub-account opened.

4. The PEPP provider shall offer to provide the PEPP saver with a personalised recommendation explaining whether the opening of a new sub-account within the PEPP saver's PEPP account and making contributions to the new sub-account would be more favourable than continuing to contribute to the last sub-account opened.

5. Where the PEPP provider is not able to ensure the opening of a new sub-account corresponding to the PEPP saver's new Member State of residence, the PEPP saver shall according to his or her choice be able to:

(a) switch PEPP provider without delay and free of charge notwithstanding the requirements of Article 52(3) on the frequency of switching; or

(b) continue contributing to the last sub-account opened.

6. The new sub-account shall be opened by amending the existing PEPP contract between the PEPP saver and the PEPP provider, in compliance with the applicable contract law. The date of opening shall be defined in the contract.

*Article 21***Provision of information on portability to the competent authorities**

1. The PEPP provider wishing to open a new sub-account for a host Member State for the first time shall notify the competent authorities of the home Member State.

2. The PEPP provider shall include in the notification the following information and documents:
  - (a) standard contract terms of the PEPP contract, as referred to in Article 4, including the annex for the new sub-account;
  - (b) the PEPP KID, containing the specific requirements for the sub-account corresponding to the new sub-account in accordance with point (g) of Article 28(3);
  - (c) the PEPP Benefit Statement referred to in Article 36;
  - (d) information about contractual arrangements referred to in Article 19(2), where applicable.
3. The competent authorities of the home Member State shall verify whether the documentation provided is complete and transmit it within 10 working days of receipt of the complete documentation to the competent authorities of the host Member State.
4. The competent authorities of the host Member State shall without delay acknowledge the receipt of the information and documents referred to in paragraph 2.
5. The competent authorities of the home Member State shall then inform the PEPP provider that the information has been received by the competent authorities of the host Member State and that the PEPP provider can open the sub-account for that Member State.

In the absence of acknowledgment of receipt as referred to in paragraph 4 within 10 working days of the date of the transmission of the documentation as referred to in paragraph 3, the competent authorities of the home Member State shall inform the PEPP provider that the sub-account for that Member State can be opened.

6. In the event of a change in any of the information and documents referred to in paragraph 2, the PEPP provider shall notify that change to the competent authorities of the home Member State at least one month before implementing the change. The competent authorities of the home Member State shall inform the competent authorities of the host Member State about the change as soon as possible and no later than one month from receipt of the notification.

#### CHAPTER IV

### DISTRIBUTION AND INFORMATION REQUIREMENTS

#### SECTION I

#### **General provisions**

#### *Article 22*

#### **General principle**

When carrying out distribution activities for PEPPs, PEPP providers and PEPP distributors shall always act honestly, fairly and professionally in accordance with the best interests of their PEPP customers.

*Article 23***Distribution regime applicable to different types of PEPP providers and PEPP distributors**

1. For the distribution of PEPPs, the different types of PEPP providers and PEPP distributors shall comply with the following rules:

- (a) insurance undertakings as referred to in point (b) of Article 6(1) of this Regulation and insurance intermediaries as referred to in Article 10(2) of this Regulation shall comply with the applicable national law giving effect to the rules set out in Chapters V and VI of Directive (EU) 2016/97, with the exception of Articles 20, 23, 25 and Article 30(3) of that Directive for the distribution of insurance-based investment products, with any directly applicable Union law adopted under those rules with respect to the distribution of such products and with this Regulation, with the exception of Article 34(4);
- (b) investment firms as referred to in Article 10(2) of this Regulation shall comply with the applicable national law giving effect to the rules on marketing and distribution of financial instruments set out in the first subparagraph of Article 16(3) and Articles 23, 24 and 25 of Directive 2014/65/EU, with the exception of Article 24(2) and Article 25(3) and (4) of that Directive, with any directly applicable Union law adopted under those provisions, and with this Regulation with the exception of Article 34(4);
- (c) all other PEPP providers and PEPP distributors shall comply with the applicable national law giving effect to the rules on marketing and distribution of financial instruments set out in the first subparagraph of Article 16(3) and in Articles 23, 24 and 25 of Directive 2014/65/EU, with the exception of Article 24(2) and Article 25(2), (3) and (4) of that Directive, with any directly applicable Union law adopted under those provisions and with this Regulation.

2. The rules set out in point (a) of paragraph 1 shall apply only to the extent that there is no more stringent provision in the applicable national law giving effect to the rules set out in Chapters V and VI of Directive (EU) 2016/97.

*Article 24***Electronic distribution and other durable mediums**

PEPP providers and PEPP distributors shall provide all documents and information under this Chapter free of charge to PEPP customers electronically, provided that the PEPP customer is able to store such information in a way accessible for future reference and for a period of time adequate for the purposes of the information and that the tool allows the unchanged reproduction of the information stored.

Upon request, PEPP providers and PEPP distributors shall provide free of charge those documents and information also on another durable medium, including paper. PEPP providers and PEPP distributors shall inform PEPP customers about their right to request a copy of those documents on another durable medium, including paper, free of charge.

*Article 25***Product oversight and governance requirements**

1. PEPP providers shall maintain, operate and review a process for the approval of each PEPP, or significant adaptations of an existing PEPP, before it is distributed to PEPP customers.



The product approval process shall be proportionate and appropriate to the nature of the PEPP.

The product approval process shall specify an identified target market for each PEPP, ensure that all relevant risks to such identified target market are assessed and that the intended distribution strategy is consistent with the identified target market, and take reasonable steps to ensure that the PEPP is distributed to the identified target market.

The PEPP provider shall understand and regularly review the PEPPs it provides, taking into account any event that could materially affect the potential risk to the identified target market, to assess at least whether the PEPPs remain consistent with the needs of the identified target market and whether the intended distribution strategy remains appropriate.

PEPP providers shall make available to PEPP distributors all appropriate information on the PEPP and the product approval process, including the identified target market of the PEPP.

PEPP distributors shall have in place adequate arrangements to obtain the information referred to in the fifth subparagraph and to understand the characteristics and identified target market of each PEPP.

2. The policies, processes and arrangements referred to in this Article shall be without prejudice to all other requirements under or applying by virtue of this Regulation including those relating to disclosure, suitability or appropriateness, identification and management of conflicts of interest, inducements and ESG factors.

## SECTION II

### ***Pre-contractual information***

#### *Article 26*

#### **PEPP KID**

1. Before a PEPP is proposed to PEPP savers, the PEPP provider shall draw up a PEPP KID for that PEPP product in accordance with the requirements of this Section and shall publish the PEPP KID on its website.

2. The PEPP KID shall constitute pre-contractual information. It shall be accurate, fair, clear and not misleading. It shall provide key information and shall be consistent with any binding contractual documents, with the relevant parts of the offer documents and with the terms and conditions of the PEPP.

3. The PEPP KID shall be a stand-alone document, clearly separate from marketing materials. It shall not contain cross-references to marketing materials. It may contain cross-references to other documents including a prospectus where applicable, only where such cross-references are related to the information required to be included in the PEPP KID by this Regulation.

A separate PEPP KID shall be drawn up for the Basic PEPP.

4. Where a PEPP provider offers to a PEPP saver a range of alternative investment options such that all information required in Article 28(3) regarding those underlying investment options cannot be provided within a single, concise, stand-alone PEPP KID, PEPP providers shall produce one of the following:

- (a) a stand-alone PEPP KID for each alternative investment option;
- (b) a generic PEPP KID providing at least a generic description of the alternative investment options and stating where and how more detailed pre-contractual information relating to the investments backing those investments options can be found.

5. In accordance with Article 24, the PEPP KID shall be drawn up as a short document written in a concise manner. It shall:

- (a) be presented and laid out in a way that is easy to read, using characters of readable size;
- (b) focus on the key information that PEPP customers need;
- (c) be clearly expressed and written in language and a style that facilitates the understanding of the information and, in particular, in language that is clear, succinct and comprehensible.

6. Where colours are used in the PEPP KID, they shall not diminish the comprehensibility of the information if the PEPP KID is printed or photocopied in black and white.

7. Where the corporate branding or logo of the PEPP provider or the group to which it belongs is used in the PEPP KID, it shall not distract from the information contained in the document or obscure the text.

8. In addition to the PEPP KID, PEPP providers and PEPP distributors shall provide prospective PEPP savers with references to any publicly available reports on the financial condition of the PEPP provider, including its solvency, allowing prospective PEPP savers easy access to this information.

9. Prospective PEPP savers shall also be provided with information on the past performance of the PEPP saver's investment option covering performance of a minimum of 10 years or, in cases where the PEPP has been provided for less than 10 years, covering all the years for which the PEPP has been provided. Information on past performance shall be accompanied by the statement 'past performance is not indicative of future performance'.

*Article 27***Language of the PEPP KID**

1. The PEPP KID shall be written in the official languages, or in at least one of the official languages, used in the part of the Member State where the PEPP is distributed, or in another language accepted by the competent authorities of that Member State, or where it has been written in a different language, it shall be translated into one of those languages.

The translation shall faithfully and accurately reflect the content of the original PEPP KID.

2. If a PEPP is marketed in a Member State through marketing materials in one or more of the official languages of that Member State, the PEPP KID shall at least be in the corresponding official languages.

3. The PEPP KID shall be made available upon request in an appropriate format to PEPP savers with a visual impairment.

*Article 28***Content of the PEPP KID**

1. The title 'PEPP Key Information Document' shall appear prominently at the top of the first page of the PEPP KID.

The PEPP KID shall be presented in the sequence laid down in paragraphs 2 and 3.

2. An explanatory statement shall appear directly underneath the title. It shall read:

'This document provides you with key information about this pan-European Personal Pension Product (PEPP). It is not marketing material. The information is required by law to help you understand the nature, risks, costs, potential gains and losses of this personal pension product and to help you compare it with other PEPPs.'

3. The PEPP KID shall contain the following information:

(a) at the beginning of the document: the name of the PEPP, whether it is a Basic PEPP or not, the identity and contact details of the PEPP provider, information about the competent authorities of the PEPP provider, the registration number of the PEPP in the central public register and the date of the document;

(b) the statement: 'The retirement product described in this document is a long-term product with limited redeemability which cannot be terminated at any time.';

(c) under a section titled 'What is this product?', the nature and main features of the PEPP, including:

(i) its long-term objectives and the means for achieving them, in particular whether the objectives are achieved by means of direct or indirect exposure to the underlying investment assets, including a description of the underlying instruments or reference values, including a specification of the markets the PEPP provider invests in, as well as an explanation of how the return is determined;

- (ii) a description of the type of PEPP saver to whom the PEPP is intended to be marketed, in particular in terms of the PEPP saver's ability to bear investment loss and the investment horizon;
  
- (iii) a statement as to
  - whether the Basic PEPP provides a guarantee on the capital or takes the form of a risk-mitigation technique consistent with the objective to allow the PEPP saver to recoup the capital, or
  
  - whether and to what extent any alternative investment option, if applicable, provides a guarantee or a risk-mitigation technique;
  
- (iv) a description of the PEPP retirement benefits, in particular the possible forms of out-payments and the right to modify the form of out-payments as referred to in Article 59(1);
  
- (v) where the PEPP covers biometric risk: details of the risks covered and of the insurance benefits, including the circumstances in which those benefits may be claimed;
  
- (vi) information on the portability service, including a reference to the central public register referred to in Article 13 where information for the conditions for the accumulation phase and the decumulation phase determined by Member States in accordance with Articles 47 and 57 is contained;
  
- (vii) a statement on the consequences for the PEPP saver of early withdrawal from the PEPP, including all applicable fees, penalties, and possible loss of capital protection and of other possible advantages and incentives;
  
- (viii) a statement on the consequences for the PEPP saver if the PEPP saver stops contributing to the PEPP;
  
- (ix) information on the sub-accounts available and on the PEPP saver's rights referred to in Article 20(5);
  
- (x) information about the PEPP saver's right to switch and the right to receive information about the switching service as referred to in Article 56;
  
- (xi) the conditions for modification of the chosen investment option referred to in Article 44;
  
- (xii) information, where available, related to the performance of the PEPP provider's investments in terms of ESG factors;
  
- (xiii) the law applicable to the PEPP contract where the parties do not have a free choice of law or, where the parties are free to choose the applicable law, the law that the PEPP provider proposes to choose;
  
- (xiv) where applicable, whether there is a cooling-off period or cancellation period for the PEPP saver;

- (d) under a section titled 'What are the risks and what could I get in return?', a short description of the risk-reward profile comprising the following elements:
- (i) a summary risk indicator, supplemented by a narrative explanation of that indicator, its main limitations and a narrative explanation of the risks which are materially relevant to the PEPP and which are not adequately captured by the summary risk indicator;
  - (ii) the possible maximum loss of invested capital, including, information on:
    - whether the PEPP saver can lose all invested capital, or
    - whether the PEPP saver bears the risk of incurring additional financial commitments or obligations;
  - (iii) appropriate performance scenarios and the assumptions on which they are based;
  - (iv) where applicable, conditions for returns to PEPP savers or built-in performance caps;
  - (v) a statement that the tax law of the PEPP saver's Member State of residence may have an impact on the actual payout;
- (e) under a section titled 'What happens if [the name of the PEPP provider] is unable to pay out?', a short description of whether the related loss is covered by an investor compensation or guarantee scheme and if so, which scheme it is, the name of the guarantor and which risks are covered by the scheme and which are not;
- (f) under a section titled 'What are the costs?', the costs associated with an investment in the PEPP, comprising both direct and indirect costs to be borne by the PEPP saver, including one-off and recurring costs, presented by means of summary indicators of those costs and, to ensure comparability, total aggregate costs expressed in monetary and percentage terms, to show the compound effects of the total costs on the investment.

The PEPP KID shall include a clear indication that the PEPP provider or PEPP distributor shall provide information detailing any cost of distribution that is not already included in the costs specified above, so as to enable the PEPP saver to understand the cumulative effect that those aggregate costs have on the return of the investment;

- (g) under a section titled 'What are the specific requirements for the sub-account corresponding to [my Member State of residence]?:'
- (i) under a sub-section titled 'Requirements for the pay-in phase':

a description of the conditions for the accumulation phase, as determined by the Member State of residence of the PEPP saver in accordance with Article 47;
  - (ii) under a sub-section titled: 'Requirements for the pay-out phase':

a description of the conditions for the decumulation phase, as determined by the Member State of residence of the PEPP saver in accordance with Article 57;

(h) under a section titled 'How can I complain?': information about how and to whom a PEPP saver can make a complaint about the PEPP or the conduct of the PEPP provider or PEPP distributor.

4. Layering of the information required under paragraph 3 shall be permitted where the PEPP KID is provided in an electronic format, whereby detailed parts of the information can be presented through pop-ups or through links to accompanying layers. In this case, it shall be possible to print the PEPP KID as one single document.

5. In order to ensure consistent application of this Article, EIOPA shall, after consulting the other ESAs and after conducting consumer testing and industry testing, develop draft regulatory technical standards specifying:

(a) the details of the presentation, including the form and length of the document, and the content of each of the elements of information referred to in paragraph 3;

(b) the methodology underpinning the presentation of risk and reward as referred to in points (d)(i) and (iii) of paragraph 3;

(c) the methodology for the calculation of costs, including the specification of summary indicators, as referred to in point (f) of paragraph 3;

(d) where information is presented in an electronic format with layering of information, which information shall be in the first layer, and which information may be provided in the additional layers of detail.

When developing the draft regulatory technical standards, EIOPA shall take into account the various possible types of PEPPs, the long-term nature of the PEPP, the capabilities of PEPP savers, and the features of the PEPPs, in order to allow the PEPP saver to select from different investment options and other options provided for by the PEPP, including where that selection may be undertaken at different points in time, or changed in the future.

EIOPA shall submit those draft regulatory technical standards to the Commission by 15 August 2020.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.

#### *Article 29*

#### **Marketing materials**

Marketing materials that contain specific information relating to the PEPP shall not include any statement that contradicts the information contained in the PEPP KID or diminishes the significance of the PEPP KID. Marketing materials shall indicate that a PEPP KID is available and supply information on how and where to obtain it, including the PEPP provider's website.

#### *Article 30*

#### **Revision of the PEPP KID**

1. The PEPP provider shall review the information contained in the PEPP KID at least annually and shall promptly revise the document where the review indicates that changes need to be made. The revised version shall be made available promptly.

2. In order to ensure consistent application of this Article, EIOPA shall, after consulting the other ESAs and after conducting consumer testing and industry testing, develop draft regulatory technical standards specifying the conditions under which the PEPP KID shall be reviewed and revised.

EIOPA shall submit those draft regulatory technical standards to the Commission by 15 August 2020.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.

#### *Article 31*

##### **Civil liabilities**

1. The PEPP provider shall not incur civil liability solely on the basis of the PEPP KID, including any translation thereof, unless it is misleading, inaccurate or inconsistent with the relevant parts of legally binding pre-contractual and contractual documents or with the requirements laid down in Article 28.

2. A PEPP saver who demonstrates loss resulting from reliance on a PEPP KID under the circumstances referred to in paragraph 1, when concluding a PEPP contract for which that PEPP KID was produced, may claim damages from the PEPP provider for that loss in accordance with national law.

3. Elements such as 'loss' or 'damages' as referred to in paragraph 2 which are not defined shall be interpreted and applied in accordance with the applicable national law as determined by the relevant rules of private international law.

4. This Article does not exclude further civil liability claims in accordance with national law.

5. The obligations under this Article shall not be limited or waived by contractual clauses.

#### *Article 32*

##### **PEPP contracts which cover biometric risks**

Where the PEPP KID concerns a PEPP contract covering biometric risks, the PEPP provider's obligations under this section shall be only towards the PEPP saver.

#### *Article 33*

##### **Provision of the PEPP KID**

1. A PEPP provider or PEPP distributor shall provide prospective PEPP savers with all the PEPP KIDs drawn up in accordance with Article 26 when advising on, or offering for sale, a PEPP, in good time before those PEPP savers are bound by any PEPP contract or offer relating to that PEPP contract.

2. A PEPP provider or PEPP distributor may satisfy the requirements of paragraph 1 by providing the PEPP KID to a natural person with written authority to make investment decisions on behalf of the PEPP saver in respect of transactions concluded under that written authority.

3. In order to ensure consistent application of this Article, EIOPA shall, after having consulted the other ESAs where appropriate, develop draft regulatory technical standards specifying the conditions for fulfilling the requirement to provide the PEPP KID as laid down in paragraph 1.

EIOPA shall submit those draft regulatory technical standards to the Commission by 15 August 2020.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.

### SECTION III

#### *Advice*

#### *Article 34*

#### **Specification of demands and needs and provision of advice**

1. Prior to the conclusion of a PEPP contract, the PEPP provider or PEPP distributor shall specify, on the basis of information required and obtained from the prospective PEPP saver, the retirement-related demands and needs of that prospective PEPP saver, including the possible need to acquire a product offering annuities, and shall provide the prospective PEPP saver with objective information about the PEPP in a comprehensible form to allow that PEPP saver to make an informed decision.

Any PEPP contract proposed shall be consistent with the PEPP saver's retirement-related demands and needs, taking into account his or her accrued retirement entitlements.

2. The PEPP provider or PEPP distributor shall provide advice to the prospective PEPP saver prior to the conclusion of the PEPP contract providing the prospective PEPP saver with a personalised recommendation explaining why a particular PEPP, including a particular investment option, if applicable, would best meet the PEPP saver's demands and needs.

The PEPP provider or PEPP distributor shall also provide the prospective PEPP saver with personalised pension benefit projections for the recommended product based on the earliest date on which the decumulation phase may start and a disclaimer that those projections may differ from the final value of the PEPP benefits received. If the pension benefit projections are based on economic scenarios, that information shall also include a best estimate scenario and an unfavourable scenario, taking into consideration the specific nature of the PEPP contract.

3. If a Basic PEPP is offered without at least a guarantee on the capital, the PEPP provider or PEPP distributor shall clearly explain the existence of PEPPs with a guarantee on the capital, the reasons for recommending a Basic PEPP based on a risk mitigation technique consistent with the objective to allow the PEPP saver to recoup the capital and clearly demonstrate any additional risks that such PEPPs might entail in comparison to a capital guarantee based Basic PEPP providing a guarantee on the capital. This explanation shall be done in written format.

4. When providing advice the PEPP provider or PEPP distributor referred to in point (c) of Article 23(1) of this Regulation shall ask the prospective PEPP saver to provide information regarding that person's knowledge and experience in the investment field relevant to the PEPP offered or demanded and that person's financial situation including his or her ability to bear losses, and his or her investment objectives including his or her risk tolerance so as to enable the PEPP provider or PEPP distributor to recommend to the prospective PEPP saver one or more PEPPs that are suitable for that person and, in particular, are in accordance with his or her risk tolerance and ability to bear losses.



5. The responsibilities of the PEPP provider or PEPP distributor shall not be reduced due to the fact that advice is provided in whole or in part through an automated or semi-automated system.

6. Without prejudice to stricter applicable sectorial law, PEPP providers and PEPP distributors shall ensure and demonstrate to competent authorities on request that natural persons giving advice on PEPPs possess the necessary knowledge and competence to fulfil their obligations under this Regulation. Member States shall publish the criteria to be used for assessing such knowledge and competence.

#### SECTION IV

### *Information during the term of the contract*

#### Article 35

#### **General provisions**

1. PEPP providers shall draw up a concise personalised document to be provided during the accumulation phase containing key information for each PEPP saver taking into consideration the specific nature of national pension systems and of any relevant law, including national social, labour and tax law (PEPP Benefit Statement). The title of the document shall contain the words 'PEPP Benefit Statement'.

2. The exact date to which the information in the PEPP Benefit Statement refers shall be stated prominently.

3. The information contained in the PEPP Benefit Statement, shall be accurate and up-to-date.

4. The PEPP provider shall make the PEPP Benefit Statement available to each PEPP saver annually.

5. Any material change to the information contained in the PEPP Benefit Statement compared to the previous statement shall be clearly indicated.

6. In addition to the PEPP Benefit Statement, the PEPP saver shall be informed promptly throughout the term of the contract of any change concerning the following information:

(a) the contract terms including general and special policy conditions;

(b) the name of the PEPP provider, its legal form or the address of its head office and, where appropriate, of the branch which concluded the contract;

(c) information on how the investment policy takes into account ESG factors.

#### Article 36

#### **PEPP Benefit Statement**

1. The PEPP Benefit Statement shall include, at least, the following key information for PEPP savers:

(a) personal details of the PEPP saver and the earliest date on which the decumulation phase may start for any sub-account;

- (b) the name and contact address of the PEPP provider and an identification of the PEPP contract;
- (c) the Member State in which the PEPP provider is authorised or registered and the names of the competent authorities;
- (d) information on pension benefit projections based on the date referred to in point (a), and a disclaimer that those projections may differ from the final value of the PEPP benefits received. If the pension benefit projections are based on economic scenarios, that information shall also include a best estimate scenario and an unfavourable scenario, taking into consideration the specific nature of the PEPP contract;
- (e) information on the contributions paid by the PEPP saver or any third party into the PEPP account over the previous 12 months;
- (f) a breakdown of all costs incurred, directly and indirectly, by the PEPP saver over the previous 12 months, indicating the costs of administration, the costs of safekeeping of assets, the costs related to portfolio transactions and other costs, as well as an estimation of the impact of the costs on the final PEPP benefits; such costs should be expressed both in monetary terms and as a percentage of contributions over the previous 12 months;
- (g) where applicable, the nature and the mechanism of the guarantee or risk mitigation techniques referred to in Article 46;
- (h) where applicable, the number and value of units corresponding to the PEPP saver's contributions over the previous 12 months;
- (i) the total amount in the PEPP account of the PEPP saver on the date of the statement referred to in Article 35;
- (j) information on the past performance of the PEPP saver's investment option covering performance of a minimum of 10 years or, in cases where the PEPP has been provided for less than 10 years, covering all the years for which the PEPP has been provided. Information on past performance shall be accompanied by the statement 'past performance is not indicative of future performance';
- (k) for PEPP accounts with more than one sub-account, information in the PEPP Benefit Statement shall be broken down for all existing sub-accounts;
- (l) summary information on the investment policy relating to ESG factors.

2. EIOPA shall, in consultation with the European Central Bank and competent authorities, develop draft regulatory technical standards specifying the rules to determine the assumptions on pension benefit projections referred to in point (d) of paragraph 1 of this Article and in Article 34(2). Those rules shall be applied by PEPP providers to determine, where relevant, the annual rate of nominal investment returns, the annual rate of inflation and the trend of future wages.

EIOPA shall submit those draft regulatory technical standards to the Commission by 15 August 2020. Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Article 10 to 14 of Regulation (EU) No 1094/2010.

*Article 37***Supplementary information**

1. The PEPP Benefit Statement shall specify where and how to obtain supplementary information including:
  - (a) further practical information about the PEPP saver's rights and options, including with regard to investments, the decumulation phase, the switching service and the portability service;
  - (b) the annual accounts and annual reports of the PEPP provider that are publicly available;
  - (c) a written statement of the PEPP provider's investment-policy principles, containing at least information on the investment risk measurement methods, the risk-management processes implemented and the strategic asset allocation with respect to the nature and duration of PEPP liabilities, as well as how the investment policy takes ESG factors into account;
  - (d) where applicable, information about the assumptions used for amounts expressed in annuities, in particular with respect to the annuity rate, the type of PEPP provider and the duration of the annuity;
  - (e) the level of PEPP benefits, in the case of redemption before the date referred to in point (a) of Article 36(1).
2. In order to ensure consistent application of Article 36 and of this Article, EIOPA shall, after consulting the other ESAs and after conducting consumer testing and industry testing, develop draft regulatory technical standards specifying the details of the presentation of the information referred to in Article 36 and in this Article. In relation to the presentation of the information on past performance as referred to in point (j) of Article 36(1), the differences between the investment options shall be taken into account, in particular if the PEPP saver bears investment risk or if the investment option is age-dependent or includes duration matching.

EIOPA shall submit those draft regulatory technical standards to the Commission by 15 August 2020.

Power is conferred on the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.

3. Without prejudice to Article 34(2) and point (d) of Article 36(1), in order to allow for comparison with national products, Member States may require PEPP providers to provide PEPP savers with additional pension benefit projections where the rules to determine the assumptions are set by the respective Member States.

*Article 38***Information to be given to PEPP savers during the pre-retirement phase and to PEPP beneficiaries during the decumulation phase**

1. In addition to the PEPP Benefit Statement, PEPP providers shall provide each PEPP saver two months before the dates referred to in points (a) and (b) of Article 59(1) or at the request of the PEPP saver, with information about the upcoming start of the decumulation phase, the possible forms of out-payments and the possibility for the PEPP saver to modify the form of out-payments in accordance with Article 59(1).

2. During the decumulation phase, PEPP providers shall provide annually PEPP beneficiaries with information about the PEPP benefits due and the corresponding form of out-payments.

Where the PEPP saver continues to make contributions or to bear investment risk during the decumulation phase, the PEPP provider shall continue providing the PEPP Benefit Statement containing the relevant information.

#### Article 39

##### **Information to be given on request to PEPP savers and PEPP beneficiaries**

At the request of a PEPP saver or of a PEPP beneficiary or of their representatives, the PEPP provider shall provide the supplementary information referred to in Article 37(1) and supplementary information about the assumptions used to generate the projections referred to in point (d) of Article 36(1).

#### SECTION V

##### **Reporting to national authorities**

#### Article 40

##### **General provisions**

1. PEPP providers shall submit to their competent authorities the information which is necessary for the purposes of supervision in addition to the information provided under the relevant sectorial law. That additional information shall include, where applicable, the information necessary to carry out the following activities when performing a supervisory review process:

(a) to assess the system of governance applied by the PEPP providers, the business they are pursuing, the valuation principles applied for solvency purposes, the risks faced and the risk-management systems, and their capital structure, needs and management;

(b) to make any appropriate decisions resulting from the exercise of their supervisory rights and duties.

2. The competent authorities, in addition to the powers conferred to them according to national law, shall have the following powers:

(a) to determine the nature, the scope and the format of the information referred to in paragraph 1 which they require PEPP providers to submit at predefined intervals, upon occurrence of predefined events or during enquiries regarding the situation of a PEPP provider;

(b) to obtain from the PEPP providers any information regarding contracts which are held by PEPP providers or regarding contracts which are entered into with third parties; and

(c) to require information from external experts, such as auditors and actuaries.

3. The information referred to in paragraphs 1 and 2 shall comprise the following:

(a) qualitative or quantitative elements, or any appropriate combination thereof;

(b) historic, current or prospective elements, or any appropriate combination thereof;

(c) data from internal or external sources, or any appropriate combination thereof.

4. The information referred to in paragraphs 1 and 2 shall:

(a) reflect the nature, scale and complexity of the business of the PEPP provider concerned, and in particular the risks inherent in that business;

(b) be accessible, complete in all material respects, comparable and consistent over time;

(c) be relevant, reliable and comprehensible.

5. PEPP providers shall submit to the competent authorities annually the following information:

(a) for which Member States the PEPP provider offers sub-accounts;

(b) number of notifications in accordance with Article 20(1) received from PEPP savers that have changed their residence to another Member State;

(c) number of requests for opening a sub-account and number of sub-accounts opened in accordance with Article 20(2);

(d) number of requests from PEPP savers for switching and actual transfers made in accordance with point (a) of Article 20(5);

(e) number of requests from PEPP savers for switching and actual transfers made in accordance with Article 52(3).

The competent authorities shall forward the information to EIOPA.

6. PEPP providers shall have appropriate systems and structures in place to fulfil the requirements laid down in paragraphs 1 to 5 as well as a written policy, approved by the management, supervisory or administrative body of the PEPP provider, ensuring the ongoing appropriateness of the information submitted.

7. Upon request to the competent authorities and in order to carry out the duties assigned to it by this Regulation, EIOPA shall have access to the information submitted by PEPP providers.

8. Where PEPP contributions and PEPP benefits are eligible for advantages or incentives, the PEPP provider shall in accordance with the relevant national law submit to the relevant national authority all information necessary for the provision or reclaiming of such advantages and incentives received in relation to such contributions and benefits, where applicable.

9. The Commission shall adopt delegated acts in accordance with Article 72 to supplement this Regulation by specifying the additional information referred to in paragraphs 1 to 5 of this Article, with a view to ensuring to the appropriate extent convergence of supervisory reporting.

EIOPA, after consulting the other ESAs and the competent authorities and after industry testing, shall develop draft implementing technical standards regarding the format of supervisory reporting.

EIOPA shall submit those draft implementing technical standards to the Commission by 15 August 2020.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the second subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.

## CHAPTER V

### ACCUMULATION PHASE

#### SECTION I

#### *Investment rules for PEPP providers*

##### Article 41

#### **Investment rules**

1. PEPP providers shall invest the assets corresponding to the PEPP in accordance with the 'prudent person' rule and in particular in accordance with the following rules:
  - (a) the assets shall be invested in the best long-term interests of PEPP savers as a whole. In the case of a potential conflict of interest, a PEPP provider, or the entity which manages its portfolio, shall ensure that the investment is made in the sole interest of PEPP savers;
  - (b) within the prudent person rule, PEPP providers shall take into account risks related to and the potential long-term impact of investment decisions on ESG factors;
  - (c) the assets shall be invested in such a manner as to ensure the security, quality, liquidity and profitability of the portfolio as a whole;
  - (d) the assets shall be predominantly invested on regulated markets. Investment in assets which are not admitted to trading on a regulated financial market shall be kept to prudent levels;
  - (e) investment in derivative instruments shall be possible insofar as such instruments contribute to a reduction in investment risks or facilitate efficient portfolio management. Those instruments shall be valued on a prudent basis, taking into account the underlying asset, and included in the valuation of a PEPP provider's assets. PEPP providers shall also avoid excessive risk exposure to a single counterparty and to other derivative operations;

- (f) the assets shall be properly diversified in such a way as to avoid excessive reliance on any particular asset, issuer or group of undertakings and accumulations of risk in the portfolio as a whole. Investments in assets issued by the same issuer or by issuers belonging to the same group shall not expose a PEPP provider to excessive risk concentration;
- (g) the assets shall not be invested in a non-cooperative jurisdiction for tax purposes identified in the applicable Council's conclusions on the list of non-cooperative jurisdictions for tax purposes, nor in a high-risk third country with strategic deficiencies identified by the applicable Commission Delegated Regulation adopted on the basis of Article 9 of Directive (EU) 2015/849;
- (h) the PEPP provider shall not expose itself and the assets corresponding to the PEPP to risks stemming from excessive leverage and excessive maturity transformation.
2. The rules set out in points (a) to (h) of paragraph 1 apply only to the extent that there is no more stringent provision in the relevant sectorial law applicable to the PEPP provider.

## SECTION II

### **Investment options for PEPP savers**

#### *Article 42*

#### **General provisions**

1. PEPP providers may offer up to six investment options to PEPP savers.
2. The investment options shall include the Basic PEPP and may include alternative investment options.
3. All investment options shall be designed by PEPP providers on the basis of a guarantee or risk-mitigation technique which shall ensure sufficient protection for PEPP savers.
4. Provision of guarantees shall be subject to the relevant sectorial law applicable to the PEPP provider.
5. PEPP providers referred to in points (c), (d), (e) and (f) of Article 6(1) may offer PEPP with a guarantee only by cooperating with credit institutions or insurance undertakings that can provide such guarantees according to the sectorial law applicable to them. Those institutions or undertakings shall be solely liable for the guarantee.

#### *Article 43*

#### **Choice of investment option by the PEPP saver**

Having received the relevant information and advice, the PEPP saver shall choose an investment option when concluding the PEPP contract.

#### *Article 44*

#### **Conditions for modification of the chosen investment option**

1. If the PEPP provider provides alternative investment options, the PEPP saver, while accumulating in the PEPP, shall be able to choose a different investment option after a minimum of five years from the conclusion of the PEPP contract and, in the case of subsequent changes, after five years from the most recent change of investment option. The PEPP provider may allow the PEPP saver to modify the chosen investment option more frequently.

2. The modification of the investment option shall be free of charge for the PEPP saver.

#### Article 45

##### **The Basic PEPP**

1. The Basic PEPP shall be a safe product representing the default investment option. It shall be designed by PEPP providers on the basis of a guarantee on the capital which shall be due at the start of the decumulation phase and during the decumulation phase, where applicable, or a risk-mitigation technique consistent with the objective to allow the PEPP saver to recoup the capital.
2. The costs and fees for the Basic PEPP shall not exceed 1 % of the accumulated capital per year.
3. In order to ensure a level playing field between different PEPP providers and different types of PEPPs, EIOPA shall develop draft regulatory technical standards specifying the types of costs and fees referred to in paragraph 2, having consulted the other ESAs where applicable.

When developing the draft regulatory technical standards, EIOPA shall take into account the various possible types of PEPPs, the long-term retirement nature of the PEPP and the various possible features of the PEPPs, in particular out-payments in the form of long-term annuities or annual drawdowns until at least the age corresponding with the average life expectancy of the PEPP saver. EIOPA shall also assess the peculiar nature of the capital protection with specific regard to the capital guarantee. EIOPA shall submit those draft regulatory technical standards to the Commission by 15 August 2020.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.

4. Every two years from the date of application of this Regulation, the Commission shall, after having consulted EIOPA and, where applicable, the other ESAs, review the adequacy of the percentage value referred to in paragraph 2. The Commission shall, in particular take into account the actual level and changes in the actual level of costs and fees and the impact on the availability of PEPPs.

The Commission is empowered to adopt delegated acts in accordance with Article 72 to amend the percentage value referred to in paragraph 2 of this Article in the light of its reviews with a view to allowing appropriate market access for PEPP providers.

#### Article 46

##### **Risk-mitigation techniques**

1. The use of risk-mitigation techniques shall ensure that the investment strategy for the PEPP is designed in order to build up a stable and adequate individual future retirement income from the PEPP and to ensure a fair treatment of all generations of PEPP savers.

All risk-mitigation techniques, whether applied under the Basic PEPP or for the alternative investment options, shall be sound, robust and consistent with the risk profile of the corresponding investment option.

2. The applicable risk-mitigation techniques may include, inter alia, provisions:
  - (a) for gradually adapting the investment allocation to mitigate the financial risks of investments for cohorts corresponding to the remaining duration (life-cycling);



(b) establishing reserves from contributions or investment returns, which shall be allocated to PEPP savers in a fair and transparent manner, to mitigate investment losses; or

(c) for using appropriate guarantees to protect against investment losses.

3. In order to ensure the consistent application of this Article, EIOPA shall, after consulting the other ESAs, and after conducting industry testing, develop draft regulatory technical standards specifying the minimum criteria that the risk-mitigation techniques have to satisfy, taking into account the various types of PEPPs and their specific features, as well as the various types of PEPP providers and the differences between their prudential regime.

EIOPA shall submit those draft regulatory technical standards to the Commission by 15 August 2020.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.

### SECTION III

#### *Other aspects of the accumulation phase*

##### Article 47

#### **Conditions related to the accumulation phase**

1. The conditions related to the accumulation phase of the national sub-accounts shall be determined by Member States unless they are specified in this Regulation.

2. Such conditions may include in particular age limits for starting the accumulation phase, minimum duration of the accumulation phase, maximum and minimum amount of contributions and their continuity.

### CHAPTER VI

#### **INVESTOR PROTECTION**

##### Article 48

#### **Depositary**

1. The PEPP providers referred to in points (c), (e) and (f) of Article 6(1) shall appoint one or more depositaries for the safekeeping of assets in relation to the PEPP provision business and oversight duties.

2. For the appointment of the depositary, the execution of its tasks in relation to the safekeeping of assets and the liability of the depositary and for the oversight duties of the depositary, Chapter IV of Directive 2009/65/EC shall be applied accordingly.

*Article 49***Coverage of biometric risks**

1. PEPP providers may offer PEPPs with an option ensuring the coverage of biometric risks.
2. Coverage of biometric risks shall be subject to the relevant sectorial law applicable to the PEPP provider. The coverage of biometric risks may vary from sub-account to sub-account.
3. PEPP providers referred to in points (a), (c), (d), (e) and (f) of Article 6(1) may offer PEPPs with an option ensuring the coverage of biometric risks. In that case, the coverage shall be granted only by cooperating with insurance undertakings that can cover those risks according to the sectorial law applicable to them. The insurance undertaking shall be fully liable for the coverage of biometric risks.

*Article 50***Complaints**

1. PEPP providers and PEPP distributors shall put in place and apply adequate and effective procedures for the settlement of complaints lodged by PEPP customers concerning their rights and obligations under this Regulation.
2. Those procedures shall be applied in every Member State where the PEPP provider or PEPP distributor offers its services and shall be available in an official language of the relevant Member State as chosen by the PEPP customer, or in another language if agreed between the PEPP provider or PEPP distributor and the PEPP customer.
3. PEPP providers and PEPP distributors shall make every possible effort to reply, either electronically or in another durable medium in accordance with Article 24, to the PEPP customers' complaints. The reply shall address all points raised, within an adequate timeframe and at the latest within 15 working days of receipt of the complaint. In exceptional situations, if the answer cannot be given within 15 working days for reasons beyond the control of the PEPP provider or PEPP distributor, it shall be required to send a holding reply, clearly indicating the reasons for a delay in answering to the complaint and specifying the deadline by which the PEPP customer will receive the final reply. In any event, the deadline for receiving the final reply shall not exceed 35 working days.
4. PEPP providers and PEPP distributors shall inform the PEPP customer about at least one alternative dispute resolution (ADR) body which is competent to deal with disputes concerning PEPP customers' rights and obligations under this Regulation.
5. The information on the procedures referred to in paragraph 1 shall be mentioned in a clear, comprehensive and easily accessible way on the website of the PEPP provider or PEPP distributor, at the branch, and in the general terms and conditions of the contract between the PEPP provider or PEPP distributor and the PEPP customer. It shall specify how further information on the ADR body concerned and on the conditions for using it can be accessed.
6. The competent authorities shall set up procedures which allow PEPP customers and other interested parties, including consumer associations, to submit complaints to the competent authorities with regard to PEPP providers' and PEPP distributors' alleged infringements of this Regulation. In all cases, complainants shall receive replies.
7. In cases that concern more than one Member State, the complainant may choose to lodge his or her complaint through the competent authorities of his or her Member State of residence, regardless of where the infringement occurred.

*Article 51***Out-of-court redress**

1. Adequate, independent, impartial, transparent and effective ADR procedures for the settlement of disputes between PEPP customers and PEPP providers or PEPP distributors concerning the rights and obligations arising under this Regulation shall be established in accordance with Directive 2013/11/EU of the European Parliament and the Council <sup>(21)</sup>, using existing competent bodies where appropriate. Such ADR procedures shall be applicable, and the relevant ADR body's competence shall effectively extend, to PEPP providers or PEPP distributors against whom the procedures are initiated.
2. The bodies referred to in paragraph 1 shall cooperate effectively for the resolution of cross-border disputes concerning rights and obligations arising under this Regulation.

## CHAPTER VII

**SWITCHING OF PEPP PROVIDERS***Article 52***Provision of the switching service**

1. PEPP providers shall provide a switching service transferring, upon a request of the PEPP saver, the corresponding amounts or, where applicable, assets-in-kind in accordance with paragraph 4, from a PEPP account held with the transferring PEPP provider to a new PEPP account with the same sub-accounts opened with the receiving PEPP provider, with closing the former PEPP account.

When using the switching service, the transferring PEPP provider shall transfer all information linked to all sub-accounts of the former PEPP account, including reporting requirements, to the receiving PEPP provider. The receiving PEPP provider shall register that information in the corresponding sub-accounts.

A PEPP saver may request to switch to a PEPP provider established in the same Member State (domestic switching) or in a different Member State (cross-border switching). The PEPP saver may exercise the right to switch providers during the accumulation phase and the decumulation phase of the PEPP.

2. Notwithstanding paragraph 1, during the decumulation phase, PEPP providers shall not be obliged to provide a switching service for PEPPs, where PEPP savers are receiving out-payments in the form of lifetime annuities.
3. The PEPP saver may switch PEPP providers after a minimum of five years from the conclusion of the PEPP contract, and, in case of subsequent switching, after five years from the most recent switching, without prejudice to point (a) of Article 20(5). The PEPP provider may allow the PEPP saver to switch PEPP providers more frequently.
4. Where the switching is between PEPP providers engaged in individual portfolio management for PEPP savers, PEPP savers may choose to transfer assets-in-kind or corresponding amounts. In all other cases, only the transfer of corresponding amounts shall be allowed.

The written consent of the receiving PEPP provider shall be required where the PEPP saver requests a transfer of assets-in-kind.

<sup>(21)</sup> Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (OJ L 165, 18.6.2013, p. 63).

*Article 53***The switching service**

1. At the request of the PEPP saver, after the PEPP saver has made an informed decision based on the information received from the PEPP providers as defined in Article 56, the switching service shall be initiated by the receiving PEPP provider.

2. The request from the PEPP saver shall be drawn up in an official language of the Member State where the switching service is being initiated or in any other language agreed between the parties. In the request, the PEPP saver shall:

- (a) give his or her specific consent to the performance by the transferring PEPP provider of each of the tasks referred to in paragraph 4 and shall give his or her specific consent to the performance by the receiving PEPP provider of each of the tasks referred to in paragraph 5;
- (b) in agreement with the receiving PEPP provider, specify the date from which payments are to be executed to the PEPP account opened with the receiving PEPP provider.

That date shall be at least two weeks after the date on which the receiving PEPP provider receives the documents transferred from the transferring PEPP provider pursuant to paragraph 4.

Member States may require the request from the PEPP saver to be in writing and that a copy of the accepted request is provided to the PEPP saver.

3. Within five working days from receipt of the request referred to in paragraph 2, the receiving PEPP provider shall request the transferring PEPP provider to carry out the tasks as referred to in paragraph 4.

4. Upon receipt of a request from the receiving PEPP provider, the transferring PEPP provider shall:

- (a) within five working days, send the PEPP Benefit Statement for the period from the date of the last drawn up PEPP Benefit Statement to the date of the request to the PEPP saver and to the receiving PEPP provider;
- (b) within five working days, send a list of the existing assets that are being transferred in the case of transfer of assets-in-kind as referred to in Article 52(4) to the receiving PEPP provider;
- (c) stop accepting incoming payments on the PEPP account with effect from the date specified by the PEPP saver in the request referred to in point (b) of paragraph 2;
- (d) transfer the corresponding amounts, or where applicable, assets-in-kind in accordance with Article 52(4), from the PEPP account to the new PEPP account opened with the receiving PEPP provider on the date specified by the PEPP saver in the request;

- (e) close the PEPP account on the date specified by the PEPP saver if the PEPP saver has no outstanding obligations. The transferring PEPP provider shall immediately inform the PEPP saver where such outstanding obligations prevent the PEPP saver's account from being closed.

5. The receiving PEPP provider shall, as provided for in the request and to the extent that the information provided by the transferring PEPP provider or the PEPP saver enables the receiving PEPP provider to do so, make any necessary preparations to accept incoming payments and accept them with effect from the date specified by the PEPP saver in the request.

#### Article 54

##### **Fees and charges connected with the switching service**

1. PEPP savers shall be able to access free of charge their personal information held either by the transferring or by the receiving PEPP provider.

2. The transferring PEPP provider shall provide the information requested by the receiving PEPP provider pursuant to point (a) of Article 53(4) without charging the PEPP saver or the receiving PEPP provider.

3. The total fees and charges applied by the transferring PEPP provider to the PEPP saver for the closure of the PEPP account held with it shall be limited to the actual administrative costs incurred by the PEPP provider and shall not exceed 0,5 % of the corresponding amounts or monetary value of the assets-in-kind to be transferred to the receiving PEPP provider.

Member States may set a lower percentage of the fees and charges as referred to in the first subparagraph and a different percentage when the PEPP provider allows PEPP savers to switch PEPP provider more frequently as referred to in Article 52(3).

The transferring PEPP provider shall not charge any additional fees or charges to the receiving PEPP provider.

4. The receiving PEPP provider may only charge the actual administrative and transaction costs of the switching service.

#### Article 55

##### **Protection of PEPP savers against financial loss**

1. Any financial loss, including fees, charges and interest, incurred by the PEPP saver and resulting directly from the non-compliance of a PEPP provider involved in the switching process with its obligations under Article 53 shall be refunded by that PEPP provider without delay.

2. Liability under paragraph 1 shall not apply in cases of abnormal and unforeseeable circumstances beyond the control of the PEPP provider pleading for the application of those circumstances, the consequences of which would have been unavoidable despite all efforts to the contrary, or where a PEPP provider is bound by other legal obligations covered by Union or national law.

3. Liability under paragraph 1 shall be established in accordance with the legal requirements applicable at national level.

4. The PEPP saver shall bear any risk of financial loss connected with the redemption in kind of the assets held in the PEPP account for the sake of their transfer from the transferring PEPP provider to the receiving PEPP provider as referred to in Article 52(4).

5. The transferring PEPP provider shall not be obliged to ensure capital protection or provide a guarantee at the moment of switching.

#### *Article 56*

##### **Information about the switching service**

1. PEPP providers shall give to PEPP savers the following information about the switching service in order to enable the PEPP saver to make an informed decision:

(a) the roles of the transferring and receiving PEPP provider for each step of the switching process, as set out in Article 53;

(b) the time-frame for completion of the respective steps;

(c) the fees and charges charged for the switching process;

(d) the possible implications of the switching, in particular on the capital protection or guarantee, and other information related to the switching service;

(e) information about the possibility for a transfer of assets-in-kind, if applicable.

The receiving PEPP provider shall comply with the requirements of Chapter IV.

The receiving PEPP provider shall, where applicable, inform the PEPP saver of the existence of any guarantee scheme, including a deposit guarantee scheme, investor-compensation scheme or insurance guarantee scheme, which covers that PEPP saver.

2. The information referred to in paragraph 1 of this Article shall be available on the PEPP provider's website. It shall also be provided to PEPP savers on request in accordance with the requirements of Article 24.

#### CHAPTER VIII

##### **DECUMULATION PHASE**

#### *Article 57*

##### **Conditions related to the decumulation phase**

1. The conditions related to the decumulation phase and the out-payments of the national sub-accounts shall be determined by Member States unless they are specified in this Regulation.

2. Such conditions may include in particular the setting of the minimum age for the start of the decumulation phase, of a maximum period before reaching the retirement age for joining a PEPP, as well as conditions for redemption before the minimum age for the start of the decumulation phase, in particular in case of particular hardship.

#### Article 58

##### Forms of out-payments

1. PEPP providers shall make available to PEPP savers one or more of the following forms of out-payments:

(a) annuities;

(b) lump sum;

(c) drawdown payments;

(d) combinations of the above forms.

2. PEPP savers shall choose the form of out-payments for the decumulation phase when they conclude a PEPP contract and when they request an opening of a new sub-account. The form of out-payments may differ from sub-account to sub-account.

3. Without prejudice to paragraph 1 of this Article or to Article 57 or 59, Member States may adopt measures to privilege particular forms of out-payments. Such measures may include quantitative limits on lump sum payments to further encourage the other forms of out-payments referred to in paragraph 1 of this Article. Such quantitative limits shall only apply to out-payments corresponding to the capital accumulated in PEPP sub-accounts linked to Member States whose national law provides for quantitative limits on lump sum payments.

4. Member States may specify conditions under which advantages and incentives granted shall be repaid to them.

#### Article 59

##### Modifications of the forms of out-payments

1. If the PEPP provider provides different forms of out-payments, the PEPP saver shall be allowed to modify the form of out-payments of each opened sub-account:

(a) one year before the start of the decumulation phase;

(b) at the start of the decumulation phase;

(c) at the moment of switching.

The modification of the form of out-payment shall be free of charge for the PEPP saver.

2. Upon receipt of a PEPP saver's request to modify his or her form of out-payments, the PEPP provider shall provide the PEPP saver with information in a clear and understandable format about the financial implications of such change on the PEPP saver or PEPP beneficiary, in particular as regards any impact on the national incentives that might apply to the existing sub-accounts of the PEPP saver's PEPP.

#### *Article 60*

##### **Retirement planning and advice on out-payments**

1. For the Basic PEPP, at the start of the decumulation phase, the PEPP provider shall offer the PEPP saver personal retirement planning on the sustainable use of the capital accumulated in the PEPP sub-accounts, taking into account at least:

- (a) the value of the capital accumulated in the PEPP sub-accounts;
- (b) the total amount of other accrued retirement entitlements; and
- (c) the long-term retirement-related demands and needs of the PEPP saver.

2. The retirement planning referred to in paragraph 1 shall include a personal recommendation to the PEPP saver on his or her optimal form of out-payments unless only one form of out-payments is provided. If a lump-sum payment is not in line with the retirement-related needs of the PEPP saver, the advice shall be accompanied by a warning to that end.

#### CHAPTER IX

#### **SUPERVISION**

#### *Article 61*

##### **Supervision by the competent authorities and monitoring by EIOPA**

1. The competent authorities of the PEPP provider shall supervise compliance with this Regulation on an ongoing basis and in accordance with the relevant sectorial supervisory regime and standards. They shall also be responsible for supervising compliance with the obligations set out in the rules or instruments of incorporation of the PEPP provider, and the adequacy of its arrangements and organisation with regard to the tasks to be fulfilled when providing a PEPP.

2. EIOPA and competent authorities shall monitor personal pension products provided or distributed in order to verify that such products are designated 'PEPP' or it is suggested that such products are PEPPs only when they are registered under this Regulation.

#### *Article 62*

##### **Powers of competent authorities**

Each Member State shall ensure that the competent authorities have all supervisory and investigatory powers that are necessary for the exercise of their functions pursuant to this Regulation.

#### *Article 63*

##### **Product intervention powers of competent authorities**

1. Competent authorities may prohibit or restrict in or from its Member State the marketing or distribution of a PEPP under the following conditions:

- (a) the competent authorities are satisfied that there are reasonable grounds to believe that the PEPP gives rise to significant or reiterated saver's protection concerns or poses a risk to the orderly functioning and integrity of financial markets or the stability of whole or part of the financial system within at least one Member State;



- (b) the action is proportionate taking into account the nature of the risks identified, the level of sophistication of PEPP savers concerned and the likely effect of the action on PEPP savers who have concluded a PEPP contract;
- (c) the competent authorities have properly consulted competent authorities in other Member States that may be significantly affected by the action; and
- (d) the action does not have a discriminatory effect on services or activities provided from another Member State.

Where the conditions set out in the first subparagraph are fulfilled, competent authorities may impose the prohibition or restriction on a precautionary basis before a PEPP has been marketed or distributed to PEPP savers. A prohibition or restriction may apply in circumstances, or be subject to exceptions, specified by the competent authorities.

2. The competent authorities shall not impose a prohibition or restriction under this Article unless, not less than one month before the measure is intended to take effect, they have notified all other competent authorities involved and EIOPA in writing or through another medium agreed between the authorities of the details of:

- (a) the PEPP to which the proposed action relates;
- (b) the precise nature of the proposed prohibition or restriction and when it is intended to take effect; and
- (c) the evidence upon which they have based their decision and upon which they have reasonable grounds to believe that each of the conditions in paragraph 1 are met.

3. In exceptional cases where the competent authorities deem it necessary to take urgent action under this Article in order to prevent detriment arising from the PEPP, the competent authorities may take action on a provisional basis with no less than 24 hours' written notice before the measure is intended to take effect to all other competent authorities and EIOPA, provided that all the conditions set out in this Article are met and that, in addition, it is clearly established that a one-month notification period would not adequately address the specific concern or threat. The competent authorities shall not take action on a provisional basis for a period exceeding three months.

4. The competent authorities shall publish on their websites notice of any decision to impose any prohibition or restriction referred to in paragraph 1. That notice shall specify details of the prohibition or restriction, a time after the publication of the notice from which the measures will take effect and the evidence upon which it is satisfied each of the conditions in paragraph 1 are met. The prohibition or restriction shall only apply in relation to action taken after the publication of the notice.

5. The competent authorities shall revoke a prohibition or restriction if the conditions in paragraph 1 no longer apply.

#### Article 64

##### **Facilitation and coordination**

1. EIOPA shall perform a facilitation and coordination role in relation to action taken by competent authorities under Article 63. In particular, EIOPA shall ensure that action taken by a competent authority is justified and proportionate and that, where appropriate, a consistent approach is taken by competent authorities.

2. After receiving notification under Article 63 of any prohibition or restriction that is to be imposed under that Article, EIOPA shall issue an opinion on whether the prohibition or restriction is justified and proportionate. If EIOPA considers that the taking of a measure by other competent authorities is necessary to address the risk, it shall state this in its opinion. The opinion shall be published on EIOPA's website.

3. Where a competent authority proposes to take, or takes, action contrary to an opinion issued by EIOPA under paragraph 2 or declines to take action contrary to such an opinion, it shall immediately publish on its website a notice fully explaining its reasons for so doing.

#### Article 65

##### **Product intervention powers of EIOPA**

1. In accordance with Article 9(2) of Regulation (EU) No 1094/2010, EIOPA shall monitor the market for PEPPs which are marketed, distributed or sold in the Union.

2. In accordance with Article 9(5) of Regulation (EU) No 1094/2010, EIOPA may, where the conditions in paragraphs 3 and 4 of this Article are fulfilled, temporarily prohibit or restrict in the Union the marketing, distribution or sale of certain PEPPs or PEPPs with certain specified features.

A prohibition or restriction may apply in circumstances, or be subject to exceptions, to be specified by EIOPA.

3. EIOPA shall take a decision under paragraph 2 of this Article after consulting the other ESAs, where appropriate, and only if all of the following conditions are fulfilled:

- (a) the proposed action addresses a significant PEPP saver protection concern, including with respect to the long-term retirement nature of the product, or a threat to the orderly functioning and integrity of financial markets or to the stability of the whole or part of the financial system in the Union;
- (b) regulatory requirements under Union law that are applicable to PEPPs do not address the threat;
- (c) a competent authority or competent authorities have not taken action to address the threat or the actions that have been taken do not adequately address the threat.

Where the conditions set out in the first subparagraph are fulfilled, EIOPA may impose the prohibition or restriction referred to in paragraph 2 on a precautionary basis before a PEPP has been marketed, distributed or sold to PEPP customers.

4. When taking action under this Article, EIOPA shall ensure that the action does not:

- (a) have a detrimental effect on the efficiency of financial markets or on PEPP savers that is disproportionate to the benefits of the action; or
- (b) create a risk of regulatory arbitrage.

Where a competent authority or competent authorities have taken a measure under Article 63, EIOPA may take any of the measures referred to in paragraph 2 of this Article without issuing the opinion provided for in Article 64.

5. Before deciding to take any action under this Article, EIOPA shall notify competent authorities of the action it proposes.
6. EIOPA shall publish on its website notice of any decision to take any action under this Article. That notice shall specify details of the prohibition or restriction and specify a time after the publication of the notice from which the measures will take effect. A prohibition or restriction shall only apply to action taken after the measures take effect.
7. EIOPA shall review a prohibition or restriction imposed under paragraph 2 at appropriate intervals and at least every three months. If the prohibition or restriction is not renewed after that three-month period, it shall expire.
8. Any action taken by EIOPA in accordance with this Article shall take precedence over any previous action taken by a competent authority.
9. The Commission shall adopt delegated acts in accordance with Article 72 to supplement this Regulation with criteria and factors to be applied by EIOPA in determining when there is a significant PEPP saver protection concern, including with respect to the long-term retirement nature of the product, or a threat to the orderly functioning and integrity of financial markets or to the stability of the whole or part of the financial system of the Union referred to in point (a) of paragraph 3 of this Article.

Those criteria and factors shall include:

- (a) the degree of complexity of the PEPP and the relation to the type of PEPP saver to whom it is marketed and sold;
- (b) the degree of innovation of a PEPP, an activity or a practice;
- (c) the leverage a PEPP or practice provides;
- (d) in relation to the orderly functioning and integrity of financial markets, the size or the total amount of accumulated capital of the PEPP.

#### *Article 66*

#### **Cooperation and consistency**

1. Each competent authority shall contribute to the consistent application of this Regulation throughout the Union.
2. The competent authorities shall cooperate with each other in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council <sup>(22)</sup>, Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2014/65/EU, (EU) 2016/97 and (EU) 2016/2341.
3. The competent authorities and EIOPA shall cooperate with each other for the purpose of carrying out their respective duties under this Regulation in accordance with Regulation (EU) No 1094/2010.
4. The competent authorities and EIOPA shall exchange all information and documentation necessary to carry out their respective duties under this Regulation in accordance with Regulation (EU) No 1094/2010, in particular to identify and remedy infringements of this Regulation.

<sup>(22)</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

5. In order to ensure consistent application of this Article, EIOPA shall develop draft implementing technical standards specifying the details of cooperation and exchange of information, together with the requirements needed to present the information above in a standardised format allowing for comparison.

EIOPA shall submit those draft implementing technical standards to the Commission by 15 August 2020.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.

## CHAPTER X

### PENALTIES

#### *Article 67*

#### **Administrative penalties and other measures**

1. Without prejudice to the supervisory powers of competent authorities and to the right for Member States to provide for and impose criminal sanctions, Member States shall lay down the rules on appropriate administrative penalties and other measures applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The administrative penalties and other measures provided for shall be effective, proportionate and dissuasive.

Member States may decide not to lay down rules for administrative penalties as referred to in the first subparagraph for infringements which are subject to criminal sanctions under their national law.

By the date of application of this Regulation, Member States shall notify the rules referred to in the first and second subparagraph to the Commission and to EIOPA. They shall notify the Commission and EIOPA without delay of any subsequent amendment thereto.

2. The administrative penalties and other measures laid down in paragraph 3 of this Article shall apply at least to situations where:

- (a) a financial undertaking as referred to in Article 6(1) has obtained a registration of a PEPP through false or misleading statements or any other irregular means in infringement of Articles 6 and 7;
- (b) a financial undertaking as referred to in Article 6(1) provides, respectively distributes, products bearing the designation 'pan-European Personal Pension Product' or 'PEPP' without the required registration;
- (c) a PEPP provider has not provided the portability service in infringement of Article 18 or 19 or the information about that service required under Articles 20 and 21, or has failed to meet the requirements and obligations set out in Chapter IV, Chapter V, Articles 48 and 50, and Chapter VII;
- (d) a depositary has failed to fulfil its oversight duties under Article 48.

3. Member States shall, in accordance with national law, provide for competent authorities to have the power to impose at least the following administrative penalties and other measures in relation to the situations referred to in paragraph 2 of this Article:

- (a) a public statement, which indicates the identity of the natural or legal person and the nature of the infringement in accordance with Article 69;

- (b) an order requiring the natural or legal person to cease the conduct and to desist from a repetition of that conduct;
- (c) a temporary ban on any member of the financial undertaking's management, supervisory or administrative body or any other natural person, who is held responsible, from exercising management functions in such undertakings;
- (d) in case of a legal person, maximum administrative fines of at least EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on 14 August 2019;
- (e) in the case of a legal person, the maximum administrative fines referred to in point (d) may be up to 10 % of the total annual turnover according to the latest available accounts approved by the management, supervisory or administrative body; where the legal person is a parent undertaking or a subsidiary of the parent undertaking which has to prepare consolidated financial accounts in accordance with Directive 2013/34/EU of the European Parliament and of the Council <sup>(23)</sup>, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant accounting legislative acts according to the latest available consolidated accounts approved by the management, supervisory or administrative body of the ultimate parent undertaking;
- (f) in the case of a natural person, maximum administrative fines of at least EUR 700 000 or, in the Member States whose currency is not the euro, the corresponding value in the national currency on 14 August 2019;
- (g) maximum administrative fines of at least twice the amount of the benefit derived from the infringement where that benefit can be determined, even if that exceeds the maximum amounts in point (d), (e) or (f), respectively.

4. Any decision imposing administrative penalties or other measures set out in the first subparagraph of paragraph 1 and in paragraph 3 shall be reasoned and subject to the right of appeal before a tribunal.

5. In the exercise of their powers under the first subparagraph of paragraph 1 and under paragraph 3, competent authorities shall cooperate closely to ensure that the administrative penalties and other measures produce the results pursued by this Regulation and coordinate their action in order to avoid possible duplication and overlap when applying administrative penalties and other measures to cross-border cases.

#### Article 68

##### **Exercise of the power to impose administrative penalties and other measures**

1. Competent authorities shall exercise the powers to impose administrative penalties and other measures referred to in Article 67 in accordance with their national legal frameworks:

- (a) directly;
- (b) in collaboration with other authorities;
- (c) by application to the competent judicial authorities.

<sup>(23)</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

2. Competent authorities, when determining the type and level of an administrative penalty or other measure imposed under Article 67(3), shall take into account all relevant circumstances, including, where appropriate:

- (a) the materiality, gravity and the duration of the infringement;
- (b) the degree of responsibility of the natural or legal person responsible for the infringement;
- (c) the financial strength of the responsible natural or legal person, as indicated in particular by the total turnover of the responsible legal person or the annual income and net assets of the responsible natural person;
- (d) the importance of profits gained or losses avoided by the responsible natural or legal person, insofar as they can be determined;
- (e) the losses for third parties caused by the infringement, insofar as they can be determined;
- (f) the level of cooperation of the responsible natural or legal person with the competent authorities, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;
- (g) previous infringements by the responsible natural or legal person.

#### *Article 69*

##### **Publication of administrative penalties and other measures**

1. Competent authorities shall publish without undue delay on their official websites any decision imposing an administrative penalty or other measure for infringement of this Regulation after the addressee of the administrative penalty or other measure has been notified of that decision.

2. The publication referred to in paragraph 1 shall include information on the type and nature of the infringement and the identity of the persons responsible and the administrative penalties or other measures imposed.

3. Where the publication of the identity, in the case of legal persons, or the identity and personal data, in the case of natural persons, is considered by the competent authorities to be disproportionate following a case-by-case assessment, or where the competent authorities consider that the publication jeopardises the stability of financial markets or an on-going investigation, competent authorities shall either:

- (a) defer the publication of the decision imposing the administrative penalty or other measure until the reasons for non-publication cease to exist;
- (b) publish the decision imposing the administrative penalty or other measure, omitting for a reasonable period of time the identity and personal data of the addressee, if it is envisaged that within that period the reasons for anonymous publication shall cease to exist and provided that such anonymous publication ensures an effective protection of the personal data concerned; or

(c) not publish at all the decision to impose the administrative penalty or other measure in the event that the options set out in points (a) and (b) are considered to be insufficient to ensure:

(i) that the stability of financial markets would not be put in jeopardy;

(ii) the proportionality of the publication of such decisions with regard to measures which are deemed to be of a minor nature.

4. In the case of a decision to publish an administrative penalty or other measure on an anonymous basis as referred to in point (b) of paragraph 3, the publication of the relevant data may be postponed. Where a decision imposing an administrative penalty or other measure is subject to an appeal before the relevant judicial authorities, competent authorities shall also without delay add that information to their official website and any subsequent information on the outcome of such appeal. Any judicial decision annulling a decision imposing an administrative penalty or other measure shall also be published.

5. Competent authorities shall ensure that any publication referred to in paragraphs 1 to 4 shall remain on their official website for at least five years after its publication. Personal data contained in the publication shall only be kept on the official websites of the competent authorities for the period which is necessary in accordance with the applicable data protection rules.

#### Article 70

##### **Duty to submit information to EIOPA in relation to administrative penalties and other measures**

1. Competent authorities shall inform EIOPA of all administrative penalties and other measures imposed but not published in accordance with point (c) of Article 69(3) including any appeal in relation thereto and the outcome thereof.

2. Competent authorities shall provide EIOPA annually with aggregated information regarding all administrative penalties and other measures imposed in accordance with Article 67.

EIOPA shall publish that information in an annual report.

3. Where Member States have chosen, in accordance with the second subparagraph of Article 67(1), to lay down criminal sanctions for infringements of this Regulation, their competent authorities shall on an annual basis provide EIOPA with anonymised and aggregated data regarding all criminal investigations undertaken and criminal sanctions imposed. EIOPA shall publish anonymised data on criminal sanctions imposed in an annual report.

4. Where competent authorities have disclosed an administrative penalty, other measure or criminal sanction to the public, they shall at the same time report that penalty, measure or sanction to EIOPA.

#### CHAPTER XI

##### **FINAL PROVISIONS**

#### Article 71

##### **Processing of personal data**

With regard to the processing of personal data within the framework of this Regulation, PEPP providers, PEPP distributors and competent authorities shall carry out their tasks for the purpose of this Regulation in accordance with Regulation (EU) 2016/679 and Directive 2002/58/EC. With regard to the processing of personal data by EIOPA within the framework of this Regulation, EIOPA shall comply with Regulation (EU) 2018/1725.

*Article 72***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 Articles 40(9), 45(4) and 65(9) shall be conferred on the Commission for a period of four years from 14 August 2019. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the four-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 powers referred to in Articles 40(9), 45(4) and 65(9) 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 40(9), 45(4) or 65(9) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to 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 three months at the initiative of the European Parliament or of the Council.

*Article 73***Evaluation and report**

1. Five years after the date of application of this Regulation, and every five years thereafter, the Commission shall carry out an evaluation of this Regulation, and after consulting EIOPA and the other ESAs where appropriate, present a report on the main findings to the European Parliament and the Council. That report shall be accompanied, where appropriate, by a legislative proposal.
2. The Report shall cover in particular the following:
  - (a) the functioning of the procedure for registration of PEPPs in accordance with Chapter II;
  - (b) portability, in particular the sub-accounts available to PEPP savers and the possibility for the saver to continue to contribute to the last opened sub-account in accordance with Article 20(3) and (4);
  - (c) development of partnerships;
  - (d) the functioning of the switching service and the level of the fees and charges;



- (e) the level of market penetration of the PEPP and the effect of this Regulation on pension provision across Europe, including substitution of existing products and the uptake of the Basic PEPP;
- (f) the complaints procedure;
- (g) the integration of ESG factors in the PEPP investment policy;
- (h) the level of fees, charges and expenses that are directly or indirectly borne by PEPP savers, including an assessment of possible market failures;
- (i) the compliance of PEPP providers with this Regulation and the standards set by the applicable sectorial law;
- (j) the application of different risk-mitigation techniques used by the PEPP providers;
- (k) the provision of PEPP under the freedom to provide services and freedom of establishment;
- (l) if there are merits to disclosing information on the past performance of the product to prospective PEPP savers, taking into account the information for the performance scenarios which will be included in the PEPP;
- (m) whether advice provided to PEPP savers is adequate, in particular regarding possible forms of out-payments.

The assessment referred to in point (e) of the first subparagraph shall take into account reasons for not opening sub-accounts in certain Member States and assess the progress and effort made by PEPP providers in developing technical solutions for opening sub-accounts.

3. The Commission shall set up a panel with relevant stakeholders to monitor the development and implementation of PEPPs on an ongoing basis. That panel shall include at least EIOPA, the competent authorities, industry and consumer representatives and independent experts.

The secretariat of the panel shall be EIOPA.

#### Article 74

#### **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*.

This Regulation shall apply 12 months after the publication in the *Official Journal of the European Union* of the delegated acts referred to in Articles 28(5), 30(2), 33(3), 36(2), 37(2), 45(3) and 46(3).

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

Done at Brussels, 20 June 2019.

*For the European Parliament*

*The President*

A. TAJANI

*For the Council*

*The President*

G. CIAMBA

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**REGULATION (EU) 2019/1239 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 20 June 2019**  
**establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU**

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 <sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure <sup>(2)</sup>,

Whereas:

- (1) Directive 2010/65/EU of the European Parliament and of the Council <sup>(3)</sup> requires Member States to accept the fulfilment of the reporting obligations of ships arriving in and departing from Union ports in electronic format and to ensure their transmission via a single window in order to facilitate and expedite maritime transport.
- (2) Maritime transport is the backbone of trade and communications within and beyond the single market. For the facilitation of maritime transport, and in order to further reduce the administrative burden for shipping companies, the information procedures for fulfilment of reporting obligations imposed on shipping companies by Union legal acts, by international legal acts and by national law of Member States should be further simplified and harmonised and should be technology-neutral, promoting future-proof reporting solutions.
- (3) Both the European Parliament and the Council have frequently called for more interoperability and for more comprehensive, user-friendly communication and information flows, in order to improve the functioning of the internal market and to meet the needs of citizens and businesses.

<sup>(1)</sup> OJ C 62, 15.2.2019, p. 265.

<sup>(2)</sup> Position of the European Parliament of 18 April 2019 (not yet published in the Official Journal) and decision of the Council of 13 June 2019.

<sup>(3)</sup> Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC (OJ L 283, 29.10.2010, p. 1).

- (4) The main aim of this Regulation is to lay down harmonised rules for the provision of the information that is required for port calls, in particular by ensuring that the same data sets can be reported to each maritime National Single Window in the same way. This Regulation also aims to facilitate the transmission of information between declarants, relevant authorities and the providers of port services in the port of call, and other Member States. The application of this Regulation should not alter the time frames for, or the substance of, reporting obligations, and should not affect the subsequent storage and processing of information at Union level or at national level.
- (5) The existing maritime National Single Window in each Member State should be maintained as the basis for a technologically neutral and interoperable European Maritime Single Window environment ('EMSWe'). The maritime National Single Window should constitute a comprehensive reporting entry point for maritime transport operators, performing the functionalities of data collection from the declarants and data distribution to all relevant competent authorities and providers of port services.
- (6) In order to enhance the efficiency of the maritime National Single Windows and to prepare for future developments, it should be possible to maintain present or establish new arrangements in Member States to use the maritime National Single Window for the reporting of similar information for other transport modes.
- (7) The front-end interfaces of those maritime National Single Windows on the side of the declarants should be harmonised at Union level, in order to facilitate reporting and further reduce administrative burden. This harmonisation should be achieved by the use in every maritime National Single Window of common interface software for system-to-system exchanges of information, developed at Union level. The Member States should bear the responsibility for integrating and managing the interface module and for updating the software regularly and in a timely manner when new versions are provided by the Commission. The Commission should develop this module and provide updates when needed, since the development of digital technologies is moving fast and any technological solution could rapidly become outdated in the light of new developments.
- (8) Other reporting channels provided by Member States and service providers, such as Port Community Systems, could be maintained as optional entry points for reporting and should be able to act as data service providers.
- (9) In order not to impose a disproportionate administrative burden on landlocked Member States which do not have maritime ports, such Member States should be exempted from the obligation to develop, establish, operate and make available a maritime National Single Window. This means that, for as long as they make use of this exemption, such Member States should not be required to fulfil obligations that are linked to the development, establishment, operation and making available of a maritime National Single Window.
- (10) An easy-to-use graphical user interface with common functionalities should be part of the maritime National Single Windows for manual reporting by declarants. Member States should offer the graphical user interface for manual entry of data by declarants also by way of uploading harmonised digital spreadsheets. In addition to ensuring common functionalities, the Commission and Member States should coordinate efforts with the aim of ensuring that the user experience of those graphical user interfaces is as similar as possible.
- (11) Emerging new digital technologies present ever-growing opportunities to increase the efficiency of the maritime transport sector and to reduce administrative burdens. In order for the benefits of such new technologies to accrue as early as possible, the Commission should be empowered to amend the technical specifications, standards and procedures of the harmonised reporting environment by means of implementing acts. This should leave flexibility for market players to develop new digital technologies and new technologies should also be taken into account when this Regulation is reviewed.

- (12) Adequate support and information on the processes and technical requirements related to the use of maritime National Single Window should be provided to declarants via easily accessible and user-friendly national websites with common 'look and feel' standards.
- (13) The Convention on Facilitation of International Maritime Traffic (the FAL Convention)<sup>(4)</sup> provides that public authorities must in all cases require only essential reporting information and keep the number of items to a minimum. However, local conditions may require specific information to ensure safety of navigation.
- (14) In order to enable the functioning of the EMSWe, it is necessary to establish a comprehensive EMSWe data set which should cover all information elements that might be requested by national authorities or port operators for administrative or operational purposes when a ship makes a port call. When establishing the EMSWe data set, the Commission should take into account relevant work carried out at international level. Since the scope of reporting obligations varies from one Member State to another, a maritime National Single Window in a given Member State should be designed to accept the EMSWe data set without any modification, and disregard any information not relevant for that Member State.
- (15) In exceptional circumstances, a Member State should be able to request additional data elements from declarants. Such exceptional circumstances may arise, for example, when there is an urgent need to protect internal order and security or to address a serious threat against human or animal health or against the environment. The notion of exceptional circumstances should be interpreted strictly.
- (16) The relevant reporting obligations contained in the Union and international legal acts should be listed in the Annex to this Regulation. Those reporting obligations should provide the basis for the establishment of the comprehensive EMSWe data set. The Annex should also refer to the relevant categories of reporting obligations at national level, and the Member States should be able to request the Commission to amend the EMSWe data set on the basis of reporting obligations contained in their national legislation and requirements. Union legal acts which amend the EMSWe data set on the basis of a reporting obligation contained in the national legislation and requirements should include explicit reference to that national legislation and requirements.
- (17) Whenever the information from the maritime National Single Window is distributed to the competent authorities, the transmission should comply with the common data requirements, formats and codes for the reporting obligations and formalities provided for in the Union legal acts listed in the Annex and should be made through the IT systems established therein, such as the electronic data-processing techniques referred to in Article 6(1) of Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>(5)</sup>.
- (18) The implementation of this Regulation should take into account the SafeSeaNet systems established at national and Union level, which should continue to facilitate the exchange and distribution of information received through the maritime National Single Window between the Member States in accordance with Directive 2002/59/EC of the European Parliament and of the Council<sup>(6)</sup>.
- (19) Ports are not the final destination of goods. The efficiency of the ship port calls have an impact on the entire logistics chain related to the transport of goods and passengers to and from the ports. In order to ensure the interoperability, multimodality, and smooth integration of maritime transport with the overall logistics chain, and in order to facilitate other transport modes, the maritime National Single Windows should allow for the possibility of exchanging relevant information, such as arrival and departure times, with similar frameworks developed for other transport modes.

<sup>(4)</sup> International Maritime Organization (IMO) Convention on Facilitation of International Maritime Traffic (the 'FAL Convention'), adopted on 9 April 1965 and amended on 8 April 2016, Standard 1.1.

<sup>(5)</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

<sup>(6)</sup> Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (OJ L 208, 5.8.2002, p. 10).

- (20) In order to improve the efficiency of maritime transport and to limit the duplication of the information which must be provided for operational purposes when a ship makes a port call, the information provided by declarants to a maritime National Single Window should be also shared with certain other entities, such as port or terminal operators, when authorised by the declarant, and taking into account the need to respect confidentiality, commercial sensitivities and legal constraints. This Regulation aims to improve the handling of data following the once-only principle when fulfilling the reporting obligations.
- (21) Regulation (EU) No 952/2013 provides that goods which are brought into the customs territory of the Union must be covered by an entry summary declaration that must be submitted to the customs authorities electronically. Given the importance of the entry summary declaration information for the management of security and financial risks, a specific electronic system is currently being developed for the submission and management of entry summary declarations in the Union customs territory. It will not, therefore, be possible to submit entry summary declarations through the harmonised reporting interface module. However, considering that some of the data elements submitted in the entry summary declaration are also required for the fulfilment of other customs and maritime reporting obligations when a ship calls in a port of the Union, the EMSWe should be able to process the data elements of the entry summary declaration. The possibility that the maritime National Single Window could retrieve relevant information that has already been submitted through the entry summary declaration should also be envisaged.
- (22) In order to fully harmonise reporting requirements, customs, maritime and other relevant authorities should cooperate at both national and Union level. National coordinators with specific responsibilities should enhance the effectiveness of this cooperation and the smooth functioning of the maritime National Single Windows.
- (23) In order to enable the reuse of the information provided through the maritime National Single Windows and facilitate the submission of information by declarants, it is necessary to provide for common databases. An EMSWe ship database should be established which includes a reference list of ship particulars and their reporting exemptions, as reported to the respective maritime National Single Window. To facilitate the submission of information by declarants, a Common Location Database should be established which holds a reference list of location codes, including the United Nations Code for Trade and Transport Locations (UN/LOCODE), the SafeSeaNet-specific codes, and the port facility codes as registered in the Global Integrated Shipping Information System (GISIS) of the International Maritime Organization (IMO). Furthermore, a Common Hazmat Database should be established which incorporates a list of dangerous and polluting goods that are to be notified to the maritime National Single Window in accordance with Directive 2002/59/EC and IMO FAL 7, taking into consideration the relevant data elements from the IMO Conventions and Codes.
- (24) The processing of personal data within the framework of this Regulation by competent authorities should comply with Regulation (EU) 2016/679 of the European Parliament and of the Council <sup>(7)</sup>. The processing of personal data by the Commission within the framework of this Regulation should comply with Regulation (EU) 2018/1725 of the European Parliament and of the Council <sup>(8)</sup>.
- (25) The EMSWe and the maritime National Single Windows should not provide any other grounds for any processing of personal data than what is required for their functioning and should not be used to grant any new access rights to personal data.

<sup>(7)</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>(8)</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (26) 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 supplementing this Regulation by establishing and amending the EMSWe data set and by determining definitions, categories and data specifications for the data elements, and in respect of amending the Annex to incorporate reporting obligations existing at national level as well as to take into account any new reporting obligations adopted by the Union legal acts. The Commission should ensure that the common data requirements, formats and codes established in the Union and international legal acts listed in the Annex are respected. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making <sup>(9)</sup>. 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.
- (27) When preparing delegated acts, the Commission should ensure that Member States' experts and the business community are consulted in a transparent manner, and well in advance.
- (28) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(10)</sup>.
- (29) In particular, implementing powers should be conferred on the Commission to lay down the functional and technical specifications, quality control mechanisms and procedures for deploying, maintaining and employing the harmonised interface module and the related harmonised elements of the maritime National Single Windows. Implementing powers should also be conferred on the Commission to lay down the technical specifications, standards and procedures for common services of the EMSWe.
- (30) This Regulation should build on Regulation (EU) No 910/2014 of the European Parliament and of the Council <sup>(11)</sup> which lays down conditions under which Member States recognise certain means of electronic identification for natural and legal persons falling under a notified electronic identification scheme of another Member State. Regulation (EU) No 910/2014 establishes the conditions for users to be able to use their electronic identification and authentication means in order to access online public services in cross-border situations.
- (31) The Commission should carry out an evaluation of this Regulation. Information should be collected in order to inform that evaluation and allow the assessment of the performance of this Regulation against the objectives it pursues. The Commission should also evaluate, among other options, the added value of establishing a centralised and harmonised European reporting system, such as a central reporting interface.

<sup>(9)</sup> OJ L 123, 12.5.2016, p. 1.

<sup>(10)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>(11)</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

- (32) Directive 2010/65/EU should therefore be repealed, with effect from the date of the application of this Regulation.
- (33) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council <sup>(12)</sup>,

HAVE ADOPTED THIS REGULATION:

#### CHAPTER I

#### GENERAL PROVISIONS

##### *Article 1*

#### **Subject matter and scope**

This Regulation establishes a framework for a technologically neutral and interoperable European Maritime Single Window environment ('EMSWe') with harmonised interfaces, in order to facilitate the electronic transmission of information in relation to reporting obligations for ships arriving at, staying in and departing from a Union port.

##### *Article 2*

#### **Definitions**

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

- (1) 'European Maritime Single Window environment' ('EMSWe') means the legal and technical framework for the electronic transmission of information in relation to reporting obligations for port calls in the Union, which consists of a network of maritime National Single Windows with harmonised reporting interfaces and includes data exchanges via SafeSeaNet and other relevant systems as well as common services for user registry and access management, addressing, ship identification, location codes and information on dangerous and polluting goods and on health;
- (2) 'ship' means any seagoing vessel or craft operating in the marine environment that is subject to a particular reporting obligation listed in the Annex;
- (3) 'maritime National Single Window' means a nationally established and operated technical platform for receiving, exchanging and forwarding electronically information to fulfil reporting obligations, which includes commonly defined management of access rights, a harmonised reporting interface module and a graphical user interface for communication with declarants, as well as links with the relevant authorities' systems and databases at national and at Union level, which enables messages or acknowledgements covering the widest range of decisions taken by all of the participating relevant authorities to be communicated to declarants, and which could also allow, where applicable, for the connection with other reporting means;
- (4) 'harmonised reporting interface module' means a middleware component of the maritime National Single Window through which information can be exchanged between the information system used by the declarant and the relevant maritime National Single Window;
- (5) 'reporting obligation' means the information required by the Union and international legal acts listed in the Annex, as well as by the national legislation and requirements referred to in the Annex which has to be provided in connection with a port call;

<sup>(12)</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

- (6) 'port call' means the arrival of a ship at, the stay of a ship in, and the departure of a ship from a maritime port in a Member State;
- (7) 'data element' means the smallest unit of information which has a unique definition and precise technical characteristics such as format, length and character type;
- (8) 'EMSWe data set' means the complete list of data elements stemming from reporting obligations;
- (9) 'graphical user interface' means a web interface for two-way web-based user-to-system data submission to a maritime National Single Window, allowing declarants to enter data manually, inter alia, by means of harmonised digital spreadsheets and functions that enable reporting data elements to be extracted from those spreadsheets, as well as including common functionalities and features that ensure a common navigation flow and data upload experience for the declarants;
- (10) 'common addressing service' means an additional voluntary service for declarants for initiating direct system-to-system data connections between the system of a declarant and the harmonised reporting interface module of the respective maritime National Single Window;
- (11) 'declarant' means any natural or legal person who is subject to reporting obligations or any duly authorised natural or legal person acting on that person's behalf within the limits of the relevant reporting obligation;
- (12) 'customs authorities' means the authorities defined in point (1) of Article 5 of Regulation (EU) No 952/2013;
- (13) 'data service provider' means a natural or legal person who provides information and communication technology services to a declarant in relation to reporting obligations;
- (14) 'electronic transmission of information' means the process of transmitting information that has been encoded digitally, using a revisable structured format which can be used directly for data storage and processing by computers;
- (15) 'provider of port services' means any natural or legal person who provides one or more categories of the port services listed in Article 1(2) of Regulation (EU) 2017/352 of the European Parliament and of the Council <sup>(13)</sup>.

<sup>(13)</sup> Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports (OJ L 57, 3.3.2017, p. 1).



## CHAPTER II

**EMSWe DATA SET***Article 3***Establishment of the EMSWe data set**

1. The Commission shall establish and amend the EMSWe data set pursuant to paragraph 3 of this Article.
2. By 15 February 2020, the Member States shall notify the Commission of any reporting obligations stemming from national legislation and requirements, as well as of the data elements to be included in the EMSWe data set. They shall precisely identify those data elements.
3. The Commission is empowered to adopt delegated acts in accordance with Article 23 in order to amend the Annex to this Regulation for the purpose of introducing, deleting or adapting references to national legislation or requirements, Union or international legal acts, and in order to establish and amend the EMSWe data set.

The first such delegated act shall be adopted by 15 August 2021.

As set out in Article 4, a Member State may request the Commission to introduce or amend data elements in the EMSWe data set, in accordance with the reporting obligations contained in the national legislation and requirements. When assessing whether data elements are to be included in the EMSWe data set, the Commission shall take into account safety concerns, as well as the principles of the FAL Convention, namely the principle of only requiring the reporting of essential information and keeping the number of items to a minimum.

The Commission shall decide, within three months after the request, whether to introduce the data elements in the EMSWe data set. The Commission shall justify its decision.

A delegated act which introduces or amends a data element in the EMSWe data set shall include an explicit reference to the national legislation and requirements referred to in the third subparagraph.

In the event that the Commission decides not to introduce the requested data element, the Commission shall give substantiated grounds for its refusal, with reference to the safety of navigation and the principles of the FAL Convention.

*Article 4***Amendments to the EMSWe data set**

1. Where a Member State intends to amend a reporting obligation under in its national legislation and requirements which would involve the provision of information other than the information that is included in the EMSWe data set, that Member State shall immediately notify the Commission. In that notification, the Member State shall precisely identify the information that is not covered by the EMSWe data set and shall indicate the intended period during which the reporting obligation in question is to apply.
2. A Member State shall not introduce new reporting obligations unless such introduction has been approved by the Commission through the procedure set out in Article 3 and the corresponding information has been incorporated in the EMSWe data set and applied in the harmonised reporting interfaces.
3. The Commission shall assess the necessity of amending the EMSWe data set in accordance with Article 3(3). Amendments to the EMSWe data set shall only be introduced once a year, except in duly justified cases.
4. In exceptional circumstances, a Member State may ask declarants to provide additional data elements without the approval of the Commission during a period of less than three months. The Member State shall notify those data elements to the Commission without delay. The Commission may allow the Member State to continue to request the additional data elements for two further periods of three months if the exceptional circumstances persist.

No later than one month before the end of the last three-month period referred to in the first subparagraph, the Member State may request the Commission that the additional data elements become part of the EMSWe data set, in accordance with Article 3(3). The Member State may continue to ask declarants to provide the additional data elements until a decision by the Commission has been taken, and in the event of a positive decision, until the amended EMSWe data set has been implemented.

## CHAPTER III

## PROVISION OF INFORMATION

*Article 5***Maritime National Single Window**

1. Each Member State shall establish a maritime National Single Window through which, in accordance with this Regulation and without prejudice to Articles 7 and 11, all information necessary for the fulfilment of reporting obligations shall be provided once, by means of and in compliance with the EMSWe data set, using the harmonised reporting interface module and the graphical user interface as set out in Article 6 and, where applicable, other reporting means as set out in Article 7, for the purpose of making this information available to the relevant authorities of the Member States to the extent necessary to allow those authorities to perform their respective functions.

Member States shall be responsible for the operation of their maritime National Single Window.

Member States may jointly establish a maritime single window with one or more other Member States. Those Member States shall designate that maritime single window as their maritime National Single Window, and shall remain responsible for its operation in accordance with this Regulation.

2. Member States which do not have maritime ports shall be exempted from the obligation to develop, establish, operate and make available a maritime National Single Window which is set out in paragraph 1.

3. The Member States shall ensure:

- (a) the compatibility of the maritime National Single Window with the harmonised reporting interface module and adherence of the graphical user interface of their maritime National Single Window to the common functionalities in accordance with Article 6(2);
- (b) the timely integration of the harmonised reporting interfaces in accordance with the implementation dates set in the implementing act referred to in Article 6 and any subsequent updates in accordance with the dates agreed in the Multi-annual Implementation Plan (MIP);
- (c) a connection with the relevant systems of competent authorities, to enable the transfer of data to be reported to those authorities, through the maritime National Single Window, and to those systems, in accordance with Union legal acts and national legislation and requirements, and in compliance with the technical specifications of those systems;
- (d) the provision of a helpdesk during the first 12 months from 15 August 2025 and an online support website for their maritime National Single Window with clear instructions in the official language(s) of that Member State and, where relevant, in a language that is internationally used;
- (e) the provision of adequate and necessary training for staff who are directly involved in the operation of the maritime National Single Window.

4. Member States shall ensure that the required information reaches the authorities in charge of the application of the legislation in question, and is limited to the needs of each of those authorities. In doing so, Member States shall ensure compliance with the legal requirements related to the transmission of information, provided for in the Union legal acts listed in the Annex and, where applicable, use the electronic data-processing techniques referred to in Article 6(1) of Regulation (EU) No 952/2013. Member States shall also ensure interoperability with the information systems used by those authorities.
5. The maritime National Single Window shall provide the technical possibility for declarants to make available, separately, to providers of port services at the port of destination a subset of data elements pre-defined at national level.
6. Where a Member State does not require all of the elements of the EMSWe data set for the fulfilment of reporting obligations, the maritime National Single Window shall accept submissions that are limited to the data elements that are required by that Member State. The maritime National Single Window shall also accept submissions by declarants that include additional elements of the EMSWe data set; however, it does not need to process and store those additional elements.
7. Member States shall store the information submitted to their respective maritime National Single Windows only for the period of time necessary to ensure the fulfilment of the requirements set out in this Regulation and to ensure compliance with the Union, international and national legal acts listed in the Annex. Member States shall immediately delete such information thereafter.
8. Member States shall make publicly available estimated and actual arrival and departure times of ships in an electronic format harmonised at Union level, on the basis of the data submitted by declarants to the maritime National Single Window. This obligation shall not apply to ships carrying sensitive cargo, where the publication of such information by the maritime National Single Window could pose a threat to security.
9. The maritime National Single Windows shall have a uniform internet address.
10. The Commission shall adopt implementing acts laying down a harmonised structure for the support website referred to in point (d) of paragraph 3, technical specifications for making available arrival and departure times referred to in paragraph 8, and a uniform format for internet addresses referred to in paragraph 9. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 24(2).

The first such implementing act shall be adopted by 15 August 2021.

#### *Article 6*

#### **Harmonised Reporting Interfaces**

1. The Commission shall, in close cooperation with the Member States, adopt implementing acts laying down the functional and technical specifications for the harmonised reporting interface module for the maritime National Single Windows. The functional and technical specifications shall aim to facilitate the interoperability with different technologies and reporting systems of the users.

The first such implementing act shall be adopted by 15 August 2021.

2. The Commission shall, in close cooperation with the Member States, develop by 15 August 2022 and thereafter update the harmonised reporting interface module for the maritime National Single Windows in conformity with the specifications referred to in paragraphs 1 and 5 of this Article.

3. The Commission shall provide the Member States with the harmonised reporting interface module and all relevant information for the integration into their maritime National Single Window.

4. The Commission shall adopt implementing acts laying down the common functionalities of the graphical user interface and the templates of the harmonised digital spreadsheets referred to in Article 2(9).

The first such implementing act shall be adopted by 15 August 2021.

5. The Commission shall adopt implementing acts amending the technical specifications, standards and procedures, in order to ensure that the harmonised reporting interfaces are open to future technologies.

6. The implementing acts referred to in this Article shall be adopted in accordance with the advisory procedure referred to in Article 24(2).

#### *Article 7*

##### **Other means of reporting**

1. Member States shall allow declarants to provide, on a voluntary basis, information to the maritime National Single Window through data service providers that comply with the requirements of the harmonised reporting interface module.

2. Member States may allow declarants to provide the information through other reporting channels provided that those channels are voluntary for the declarants. In such cases, Member States shall ensure that those other channels make the relevant information available to the maritime National Single Window.

3. Member States may use alternative means for the provision of information in the event of a temporary failure of any of the electronic systems referred to in Articles 5 and 6 and Articles 12 to 17.

#### *Article 8*

##### **Once-only principle**

1. Without prejudice to Article 11(1), unless otherwise required by Union law, Member States shall ensure that the declarant is requested to provide the information pursuant to this Regulation only once per port call, and that the relevant data elements of the EMSWe data set are made available and reused in accordance with paragraph 3 of this Article.

2. The Commission shall ensure that the ship identification information, particulars and exemptions that are provided through the maritime National Single Window are recorded in the EMSWe ship database referred to in Article 14 and are made available for any subsequent port calls within the Union.

3. Member States shall ensure that the data elements of the EMSWe data set provided at departure from a port in the Union are made available to the declarant for the purpose of fulfilling the reporting obligations at arrival to the next port in the Union, provided that the ship has not called at a port outside of the Union during that voyage. This paragraph shall not apply to information received pursuant to Regulation (EU) No 952/2013, unless the possibility of making such information available for such purpose is provided for in that Regulation.

4. Any relevant data elements of the EMSWe data set received in accordance with this Regulation shall be made available to other maritime National Single Windows via the SafeSeaNet.

5. The Commission shall adopt implementing acts laying down the list of relevant data elements referred to in paragraphs 3 and 4 of this Article. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 24(2).

#### *Article 9*

##### **Responsibility for the information communicated**

The declarant shall be responsible for ensuring the submission of data elements in compliance with the applicable legal and technical requirements. The declarant shall remain responsible for the data and for updating any information that has changed after the submission to the maritime National Single Window.

#### *Article 10*

##### **Data protection and confidentiality**

1. The processing of personal data by competent authorities within the framework of this Regulation shall comply with Regulation (EU) 2016/679.

2. The processing of personal data by the Commission within the framework of this Regulation shall comply with Regulation (EU) 2018/1725.

3. Member States and the Commission shall take the necessary measures in accordance with the applicable Union or national law to ensure the confidentiality of commercial and other sensitive information exchanged pursuant to this Regulation.

#### *Article 11*

##### **Additional provisions for customs**

1. This Regulation shall not prevent the exchange of information between customs authorities of the Member States, or between customs authorities and economic operators, using the electronic data-processing techniques referred to in Article 6(1) of Regulation (EU) No 952/2013.

2. The relevant information in the Entry Summary Declaration referred to in Article 127 of Regulation (EU) No 952/2013, where compatible with Union customs law, shall be made available to the maritime National Single Window for reference and, where appropriate, reused for other reporting obligations listed in the Annex.

3. The Commission shall adopt implementing acts laying down the list of relevant information referred to in paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 24(2).

The first such implementing act shall be adopted by 15 August 2021.

## CHAPTER IV

## COMMON SERVICES

## Article 12

**EMSWe user registry and access management system**

1. The Commission shall establish and ensure the availability of a common user registry and access management system for declarants and data service providers that use the maritime National Single Window, as well as for national authorities that access the maritime National Single Window in cases where authentication is required. That common user registry and access management system shall provide for a single user registration by means of an existing Union registry with Union level recognition, federated user management and Union level user monitoring.
2. Each Member State shall designate a national authority to be responsible for the identification and registration of new users and the modification and termination of existing accounts through the system referred to in paragraph 1.
3. For the purpose of access to the maritime National Single Window in different Member States, a declarant or data service provider that is registered in the EMSWe user registry and access management system shall be considered to be registered with the maritime National Single Window in all Member States, and shall operate within the limits of the access rights granted by each Member State in accordance with its national rules.
4. The Commission shall adopt implementing acts laying down the technical specifications, standards and procedures for setting up the common user registry and access management system referred to in paragraph 1, including the functionalities referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 24(2).

The first such implementing act shall be adopted by 15 August 2021.

## Article 13

**Common addressing service**

1. The Commission shall develop, in close cooperation with the Member States, an additional voluntary common addressing service, provided that the harmonised reporting interface module has been implemented fully in accordance with Article 6.
2. The Commission, in close cooperation with the Member States, shall adopt implementing acts laying down the functional and technical specifications, quality control mechanisms and procedures for deploying, maintaining and employing the common addressing service. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 24(2).

The first such implementing act shall be adopted by 15 August 2024.

## Article 14

**EMSWe Ship Database**

1. In accordance with Article 8(2), the Commission shall establish a EMSWe ship database containing a list of ship identification information and particulars, as well as records on ship reporting exemptions.
2. Member States shall ensure the provision of the data referred to in paragraph 1 to the EMSWe ship database on the basis of the data submitted by declarants to the maritime National Single Window.

3. The Commission shall ensure the availability of the ship database data to the maritime National Single Windows for facilitation of ship reporting.

4. The Commission shall adopt implementing acts laying down the technical specifications, standards and procedures for the setting up of the database referred to in paragraph 1 with respect to the collecting, storing, updating and provision of the ship identification information and particulars, as well as records on ship reporting exemptions. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 24(2).

The first such implementing act shall be adopted by 15 August 2021.

#### Article 15

##### Common Location Database

1. The Commission shall establish a common location database that contains a reference list of location codes<sup>(14)</sup> and port facility codes, as registered in the IMO database GISIS.

2. The Commission shall ensure the availability of the location database to the maritime National Single Windows in order to facilitate ship reporting.

3. Member States shall make information from the location database available at national level through the maritime National Single Window.

4. The Commission shall adopt implementing acts laying down the technical specifications, standards and procedures for the setting up of the common location database referred to in paragraph 1 with respect to collecting, storing, updating and provision of the location and port facility codes. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 24(2).

The first such implementing act shall be adopted by 15 August 2021.

#### Article 16

##### Common Hazmat Database

1. The Commission shall establish a common hazmat database containing a list of dangerous and polluting goods which are to be notified in accordance with Directive 2002/59/EC and IMO FAL 7, taking into consideration the relevant data elements from the IMO Conventions and Codes.

2. The Commission shall ensure the availability of the common hazmat database to the maritime National Single Windows to facilitate ship reporting.

3. The database shall be linked to the relevant entries in the MAR-CIS database developed by European Maritime Safety Agency (EMSA) regarding information on associated hazards and risks of dangerous and polluting goods.

4. The database shall be used both as a reference and a verification tool, at national and Union level, during the reporting process through the maritime National Single Window.

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<sup>(14)</sup> 'United Nations Code for Trade and Transport Locations'.

5. Member States shall make information from the common hazmat database available at national level through the maritime National Single Window.

6. The Commission shall adopt implementing acts laying down the technical specifications, standards and procedures for the setting up of the common hazmat database referred to in paragraph 1 with respect to the collecting, storing and provision of the hazmat reference information. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 24(2).

The first such implementing act shall be adopted by 15 August 2021.

#### *Article 17*

### **Common Ship Sanitation Database**

1. The Commission shall make available a common ship sanitation database that is able to receive and store data related to the Maritime Declarations of Health under Article 37 of the International Health Regulations 2005 (IHR). Personal data relating to ill persons on board ships shall not be stored on that database.

The competent health authorities of the Member States shall have access to the database for the purpose of receiving and exchanging data.

2. Member States that use the ship sanitation database shall make known to the Commission their national authority responsible for user management in relation to that database, including the registration of new users as well as the modification and closure of accounts.

3. The Commission shall adopt implementing acts laying down the technical specifications, standards and procedures for the setting up of the database referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 24(2).

## CHAPTER V

### **COORDINATION OF THE EMSWe ACTIVITIES**

#### *Article 18*

### **National coordinators**

Each Member State shall designate a competent national authority with a clear legal mandate to act as a national coordinator for the EMSWe. The national coordinator shall:

- (a) act as the national contact point for users and the Commission for all matters relating to the implementation of this Regulation;
- (b) coordinate the application of this Regulation by the competent national authorities within a Member State and their cooperation;
- (c) coordinate the activities aiming at ensuring the distribution of data and the connection with the relevant systems of competent authorities as referred in point (c) of Article 5(3).



*Article 19***Multi-annual Implementation Plan**

In order to facilitate the timely implementation of this Regulation and to provide quality control mechanisms and procedures for deploying, maintaining and updating the harmonised interface module and the related harmonised elements of the EMSWe, the Commission shall adopt, and revise on a yearly basis, following appropriate consultations of Member States' experts, a Multi-annual Implementation Plan which shall provide:

- (a) a plan for the development and updating of the harmonised reporting interfaces and the related harmonised elements of the EMSWe over the following 18 months;
- (b) a plan for the development of the common addressing service by 15 August 2024;
- (c) indicative dates for consultation with relevant stakeholders;
- (d) indicative deadlines for the Member States for the subsequent integration of the harmonised reporting interfaces with the maritime National Single Windows;
- (e) indicative deadlines for the Commission's development of a common addressing service following the implementation of the harmonised reporting interface module;
- (f) testing periods for Member States and declarants to test their connections with any new versions of the harmonised reporting interfaces;
- (g) testing periods for the common addressing service;
- (h) indicative phasing-out deadlines for the older versions of the harmonised reporting interfaces for the Member States and declarants.

## CHAPTER VI

**FINAL PROVISIONS***Article 20***Costs**

The general budget of the European Union shall cover the costs for:

- (a) the development and maintenance of the ICT tools by the Commission and EMSA supporting the implementation of this Regulation at Union level;
- (b) the promotion of the EMSWe at Union level, including among relevant stakeholders, and at the level of relevant international organisations.

*Article 21***Cooperation with other trade and transport facilitation systems or services**

Where trade and transport facilitation systems or services have been created by other Union legal acts, the Commission shall coordinate the activities related to those systems or services with a view to achieving synergies and avoiding duplication.

*Article 22***Review and report**

Member States shall monitor the application of the EMSWe, and report their findings to the Commission. The report shall include the following indicators:

- (a) use of the harmonised reporting interface module;
- (b) use of the graphical user interface;
- (c) use of other means of reporting as referred to in Article 7.

Member States shall submit that report to the Commission on an annual basis, using a template to be provided by the Commission.

By 15 August 2027, the Commission shall review the application of this Regulation and shall submit to the European Parliament and the Council an assessment report on the functioning of the EMSWe on the basis of the data and statistics collected. The assessment report shall include, where necessary, an evaluation of emerging technologies which could lead to changes to or the replacement of the harmonised reporting interface module.

*Article 23***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 3 shall be conferred on the Commission for a period of four years from 14 August 2019. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the four-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 no later than three months before the end of each period.
3. The delegation of power referred to in Article 3 may be revoked at any time by the European Parliament or 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. When adopting 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 3 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within 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.

#### Article 24

##### **Committee procedure**

1. The Commission shall be assisted by a Digital Transport and Trade Facilitation Committee. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

#### Article 25

##### **Repeal of Directive 2010/65/EU**

Directive 2010/65/EU is repealed from 15 August 2025.

References to Directive 2010/65/EU shall be construed as references to this Regulation.

#### Article 26

##### **Entry into force**

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply from 15 August 2025.
3. The functionalities referred to in Article 11(2) and those related to the customs reporting obligations specified in point 7 of Part A of the Annex shall become effective when the electronic systems referred to in Article 6(1) of Regulation (EU) No 952/2013 which are necessary for the application of those reporting obligations are operational, in accordance with the work programme established by the Commission pursuant to Articles 280 and 281 of Regulation (EU) No 952/2013. The Commission shall publish the date on which the conditions of this paragraph have been fulfilled in the 'C' series of 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, 20 June 2019.

*For the European Parliament*  
*The President*  
A. TAJANI

*For the Council*  
*The President*  
G. CIAMBA

## ANNEX

**REPORTING OBLIGATIONS**

## A. Reporting obligations stemming from legal acts of the Union

This category of reporting obligations includes the information which is to be provided in accordance with the following provisions:

## 1. Notification for ships arriving in and departing from ports of the Member States

Article 4 of Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system (OJ L 208, 5.8.2002, p. 10).

## 2. Border checks on persons

Article 8 of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

## 3. Notification of dangerous or polluting goods carried on board

Article 13 of Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system (OJ L 208, 5.8.2002, p. 10).

## 4. Notification of waste and residues

Article 6 of Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues (OJ L 332, 28.12.2000, p. 81).

## 5. Notification of security information

Article 6 of Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security (OJ L 129, 29.4.2004, p. 6).

The form set out in the Appendix to this Annex shall be used for identifying the data elements required under Article 6 of Regulation (EC) No 725/2004.

## 6. Information on persons on board

Articles 4(2) and 5(2) of Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community (OJ L 188, 2.7.1998, p. 35).

## 7. Customs formalities

### (a) Arrival formalities:

- Notification of arrival (Article 133 of Regulation (EU) No 952/2013);
- Presentation of goods to customs (Article 139 of Regulation (EU) No 952/2013);
- Temporary storage declaration of goods (Article 145 of Regulation (EU) No 952/2013);
- Customs status of goods (Articles 153 to 155 of Regulation (EU) No 952/2013);
- Electronic transport documents used for transit (Article 233(4)(e) of Regulation (EU) No 952/2013).

### (b) Departure formalities:

- Customs status of goods (Articles 153 to 155 of Regulation (EU) No 952/2013);
- Electronic transport documents used for transit (Article 233(4)(e) of Regulation (EU) No 952/2013);
- Exit notification (Article 267 of Regulation (EU) No 952/2013);
- Exit summary declaration (Articles 271 and 272 of Regulation (EU) No 952/2013);
- Re-export notification (Articles 274 and 275 of Regulation (EU) No 952/2013).

## 8. Safe loading and unloading of bulk carriers

Article 7 of Directive 2001/96/EC of the European Parliament and of the Council of 4 December 2001 establishing harmonised requirements and procedures for the safe loading and unloading of bulk carriers (OJ L 13, 16.1.2002, p. 9).

## 9. Port State control

Article 9 and Article 24(2) of Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).

## 10. Maritime transport statistics

Article 3 of the Directive 2009/42/EC of the European Parliament and of the Council of 6 May 2009 on statistical returns in respect of carriage of goods and passengers by sea (OJ L 141, 6.6.2009, p. 29).

B. FAL documents and reporting obligations stemming from international legal instruments

This category of reporting obligations includes the information which is to be provided in accordance with the FAL Convention and other relevant international legal instruments.

1. FAL 1: General Declaration
2. FAL 2: Cargo Declaration
3. FAL 3: Ship's Stores Declaration
4. FAL 4: Crew's Effects Declaration
5. FAL 5: Crew List
6. FAL 6: Passenger List
7. FAL 7: Dangerous Goods
8. Maritime Declaration of Health

C. Reporting obligations stemming from national legislation and requirements

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## APPENDIX

**SHIP PRE-ARRIVAL SECURITY INFORMATION FORM FOR ALL SHIPS PRIOR TO ENTRY INTO THE PORT  
OF AN EU MEMBER STATE**

(1974 International Convention for the Safety of Life at Sea (SOLAS) regulation 9 of Chapter XI-2 and Article 6(3) of Regulation (EC) No 725/2004)

Particulars of the ship and contact details							
IMO number		Name of ship					
Port of registry		Flag State					
Type of ship		Call Sign					
Gross Tonnage		Inmarsat call numbers (if available)					
Name of Company and company identification number		CSO name & 24 hour contact details					
Port of arrival		Port facility of arrival (if known)					
Port and port facility information							
Expected date and time of arrival of the ship in port (ETA)							
Primary purpose of call							
Information required by SOLAS Regulation 9.2.1 of Chapter XI-2							
Does the ship have a valid International Ship Security Certificate (ISSC)?	YES	ISSC	NO - why not?	Issued by (name of Administration or RSO)	Expiry date (dd/mm/yyyy)		
Does the ship have an approved SSP on board?	YES	NO	Security Level at which the ship is currently operating?	Security Level 1	Security Level 2	Security Level 3	
Location of ship at the time this report is made							
List the last ten calls at port facilities in chronological order (most recent call first):							
No.	Date from (dd/mm/yyyy)	Date to (dd/mm/yyyy)	Port	Country	UN/LOCODE (if available)	Port facility	Security Level
1							SL =
2							SL =
3							SL =
4							SL =
5							SL =

No.	Date from (dd/mm/yyyy)	Date to (dd/mm/yyyy)	Port	Country	UN/LOCODE (if available)	Port facility	Security Level
6							SL =
7							SL =
8							SL =
9							SL =
10							SL =
Did the ship take any special or additional security measures, beyond those in the approved SSP?  If the answer is YES, indicate below the special or additional security measures taken by the ship.						YES	NO
No. (as above)	Special or additional security measures taken by the ship						
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
List the ship-to-ship activities, in chronological order (most recent first), which were carried out during the last ten calls at port facilities listed above. Expand table below or continue on separate page if necessary – insert total number of ship-to-ship activities:							



Were the ship security procedures specified in the approved SSP maintained during each of these ship-to-ship activities?					YES	NO	
If NO, provide details of the security measures applied in lieu in the final column below.							
No.	Date from (dd/mm/yyyy)	Date to (dd/mm/yyyy)	Location or Longitude and Latitude	Ship-to-ship activity	Security measures applied in lieu		
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
General description of the cargo aboard the ship							
Is the ship carrying any dangerous substances as cargo covered by any of Classes 1, 2.1, 2.3, 3, 4.1, 5.1, 6.1, 6.2, 7 or 8 of the IMDG Code?				YES	NO	If YES, confirm Dangerous Goods Manifest (or relevant extract) is attached	
Confirm a copy of ship's crew list is attached				YES	Confirm a copy of the ship's passenger list is attached	YES	
Other security related information							
Is there any security-related matter you wish to report?				YES	Provide details:		NO
Agent of ship at intended port of arrival							
Name:			Contact details (Tel. no.):				
Identification of person providing the information							
Title or Position (delete as appropriate): Master / SSO / CSO / Ship's agent (as above)				Name:		Signature:	
Date/Time/Place of completion of report							

**REGULATION (EU) 2019/1240 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 20 June 2019**  
**on the creation of a European network of immigration liaison officers**  
**(recast)**

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 74 and Article 79(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<sup>(1)</sup>,

Whereas:

- (1) Council Regulation (EC) No 377/2004<sup>(2)</sup> has been substantially amended. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.
- (2) The sharp increase of mixed migratory flows in 2015 and 2016 has put migration, asylum and border management systems under pressure. This has posed a challenge for the Union and Member States, showing the need to strengthen Union policy in the field of migration with a view to achieving a coordinated and effective European response.
- (3) The objective of Union policy in the field of migration is to replace irregular and uncontrolled migratory flows with safe and well-managed pathways, through a comprehensive approach aimed at ensuring, at all stages, the efficient management of migration flows in accordance with Chapter 2 of Title V of the Treaty on the Functioning of the European Union (TFEU).
- (4) Respect for human rights is a fundamental principle of the Union. The Union is committed to protecting the human rights and fundamental freedoms of all migrants, regardless of their migratory status, in full compliance with international law. As such, measures taken by immigration liaison officers when implementing this Regulation, in particular in cases involving vulnerable people, should respect fundamental rights in accordance with relevant international and Union law, including Articles 2 and 6 of the Treaty on European Union (TEU) and the Charter of Fundamental Rights of the European Union.

<sup>(1)</sup> Position of the European Parliament of 16 April 2019 (not yet published in the Official Journal) and decision of the Council of 14 June 2019.

<sup>(2)</sup> Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network (OJ L 64, 2.3.2004, p. 1).

- (5) To ensure the effective implementation of all aspects of Union policies on immigration, consistent dialogue and cooperation should be pursued with key third countries of origin and transit of migrants and of applicants for international protection. Such cooperation, in line with the comprehensive approach set out in the European Agenda on Migration, should provide for better management of immigration, including departures and returns, support capacity to gather and share information, including on applicants' access to international protection and, where possible and relevant, on reintegration, and prevent and counter illegal immigration, smuggling of migrants and trafficking in human beings.
- (6) Protection tools include measures contained in the Global Approach to Migration and Mobility (GAMM). Legal immigration strategies and channels between the Union and third countries should also include labour migration, visas for students and family reunification, without prejudice to the national competences of Member States.
- (7) In light of the increasing demand for analysis and information to support evidence-based policy making and operational responses, there is a need for immigration liaison officers to ensure that their insight and knowledge contribute fully to the establishment of a comprehensive situational picture on third countries.
- (8) Information on the composition of migratory flows should, where possible and relevant, include information on declared migrants' age, gender profile and family and on unaccompanied minors.
- (9) The deployment of the current European Migration Liaison Officers to the key third countries of origin and transit, as called for in the conclusions of the special meeting of the heads of state and government on 23 April 2015, was a first step towards enhancing the engagement with third countries on migration-related issues and stepping up cooperation with immigration liaison officers deployed by Member States. Building on this experience, longer-term deployments of immigration liaison officers by the Commission to third countries should be foreseen to support development, implementation and maximise the impact of Union action on migration.
- (10) The objective of this Regulation is to ensure better coordination and optimise utilisation of the network of liaison officers deployed to third countries by the competent authorities of Member States, including, where appropriate, by law enforcement authorities, as well as by the Commission and Union agencies, in order to respond more effectively to the Union priorities of preventing and combating illegal immigration and related cross-border criminality such as smuggling of migrants and trafficking in human beings, facilitating dignified and effective return, readmission and reintegration activities, contributing to integrated management of the Union's external borders, as well as supporting management of legal immigration, including in the area of international protection, resettlement and pre-departure integration measures undertaken by Member States and the Union. Such coordination should fully respect the existing chain of command and reporting lines between immigration liaison officers and their respective deploying authorities as well as among immigration liaison officers themselves.
- (11) Building on Regulation (EC) No 377/2004, this Regulation aims to ensure that immigration liaison officers better contribute to the functioning of a European network of immigration liaison officers primarily by establishing a mechanism through which Member States, the Commission and Union agencies can more systematically coordinate the tasks and roles of their liaison officers deployed in third countries.

- (12) Given that liaison officers dealing with migration-related issues are deployed by different competent authorities and that their mandates and tasks may overlap, efforts should be made to enhance cooperation among officers operating within the same third country or region. Where immigration liaison officers are deployed to the Union's diplomatic missions in a third country by the Commission or Union agencies, they should facilitate and support the immigration liaison officers' network in that third country. Where appropriate, such networks may be extended to liaison officers deployed by countries other than Member States.
- (13) The establishment of a robust mechanism that ensures better coordination and cooperation among all liaison officers dealing with immigration issues as part of their duties is essential in order to minimise information gaps and duplication of work and maximise operational capabilities and effectiveness. A Steering Board should provide guidance in line with Union policy priorities, taking into account the Union's external relations, and should be given the necessary powers, in particular to adopt biennial work programmes for the activities of networks of immigration liaison officers, agree on tailored ad hoc actions for immigration liaison officers addressing priorities and emerging needs not already covered by the biennial work programme, allocate resources for agreed activities and be accountable for their execution. Neither the tasks of the Steering Board nor those of the facilitators of immigration liaison officer networks should affect the competence of deploying authorities with regard to tasking their respective immigration liaison officers. When carrying out its tasks, the Steering Board should take into account the diversity of networks of immigration liaison officers as well as the views of the Member States most concerned as regards relations with particular third countries.
- (14) A list of immigration liaison officers deployed to third countries should be established and updated regularly by the Steering Board. The list should include information related to the location, composition and activities of different networks, including the contact details and a summary of the duties of the deployed immigration liaison officers.
- (15) Joint deployment of liaison officers should be promoted with the aim of enhancing operational cooperation and information sharing between Member States, as well as to respond to needs at Union level, as defined by the Steering Board. Joint deployment by at least two Member States should be supported by Union funds encouraging engagement and providing added value to all Member States.
- (16) Special provision should be made for a wider Union capacity-building action for immigration liaison officers. Such capacity-building should comprise the development of common core curricula and pre-deployment training courses, including on fundamental rights, in cooperation with relevant Union agencies, and the reinforcement of the operational capacity of networks of immigration liaison officers. Such curricula should be non-compulsory and supplementary to national curricula established by deploying authorities.
- (17) Networks of immigration liaison officers should avoid duplicating the work of Union agencies and other Union instruments or structures, including the work of local Schengen cooperation groups, and should bring added value to what they already achieve in terms of collecting and exchanging information in the area of immigration, in particular by focusing on operational aspects. Those networks should act as facilitators and providers of information from third countries to support Union agencies in their functions and tasks, in particular where Union agencies have not yet established cooperative relations with third countries. Closer cooperation between networks of immigration liaison officers and relevant Union agencies should be established to that effect. Immigration liaison officers should at all times be aware that their actions might have operational or reputational consequences for local and regional networks of immigration liaison officers. They should act accordingly when carrying out their tasks.

- (18) Member State authorities should ensure that, where appropriate and in accordance with Union and national law, information obtained by liaison officers deployed to other Member States and strategic and operational analytical products of Union agencies in relation to illegal immigration, dignified and effective return and reintegration, cross-border criminality or international protection and resettlement effectively reach immigration liaison officers in third countries and that the information provided by immigration liaison officers is shared with the relevant Union agencies; in particular the European Border and Coast Guard Agency, European Union Agency for Law Enforcement Cooperation (Europol) and the European Asylum Support Office (EASO) within the scope of their respective legal frameworks.
- (19) In order to ensure the most effective use of information collected by the networks of immigration liaison officers, such information should be available through a secure web-based information exchange platform in accordance with applicable data protection legislation.
- (20) Information collected by immigration liaison officers should support the implementation of the technical and operational European integrated border management referred to in Regulation (EU) 2016/1624 of the European Parliament and of the Council <sup>(3)</sup> and contribute to the development and maintenance of national border surveillance systems in accordance with Regulation (EU) No 1052/2013 of the European Parliament and of the Council <sup>(4)</sup>.
- (21) It should be possible to use the available resources of the Regulation (EU) No 515/2014 of the European Parliament and of the Council <sup>(5)</sup> to support the activities of a European network of immigration liaison officers as well as to pursue the joint deployment of immigration liaison officers by Member States.
- (22) Any processing, including the transfer, of personal data by Member States within the framework of this Regulation should be conducted in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council <sup>(6)</sup>. The Commission and Union agencies should apply Regulation (EU) 2018/1725 of the European Parliament and of the Council <sup>(7)</sup> when processing personal data.
- (23) The processing of personal data within the framework of this Regulation should be for the purposes of assisting the return of third-country nationals, facilitating the resettlement of persons in need of international protection and implementing Union and national measures in respect of admission for the purpose of legal migration and for the prevention and combating of illegal immigration, smuggling of migrants and trafficking in human beings. A legal framework that recognises the role of immigration liaison officers in this context is therefore necessary.

<sup>(3)</sup> Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

<sup>(4)</sup> Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosir) (OJ L 295, 6.11.2013, p. 11).

<sup>(5)</sup> Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

<sup>(6)</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>(7)</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (24) Immigration liaison officers need to process personal data to facilitate the proper implementation of return procedures, the successful enforcement of return decisions, and reintegration where relevant and possible. The third countries of return are not often subject to adequacy decisions adopted by the Commission under Article 45 of Regulation (EU) 2016/679, and have often not concluded or do not intend to conclude a readmission agreement with the Union or otherwise provide for appropriate safeguards within the meaning of Article 46 of Regulation (EU) 2016/679. Despite the extensive efforts of the Union in cooperating with the main countries of origin of illegally staying third-country nationals subject to an obligation to return, it is not always possible to ensure that such third countries systematically fulfil the obligation established by international law to readmit their own nationals. Therefore, readmission agreements, concluded or being negotiated by the Union or the Member States and providing for appropriate safeguards for the transfer of data to third countries pursuant to Article 46 of Regulation (EU) 2016/679, cover a limited number of such third countries. In the situation where such agreements do not exist, personal data should be transferred by immigration liaison officers for the purposes of implementing the return operations of the Union in accordance with the conditions laid down in Article 49 of Regulation (EU) 2016/679.
- (25) As an exception from the requirement for an adequacy decision or appropriate safeguards, the transfer of personal data to third-country authorities under this Regulation should be allowed for implementing the return policy of the Union. It should therefore be possible for immigration liaison officers to use the derogation provided for in Article 49(1)(d) of Regulation (EU) 2016/679 subject to the conditions set out in that Article for the purposes of this Regulation, namely for the dignified and effective return of third-country nationals who do not fulfil or no longer fulfil the conditions for entry, stay or residence in the Member States in accordance with Directive 2008/115/EC of the European Parliament and of the Council <sup>(8)</sup>.
- (26) In the interests of the persons concerned, immigration liaison officers should be able to process the personal data of persons in need of international protection subject to resettlement and of persons wishing to migrate legally to the Union, in order to confirm their identity and nationality. Immigration liaison officers operate in a context in which it is likely that they gain important insights into the activities of criminal organisations involved in smuggling of migrants and trafficking in human beings. Therefore, they should also be able to share personal data processed in the course of their duties with law enforcement authorities and within networks of immigration liaison officers, provided that the personal data in question is necessary either for the prevention and tackling of irregular migration or for the prevention, investigation, detection and prosecution of smuggling of migrants or trafficking in human beings.
- (27) The objective of this Regulation is to optimise utilisation of the network of immigration liaison officers deployed by Member States, Commission and Union agencies to third countries in order to implement Union priorities more effectively while respecting the national competences of Member States. Such Union priorities include ensuring a better management of migration, with a view to replacing irregular flows with safe and well-managed pathways through a comprehensive approach addressing all aspects of immigration, including preventing and combating smuggling of migrants and trafficking in human beings and illegal immigration. Further Union priorities are to facilitate dignified and effective return, readmission and reintegration, contributing to integrated management of the Union's external borders and to support management of legal immigration or international protection schemes. Since the objective of this Regulation cannot be sufficiently achieved by the Member States alone but can rather, by reason of their large scale and their effects throughout the Union, be better achieved through coordination 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 Regulation does not go beyond what is necessary in order to achieve that objective.

<sup>(8)</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

- (28) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* <sup>(9)</sup> which fall within the area referred to in Article 1, points A and E, of Council Decision 1999/437/EC <sup>(10)</sup>.
- (29) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* <sup>(11)</sup> which fall within the area referred to in Article 1, points A and E, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/149/JHA <sup>(12)</sup>.
- (30) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* <sup>(13)</sup> which fall within the area referred to in Article 1, points A and E, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU <sup>(14)</sup>.
- (31) 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. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.
- (32) On 1 October 2018, in accordance with Article 5(2) of Protocol No 19 on the Schengen *acquis* integrated into the framework of the European Union, annexed to the TEU and to the TFEU, the United Kingdom notified the Council of its wish not to take part in the adoption of this Regulation. In accordance with Article 5(3) of the said Protocol, the Commission presented on 31 January 2019 a proposal for a Council Decision concerning the notification by the United Kingdom of its wish no longer to take part in some of the provisions of the Schengen *acquis* which are contained in Regulation (EC) No 377/2004. On this basis, the Council decided on 18 February 2019 <sup>(15)</sup> that as from the day of entry into force of this Regulation, Council Decision 2000/365/EC <sup>(16)</sup> and point 6 of Annex I to Council Decision 2004/926/EC <sup>(17)</sup> shall cease to apply to the United Kingdom as regards Regulation (EC) No 377/2004 and any further amendments thereto.

<sup>(9)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(10)</sup> Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

<sup>(11)</sup> OJ L 53, 27.2.2008, p. 52.

<sup>(12)</sup> Council Decision 2008/149/JHA of 28 January 2008 on the conclusion, on behalf of the European Union, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 50).

<sup>(13)</sup> OJ L 160, 18.6.2011, p. 21.

<sup>(14)</sup> Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

<sup>(15)</sup> Council Decision (EU) 2019/304 of 18 February 2019 concerning the notification by the United Kingdom of Great Britain and Northern Ireland of its wish no longer to take part in some of the provisions of the Schengen *acquis* which are contained in Council Regulation (EC) No 377/2004 on the creation of an immigration liaison officers network (OJ L 51, 22.2.2019, p. 7).

<sup>(16)</sup> Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

<sup>(17)</sup> Council Decision 2004/926/EC of 22 December 2004 on the putting into effect of parts of the Schengen *acquis* by the United Kingdom of Great Britain and Northern Ireland (OJ L 395, 31.12.2004, p. 70).

- (33) Ireland is taking part in this Regulation, in accordance with Article 5(1) of Protocol No 19, and Article 6(2) of Council Decision 2002/192/EC <sup>(18)</sup>.
- (34) The participation of Ireland in this Regulation in accordance with Article 6(2) of Decision 2002/192/EC relates to the responsibilities of the Union for taking measures developing the provisions of the Schengen *acquis* against the organisation of illegal immigration in which Ireland participates.
- (35) This Regulation constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession, Article 4(1) of the 2005 Act of Accession and Article 4(1) of the 2011 Act of Accession,

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

##### **Scope**

1. This Regulation lays down rules to enhance cooperation and coordination among immigration liaison officers deployed to third countries by Member States, the Commission and Union agencies, through the creation of a European network of immigration liaison officers.
2. This Regulation is without prejudice to the responsibility of Member State authorities, the Commission and Union agencies for defining the scope and assignment of tasks and reporting lines of their respective immigration liaison officers, and to the tasks of immigration liaison officers within the framework of their responsibilities under Union and national law, policies or procedures, or under special agreements concluded with the host country or international organisations.

#### *Article 2*

##### **Definitions**

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

- (1) 'immigration liaison officer' means a liaison officer designated and deployed abroad, by the competent authorities of a Member State, or by the Commission or by a Union agency, in accordance with the respective legal basis, to deal with immigration-related issues, also when that is only a part of their duties;
- (2) 'deployed abroad' means deployed to a third country, for a reasonable time period to be determined by the responsible authority, to one of the following:
  - (a) a diplomatic mission of a Member State;

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<sup>(18)</sup> Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).



(b) the competent authorities of a third country;

(c) an international organisation;

(d) a diplomatic mission of the Union;

(3) 'personal data' means personal data as defined in point (1) of Article 4 of the Regulation (EU) 2016/679;

(4) 'return' means return as defined in point (3) of Article 3 of Directive 2008/115/EC.

### *Article 3*

#### **Tasks of immigration liaison officers**

1. Immigration liaison officers shall carry out their tasks within the framework of their responsibilities determined by the deploying authorities and in accordance with the provisions, including those on the protection of personal data, laid down in Union and national laws and in any agreements or arrangements concluded with third countries or international organisations.

2. Immigration liaison officers shall carry out their tasks in accordance with fundamental rights as general principles of Union law as well as international law, including human rights obligations. They shall have particular consideration for vulnerable persons and take into account the gender dimension of migration flows.

3. Each deploying authority shall ensure that immigration liaison officers establish and maintain direct contacts with the competent authorities of third countries, including, when appropriate, with local authorities, and any relevant organisations operating within the third country, including international organisations, notably with a view to implementing this Regulation.

4. Immigration liaison officers shall collect information, for use either at operational level, strategic level, or both. Information collected under this paragraph shall be collected in accordance with Article 1(2) and shall not contain personal data, without prejudice to Article 10(2). Such information shall cover the following issues in particular:

(a) European integrated border management at the external borders, with a view to managing migration effectively;

(b) migratory flows originating from or transiting through the third country, including where possible and relevant, the composition of migratory flows and migrants' intended destination;

(c) routes used by migratory flows originating from or transiting through the third country in order to reach the territories of the Member States;

- (d) the existence, activities and *modi operandi* of criminal organisations involved in smuggling of migrants and trafficking in human beings along the migratory routes;
  - (e) incidents and events that have the potential to be or to cause new developments with respect to migratory flows;
  - (f) methods used for counterfeiting or falsifying identity documents and travel documents;
  - (g) ways and means to assist the authorities in third countries in preventing illegal immigration flows originating from or transiting through their territories;
  - (h) pre-departure measures available to immigrants in the country of origin or in host third countries that support successful integration upon legal arrival in Member States;
  - (i) ways and means to facilitate return, readmission and reintegration;
  - (j) effective access to protection that the third country has put in place, including in favour of vulnerable persons;
  - (k) existing and possible future legal immigration strategies and channels between the Union and third countries, taking into account skills and labour market needs in Member States, as well as resettlement and other protection tools;
  - (l) capacity, capability, political strategies, legislation and legal practices of third countries and stakeholders, including, where possible and relevant, regarding reception and detention centres and the conditions therein, as relevant to the issues referred to in points (a) to (k).
5. Immigration liaison officers shall coordinate among themselves and with relevant stakeholders regarding the provision of their capacity-building activities to authorities and other stakeholders in third countries.
6. Immigration liaison officers may render assistance, taking into account their expertise and training, in:
- (a) establishing the identity and nationality of third-country nationals and facilitating their return in accordance with Directive 2008/115/EC, as well as assisting their reintegration, where relevant and possible;
  - (b) confirming the identity of persons in need of international protection for the purposes of facilitating their resettlement in the Union, including by providing them, where possible, with adequate pre-departure information and support;
  - (c) confirming identity and facilitating implementation of Union and national measures in respect of the admission of legal immigrants;

- (d) sharing information obtained in the course of their duties within networks of immigration liaison officers and with competent authorities of the Member States, including law enforcement authorities, in order to prevent and detect illegal immigration as well as combat smuggling of migrants and trafficking in human beings.

*Article 4*

**Notification of the deployment of immigration liaison officers**

1. Member States, the Commission and the Union agencies shall inform the Steering Board established in Article 7 of their plans for and actual deployment of immigration liaison officers, including a description of their duties and the duration of their deployment.

The activity reports referred to in point (c) of Article 8(2) shall include an overview of the deployments of immigration liaison officers.

2. The information referred to in paragraph 1 shall be made available on the secure web-based information exchange platform provided for in Article 9.

*Article 5*

**Creation of local or regional networks of immigration liaison officers**

1. Immigration liaison officers deployed to the same countries or regions shall constitute local or regional cooperation networks and cooperate, where and when appropriate, with liaison officers deployed by countries other than Member States. Within the framework of such networks, immigration liaison officers shall in accordance with Article 1(2), in particular:

- (a) meet regularly and whenever necessary;
- (b) exchange information and practical experience, in particular at meetings and via the secure web-based information exchange platform provided for in Article 9;
- (c) exchange information, where appropriate, on experience regarding access to international protection;
- (d) coordinate positions to be adopted in contacts with commercial carriers, where appropriate;
- (e) attend joint specialised training courses, when appropriate, including on fundamental rights, trafficking in human beings, smuggling of migrants, document fraud or access to international protection in third countries;
- (f) organise information sessions and training courses for members of the diplomatic and consular staff of the missions of the Member States in the third country, when appropriate;

(g) adopt common approaches on methods for the collection and reporting of strategically relevant information, including risk analyses;

(h) set up regular contacts with similar networks in the third country and in neighbouring third countries, as appropriate.

2. Immigration liaison officers deployed by the Commission shall facilitate and support the networks provided for in paragraph 1. In locations where the Commission does not deploy immigration liaison officers, immigration liaison officers deployed by Union agencies shall facilitate and support the networks provided for in paragraph 1. In locations where neither the Commission nor Union agencies deploy immigration liaison officers, the network shall be facilitated by an immigration liaison officer, as agreed by members of the network.

3. The Steering Board shall be notified without undue delay of the appointment of the designated network facilitator or where no facilitator is designated.

#### *Article 6*

##### **Joint deployment of immigration liaison officers**

1. Member States may bilaterally or multilaterally agree that immigration liaison officers who are deployed to a third country or international organisation by a Member State shall also look after the interests of one or more other Member States.

2. Member States may also agree that their immigration liaison officers shall share certain tasks among each other, on the basis of their competence and training.

3. Where two or more Member States jointly deploy an immigration liaison officer, those Member States may receive Union financial support pursuant to Regulation (EU) No 515/2014.

#### *Article 7*

##### **Steering Board**

1. A Steering Board for a European network of immigration liaison officers is established.

2. The Steering Board shall be composed of one representative of each Member State, two representatives of the Commission, one representative of the European Border and Coast Guard Agency, one representative of Europol and one representative of EASO. To that end, each Member State shall appoint a member of the Steering Board as well as an alternate who will represent the member in his or her absence. The Steering Board members shall be appointed in particular on the basis of their relevant experience and expertise in managing liaison officer networks.

3. Countries associated with the implementation, application and development of the Schengen *acquis* shall participate in the Steering Board and shall appoint one representative each as members without voting rights. They shall be allowed to express views on all issues discussed and decisions taken by the Steering Board.

When taking decisions on matters that are relevant for immigration liaison officers deployed by countries associated with the implementation, application and development of the Schengen *acquis*, the Steering Board shall take due account of the views expressed by the representatives of those countries.

4. Experts, representatives of national authorities, international organisations and relevant Union institutions, bodies, offices and agencies who are not members of the Steering Board may be invited by the Steering Board to attend its meetings as observers.

5. The Steering Board may organise joint meetings with other networks or organisations.

6. A Commission representative shall act as the Chair of the Steering Board. The Chair shall:

(a) ensure continuity and organise the work of the Steering Board, including supporting the preparation of the biennial work programme and biennial report on the activities;

(b) advise the Steering Board in ensuring that the collective activities agreed are consistent and coordinated with relevant Union instruments and structures and reflect the priorities of the Union in the area of migration;

(c) convene meetings of the Steering Board.

To achieve the objectives of the Steering Board, the Chair shall be assisted by a Secretariat.

7. The Steering Board shall meet at least twice a year.

8. The Steering Board shall adopt decisions by an absolute majority of its members with voting rights.

9. Decisions adopted by the Steering Board shall be communicated to the relevant immigration liaison officers by the respective deploying authorities.

#### *Article 8*

##### **Tasks of the Steering Board**

1. The Steering Board shall establish its own rules of procedure on the basis of a proposal by the Chair within three months of its first meeting. The rules of procedure shall set out the details of the voting arrangements. The rules of procedure shall include, in particular, the conditions for a member to act on behalf of another member as well as any quorum requirements.

2. Considering the priorities of the Union in the area of immigration and within the scope of the tasks of immigration liaison officers as defined in this Regulation and in accordance with Article 1(2), the Steering Board shall carry out the following activities based on a comprehensive situational picture and on analyses provided by the relevant Union agencies:

- (a) establish priorities and plan activities by adopting a biennial work programme indicating the resources needed to support that work;
- (b) regularly review the implementation of its activities with a view to proposing amendments to the biennial work programme as appropriate, and as regards the appointment of network facilitators and progress made by networks of immigration liaison officers in their cooperation with competent authorities in third countries;
- (c) adopt the biennial activity report, including the overview referred to in the second subparagraph of Article 4(1), to be prepared by the Chair of the Steering Board,
- (d) update the list of deployments of immigration liaison officers ahead of each Steering Board meeting;
- (e) identify deployment gaps and outline possibilities for the deployment of immigration liaison officers.

The Steering Board shall transmit the documents referred to in points (a) and (c) of the first subparagraph of this paragraph to the European Parliament.

3. Considering the operational needs of the Union in the area of immigration and within the scope of the tasks of immigration liaison officers as defined in this Regulation and in accordance with Article 1(2), the Steering Board shall carry out the following activities:

- (a) agree on ad hoc actions by networks of immigration liaison officers;
- (b) monitor the availability of information between immigration liaison officers and Union agencies, and make recommendations for necessary actions where required;
- (c) support the development of the capabilities of immigration liaison officers, including through developing supplementary and non-compulsory common core curricula, pre-deployment training, guidelines on observing fundamental rights in their activities with a particular focus on vulnerable persons, and the organisation of joint seminars on subjects as referred to in Article 3(4), taking into account training tools developed by the relevant Union agencies or other international organisations;

- (d) ensure that information is exchanged through the secure web-based information exchange platform as provided for in Article 9.

4. For the execution of the activities referred to in paragraphs 2 and 3, Member States may receive Union financial support in accordance with Regulation (EU) No 515/2014.

#### *Article 9*

##### **Information exchange platform**

1. For the purposes of their respective tasks, immigration liaison officers, members of the Steering Board and facilitators of the network referred to in Article 5(2) shall ensure that all relevant information and statistics are uploaded to and exchanged via a secure web-based information exchange platform. That platform shall be set up by the Commission in agreement with the Steering Board and maintained by the Commission.

No operational law enforcement information of a strictly confidential nature shall be exchanged via the secure web-based information exchange platform.

2. The information to be exchanged via the secure web-based information exchange platform shall include at least the following elements:

(a) relevant documents, reports and analytical products as agreed by the Steering Board in accordance with Article 8(2) and (3);

(b) biennial work programmes, biennial activity reports and the outcome of activities and ad hoc tasks of networks of immigration liaison officers as referred to in Article 8(2) and (3);

(c) an up-to-date list of Steering Board members;

(d) an up-to-date list of contact details of immigration liaison officers deployed to third countries, including their names, locations of deployment and region of responsibility, telephone numbers and email addresses;

(e) other relevant documents related to the activities and decisions of the Steering Board.

3. With the exception of data as referred to in points (c) and (d) of paragraph 2, the information exchanged through the secure web-based information exchange platform shall not contain personal data or any links through which such personal data is directly or indirectly available. Access to data referred to in points (c) and (d) of paragraph 2 shall be restricted to immigration liaison officers, members of the Steering Board and duly authorised staff for the purpose of implementation of this Regulation.

4. The European Parliament shall be given access to certain parts of the secure web-based information exchange platform, as determined by the Steering Board in its rules of procedure and in accordance with the applicable Union and national rules and legislation.

#### Article 10

##### Processing personal data

1. Immigration liaison officers shall carry out their tasks in accordance with Union and national personal data protection rules, as well as such rules contained in international agreements concluded with third countries or international organisations.

2. Immigration liaison officers may process personal data for the purpose of the tasks referred to in Article 3(6). Those personal data shall be erased when they are no longer necessary in relation to the purposes for which they were collected or otherwise processed in accordance with Regulation (EU) 2016/679.

3. Personal data processed pursuant to paragraph 2 may include:

(a) biometric or biographic data, where necessary, to confirm the identity and nationality of third-country nationals for the purposes of return, including all types of documents which can be considered as proof or prima facie evidence of nationality;

(b) passenger lists for return flights and other means of transport to third countries;

(c) biometric or biographic data to confirm the identity and nationality of third-country nationals for the purpose of legal migration admission;

(d) biometric or biographic data to confirm the identity and nationality of third-country nationals in need of international protection for the purpose of resettlement;

(e) biometric, biographic data as well as other personal data necessary for establishing the identity of an individual and necessary for preventing and combating smuggling of migrants and trafficking in human beings, as well as personal data related to criminal networks' *modi operandi*, means of transports used, involvement of intermediaries and financial flows.

Data under point (e) of the first subparagraph of this paragraph shall be processed for the sole purpose of executing the tasks referred to under point (d) of Article 3(6).

4. Any exchange of personal data shall be strictly limited to what is necessary for the purposes of this Regulation.



5. Transfers of personal data by immigration liaison officers to third countries and international organisations pursuant to this Article shall be carried out in accordance with Chapter V of Regulation (EU) 2016/679.

*Article 11*

**Consular cooperation**

This Regulation is without prejudice to the provisions on consular cooperation at a local level contained in Regulation (EC) No 810/2009 of the European Parliament and of the Council <sup>(19)</sup>.

*Article 12*

**Report**

1. Five years after the date of adoption of this Regulation, the Commission shall report to the European Parliament and the Council on the application of this Regulation.

2. Member States and the relevant Union agencies shall provide the Commission with the necessary information for the preparation of the report on the application of this Regulation.

*Article 13*

**Repeal**

Regulation (EC) No 377/2004 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

*Article 14*

**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 the Member States in accordance with the Treaties.

Done at Brussels, 20 June 2019.

*For the European Parliament*

*The President*

A. TAJANI

*For the Council*

*The President*

G. CIAMBA

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<sup>(19)</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

## ANNEX I

**Repealed Regulation with the amendment thereto**

Council Regulation (EC) No 377/2004	(O) L 64, 2.3.2004, p. 1)
Regulation (EU) No 493/2011 of the European Parliament and of the Council	(O) L 141, 27.5.2011, p. 13)

## ANNEX II

**Correlation table**

Regulation (EC) No 377/2004	This Regulation
—	Article 1(1)
—	Article 2, introductory wording
Article 1(1)	Article 2, point (1)
Article 1(2)	Article 2, point (1) final wording
Article 1(3)	Article 2 point (2)
Article 1(4)	Article 1(2)
Article 2(1)	Article 3(3)
Article 2(2), introductory wording	Article 3(4), introductory wording
Article 2(2), first indent	Article 3(4)(b)
Article 2(2), second indent	Article 3(4)(c)
Article 3(1)	Article 4(1) first subparagraph
Article 4(1)	Article 5(1)
Article 5(1) and (2)	Article 6(1) and (2)
Article 7	Article 11
—	Annex I
—	Annex II

**REGULATION (EU) 2019/1241 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 20 June 2019**

**on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005**

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 <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

Whereas:

- (1) Regulation (EU) No 1380/2013 of the European Parliament and of the Council <sup>(4)</sup> establishes a Common Fisheries Policy (CFP) for the conservation and sustainable exploitation of fisheries resources.
- (2) Technical measures are tools to support the implementation of the CFP. However, an evaluation of the current regulatory structure in relation to technical measures showed that it is unlikely to achieve the objectives of the CFP and a new approach should be taken to increase the effectiveness of technical measures, focusing on adapting the governance structure.
- (3) There is a need to develop a framework for the regulation of technical measures. That framework should, on the one hand, establish general rules which are to apply across all Union waters and, on the other hand, provide for the adoption of technical measures that take account of the regional specificities of fisheries through the regionalisation process introduced by Regulation (EU) No 1380/2013.

<sup>(1)</sup> OJ C 389, 21.10.2016, p. 67.

<sup>(2)</sup> OJ C 185, 9.6.2017, p. 82.

<sup>(3)</sup> Position of the European Parliament of 16 April 2019 (not yet published in the Official Journal) and decision of the Council of 13 June 2019.

<sup>(4)</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

- (4) The framework should cover the taking and landing of fisheries resources as well as the operation of fishing gear and the interaction of fishing activities with marine ecosystems.
- (5) This Regulation should apply to fishing operations conducted in Union waters by Union and third-country fishing vessels and by nationals of Member States — without prejudice to the primary responsibility of the flag State — as well as to Union fishing vessels operating in Union waters of the outermost regions referred to in the first paragraph of Article 349 of the Treaty on the Functioning of the European Union (TFEU). It should also apply, in respect of Union fishing vessels and nationals of Member States, in non-Union waters to technical measures adopted for the North East Atlantic Fisheries Commission (NEAFC) Regulatory Area and the General Fisheries Commission for the Mediterranean (GFCM) Agreement Area.
- (6) Where relevant, technical measures should apply to recreational fishing, which can have a significant impact on the stocks of fish and shellfish species.
- (7) Technical measures should contribute to achieving the CFP objectives to fish at maximum sustainable yield levels, reduce unwanted catches and eliminate discards, and contribute to the achievement of good environmental status as set out in Directive 2008/56/EC of the European Parliament and of the Council <sup>(5)</sup>.
- (8) Technical measures should specifically contribute to the protection of juveniles and spawning aggregations of marine species through the use of selective fishing gear and measures for the avoidance of unwanted catches. Technical measures should also minimise the impacts of fishing gear on marine ecosystems and in particular on sensitive species and habitats, including where appropriate by using incentives. They should also contribute to having in place management measures for the purposes of complying with obligations under Council Directive 92/43/EEC <sup>(6)</sup>, Directive 2008/56/EC and Directive 2009/147/EC of the European Parliament and of the Council <sup>(7)</sup>.
- (9) To evaluate the effectiveness of technical measures, targets relating to the levels of unwanted catches, in particular catches of marine species below the minimum conservation reference size, to the level of incidental catches of sensitive species and to the extent of seabed habitats adversely affected by fishing should be established. Those targets should reflect the objectives of the CFP, Union environmental legislation — in particular Directive 92/43/EEC and Directive 2000/60/EC of the European Parliament and of the Council <sup>(8)</sup> — and international best practice.
- (10) In order to ensure uniformity as regards the interpretation and implementation of technical rules, definitions of fishing gear and fishing operations contained in existing technical measures regulations should be updated and consolidated.
- (11) Certain destructive fishing gear or methods which use explosives, poison, stupefying substances, electric current, pneumatic hammers or other percussive instruments, towed devices and grabs for harvesting red coral or other type of corals and coral-like species and certain spear-guns, should be prohibited. It should not be allowed to sell, display or offer for sale any marine species caught using such gear or methods where they are prohibited under this Regulation.

<sup>(5)</sup> Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

<sup>(6)</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

<sup>(7)</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

<sup>(8)</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

- (12) The use of electric pulse trawl should remain possible during a transitional period until 30 June 2021 and under certain strict conditions.
- (13) In the light of advice from the Scientific, Technical and Economic Committee for Fisheries (STECF), certain common rules setting out restrictions on the use of towed gear and on the construction of codends should be established, in order to prevent bad practices that lead to unselective fishing.
- (14) In order to restrict the use of driftnets which can fish over large areas and result in significant catches of sensitive species, the existing restrictions on using such fishing gear should be consolidated.
- (15) In the light of advice from STECF, fishing with static nets in ICES divisions 3a, 6a, 6b, 7b, 7c, 7j and 7k and ICES sub-areas 8, 9, 10 and 12 east of 27° W in waters with a charted depth of more than 200 m should continue to be prohibited, in order to provide protection for sensitive deep-sea species, subject to certain derogations.
- (16) For certain rare fish species, such as some species of sharks and rays, even limited fishing activity could result in a serious risk for their conservation. To protect such species a general prohibition on fishing for them should be introduced.
- (17) To afford the strict protection for sensitive marine species such as marine mammals, seabirds and marine reptiles provided for in Directives 92/43/EEC and 2009/147/EC, Member States should put in place mitigation measures to minimise and where possible eliminate the catching of such species by fishing gear.
- (18) In order to provide continued protection for sensitive marine habitats located off the coasts of Ireland, the United Kingdom and around the Azores, Madeira and the Canary Islands, as well as in the NEAFC Regulatory Area, existing restrictions on the use of demersal fishing gear should be maintained.
- (19) Where scientific advice identifies other such habitats, there should be a possibility to introduce similar restrictions to protect those habitats.
- (20) In accordance with Regulation (EU) No 1380/2013, minimum conservation reference sizes should be established to ensure the protection of juveniles of marine species and for the purpose of establishing fish stock recovery areas, as well as for the purpose of constituting minimum marketing sizes.
- (21) The manner in which the size of marine species is to be measured should be defined.
- (22) There should be a possibility for Member States to carry out pilot projects with the aim of exploring ways to avoid, minimise and eliminate unwanted catches. Where the results of those projects or scientific advice indicate that there are significant unwanted catches, Member States should endeavour to establish technical measures to reduce such catches.

- (23) This Regulation should establish baseline standards for each sea basin. Those baseline standards are derived from existing technical measures, taking account of STECF advice and the opinions of stakeholders. Those standards should consist of baseline mesh sizes for towed gear and static nets, minimum conservation reference sizes, closed or restricted areas, as well as nature conservation measures to mitigate against catches of sensitive species in certain areas and any other existing regionally specific technical measures.
- (24) Member States should have the possibility to develop joint recommendations for appropriate technical measures that differ from these baselines in accordance with the regionalisation process set out in Regulation (EU) No 1380/2013, based on scientific evidence.
- (25) Such regional technical measures should as a minimum lead to such benefits for the conservation of marine biological resources that are at least equivalent to the ones provided by the baseline standards, in particular in terms of exploitation patterns and the level of protection provided for sensitive species and habitats.
- (26) When developing joint recommendations in relation to size and species selective characteristics of gear alternative to the baseline mesh sizes, regional groups of Member States should ensure that such measures result in similar, as a minimum, or improved selectivity characteristics as the baseline gear.
- (27) When developing joint recommendations in relation to restricted areas for the protection of juveniles and spawning aggregations, regional groups of Member States should define the objectives, geographical extent and duration of closures as well as gear restrictions and control and monitoring arrangements in their joint recommendations.
- (28) When developing joint recommendations in relation to minimum conservation reference sizes, regional groups of Member States should ensure that the objective of the CFP of ensuring the protection of juveniles of marine species is respected, while ensuring that no distortion is introduced into the market and that no market for fish below minimum conservation reference sizes is created.
- (29) The creation of real-time closures in conjunction with moving-on provisions as an additional measure for the protection of sensitive species, juveniles or spawning aggregations should be allowed as an option to be developed through regionalisation. The conditions for the establishment of such areas, including the geographical extent and duration of closures, as well as the control and monitoring arrangements should be defined in the relevant joint recommendations.
- (30) On the basis of an assessment of the impacts of innovative gear, the use, or extending the use, of such innovative gear could be included as an option in joint recommendations from regional groups of Member States. The use of innovative fishing gear should not be permitted where scientific assessment indicates that their use would lead to significant negative impacts on sensitive habitats and non-target species.
- (31) When developing joint recommendations in relation to the protection of sensitive species and habitats, regional groups of Member States should be allowed to develop additional mitigation measures to reduce the impacts of fishing on such species and habitats. Where scientific evidence shows that there is a serious threat to the conservation status of sensitive species and habitats, Member States should introduce additional restrictions on the construction and operation of certain fishing gear or even the introduction of a total prohibition on their use in a given area. In particular, such restrictions could be applied to the use of driftnets which in certain areas has resulted in significant catches of sensitive species.

- (32) Regulation (EU) No 1380/2013 allows for the establishment of temporary discard plans for the implementation of the landing obligation, in cases where no multiannual plan is in place for the fishery in question. As part of such plans it should be allowed to establish technical measures which are strictly linked to the implementation of the landing obligation and which aim to increase selectivity and reduce unwanted catches as much as possible.
- (33) There should be a possibility to carry out pilot projects on full documentation of catches and discards. Such projects could involve derogations from the rules on mesh sizes laid down in this Regulation insofar as they contribute to achieving the objectives and targets of this Regulation.
- (34) Certain provisions on technical measures adopted by NEAFC should be included in this Regulation.
- (35) In order not to hinder scientific research or direct restocking and transplantation, the technical measures provided for in this Regulation should not apply to operations which may be necessary for conducting such activities. In particular, where fishing operations for the purposes of scientific research require such a derogation from the technical measures under this Regulation, they should be subject to appropriate conditions.
- (36) The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of adopting certain measures in relation to recreational fishing, restrictions on towed gear, sensitive species and habitats, the list of fish and shellfish for which directed fishing is prohibited, the definition of directed fishing, pilot projects on full documentation on catches and discards, and technical measures as part of temporary discard plans, as well as in relation to minimum conservation reference sizes, mesh sizes, closed areas and other technical measures in certain sea basins, mitigation measures for sensitive species and the list of species of key indicator stocks. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>(9)</sup>. 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.
- (37) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the establishment of the specification of devices to reduce wear and tear of and to strengthen towed gear or to limit the escape of catches in the forward part of towed gear; to define the specification of the selection devices attached to defined baseline gear; to define the specifications of the electric pulse trawl; to define restrictions on construction of gear and the control and monitoring measures to be adopted by the flag Member State; and to define rules on the control and monitoring measures to be adopted by the flag Member State when using static gear in depths between 200 and 600 m, on the control and monitoring measures to be adopted for certain closed or restricted areas, and on the signal and implementation characteristics of devices used to deter cetaceans from static nets and methods used to minimise incidental catches of seabirds, marine reptiles and turtles. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(10)</sup>.
- (38) By 31 December 2020, and every third year thereafter, the Commission should report to the European Parliament and to the Council on the implementation of this Regulation, on the basis of information supplied by Member States and the relevant Advisory Councils and following evaluation by STECF. That report should assess the extent to which technical measures both at regional level and at Union level have contributed to achieving the objectives and reaching the targets of this Regulation.

<sup>(9)</sup> OJ L 123, 12.5.2016, p. 1.

<sup>(10)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (39) For the purpose of that report, adequate selectivity indicators, such as the scientific concept of length of optimal selectivity ( $L_{opt}$ ), could be used as a reference tool to monitor progress over time towards the CFP objective of minimising unwanted catches. In that sense, those indicators are not binding targets, but monitoring tools which may inform deliberations or decisions at regional level. The indicators, and the values used for their application, should be requested from appropriate scientific bodies for a number of key indicator stocks which would also take into account mixed fisheries and recruitment spikes. The Commission could include those indicators in the report on the implementation of this Regulation. The list of the key indicator stocks should include demersal species which are managed through catch limits, taking into account the relative importance of landings, discards and relevance of the fishery for each sea basin.
- (40) The Commission's report should also refer to advice from ICES on the progress made or impact of innovative gear. The report should draw conclusions about the benefits for, or negative effects on, marine ecosystems, sensitive habitats and selectivity.
- (41) On the basis of the Commission's report, where at regional level there is evidence that the objectives and targets have not been met, Member States within that region should submit a plan setting out the corrective actions to be taken to ensure those objectives and targets can be met. The Commission should also propose to the European Parliament and to the Council any necessary amendments to this Regulation on the basis of that report.
- (42) Given the number and importance of the amendments to be made, Council Regulations (EC) No 894/97<sup>(11)</sup>, (EC) No 850/98<sup>(12)</sup>, (EC) No 2549/2000<sup>(13)</sup>, (EC) No 254/2002<sup>(14)</sup>, (EC) No 812/2004<sup>(15)</sup> and (EC) No 2187/2005<sup>(16)</sup> should be repealed.
- (43) Council Regulations (EC) No 1967/2006<sup>(17)</sup> and (EC) No 1224/2009<sup>(18)</sup> and Regulation (EU) No 1380/2013 should be amended accordingly.

<sup>(11)</sup> Council Regulation (EC) No 894/97 of 29 April 1997 laying down certain technical measures for the conservation of fishery resources (OJ L 132, 23.5.1997, p. 1).

<sup>(12)</sup> Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125, 27.4.1998, p. 1).

<sup>(13)</sup> Council Regulation (EC) No 2549/2000 of 17 November 2000 establishing additional technical measures for the recovery of the stock of cod in the Irish Sea (ICES Division VIIa) (OJ L 292, 21.11.2000, p. 5).

<sup>(14)</sup> Council Regulation (EC) No 254/2002 of 12 February 2002 establishing measures to be applicable in 2002 for the recovery of the stock of cod in the Irish Sea (ICES division VIIa) (OJ L 41, 13.2.2002, p. 1).

<sup>(15)</sup> Council Regulation (EC) No 812/2004 of 26 April 2004 laying down measures concerning bycatches of cetaceans in fisheries and amending Regulation (EC) No 88/98 (OJ L 150, 30.4.2004, p. 12).

<sup>(16)</sup> Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation (EC) No 1434/98 and repealing Regulation (EC) No 88/98 (OJ L 349, 31.12.2005, p. 1).

<sup>(17)</sup> Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94 (OJ L 409, 30.12.2006, p. 11).

<sup>(18)</sup> Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).



- (44) The Commission is currently empowered to adopt and amend technical measures at regional level under Regulations (EU) 2016/1139<sup>(19)</sup>, (EU) 2018/973<sup>(20)</sup>, (EU) 2019/472<sup>(21)</sup> and (EU) 2019/1022<sup>(22)</sup> of the European Parliament and of the Council, establishing the multi-annual plans for the Baltic Sea, the North Sea, Western Waters and the Western Mediterranean. In order to clarify the scope of the respective empowerments, and to specify that delegated acts adopted under the empowerments provided for in those Regulations are to comply with certain requirements set out in this Regulation, those Regulations should be amended in the interest of legal certainty,

HAVE ADOPTED THIS REGULATION:

#### CHAPTER I

#### GENERAL PROVISIONS

##### *Article 1*

##### **Subject matter**

This Regulation lays down technical measures concerning:

- (a) the taking and landing of marine biological resources;
- (b) the operation of fishing gear; and
- (c) the interaction of fishing activities with marine ecosystems.

##### *Article 2*

##### **Scope**

1. This Regulation shall apply to activities pursued by Union fishing vessels and nationals of Member States, without prejudice to the primary responsibility of the flag State, in the fishing zones referred to in Article 5, as well as by fishing vessels flying the flag of, and registered in, third countries when fishing in Union waters.
2. Articles 7, 10, 11 and 12 shall also apply to recreational fishing. In cases where recreational fishing has a significant impact in a particular region, the Commission is empowered to adopt delegated acts pursuant to Article 15 and in accordance with Article 29 in order to amend this Regulation by providing that the relevant provisions of Article 13 or parts A or C of Annexes V to X also apply to recreational fishing.
3. Subject to the conditions set out in Articles 25 and 26, the technical measures set out in this Regulation shall not apply to fishing operations conducted solely for the purpose of:
  - (a) scientific investigations; and
  - (b) direct restocking or translocation of marine species.

<sup>(19)</sup> Regulation (EU) 2016/1139 of the European Parliament and of the Council of 6 July 2016 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007 (OJ L 191, 15.7.2016, p. 1).

<sup>(20)</sup> Regulation (EU) 2018/973 of the European Parliament and of the Council of 4 July 2018 establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea and repealing Council Regulations (EC) No 676/2007 and (EC) No 1342/2008 (OJ L 179, 16.7.2018, p. 1).

<sup>(21)</sup> Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008 (OJ L 83, 25.3.2019, p. 1).

<sup>(22)</sup> Regulation (EU) 2019/1022 of the European Parliament and of the Council of 20 June 2019 establishing a multiannual plan for the fisheries exploiting demersal stocks in the western Mediterranean Sea and amending Regulation (EU) No 508/2014 (OJ L 172, 26.6.2019, p. 1).

*Article 3***Objectives**

1. As tools to support the implementation of the CFP, technical measures shall contribute to the objectives of the CFP set out in the applicable provisions of Article 2 of Regulation (EU) No 1380/2013.
2. Technical measures shall in particular contribute to achieving the following objectives:
  - (a) optimise exploitation patterns to provide protection for juveniles and spawning aggregations of marine biological resources;
  - (b) ensure that incidental catches of sensitive marine species, including those listed under Directives 92/43/EEC and 2009/147/EC, that are a result of fishing, are minimised and where possible eliminated so that they do not represent a threat to the conservation status of these species;
  - (c) ensure, including by using appropriate incentives, that the negative environmental impacts of fishing on marine habitats are minimised;
  - (d) have in place fisheries management measures for the purposes of complying with Directives 92/43/EEC, 2000/60/EC and 2008/56/EC, in particular with a view to achieving good environmental status in line with Article 9(1) of Directive 2008/56/EC, and with Directive 2009/147/EC.

*Article 4***Targets**

1. Technical measures shall aim to ensure that:
  - (a) catches of marine species below the minimum conservation reference size are reduced as far as possible in accordance with Article 2(2) of Regulation (EU) No 1380/2013.
  - (b) incidental catches of marine mammals, marine reptiles, seabirds and other non-commercially exploited species do not exceed levels provided for in Union legislation and international agreements that are binding on the Union.
  - (c) the environmental impacts of fishing activities on seabed habitats are in line with point (j) of Article 2(5) of Regulation (EU) No 1380/2013.
2. The extent to which progress was made towards those targets shall be reviewed as part of the reporting process set out in Article 31.

*Article 5***Definition of fishing zones**

For the purposes of this Regulation, the following geographical definitions of fishing zones shall apply:

- (a) 'North Sea' means Union waters in ICES divisions <sup>(23)</sup> 2a and 3a and ICES sub-area 4;
- (b) 'Baltic Sea' means Union waters in ICES divisions 3b, 3c and 3d;
- (c) 'North Western waters' means Union waters in ICES sub-areas 5, 6 and 7;
- (d) 'South Western waters' means ICES sub-areas 8, 9 and 10 (Union waters) and CECAF zones <sup>(24)</sup> 34.1.1, 34.1.2 and 34.2.0 (Union waters);
- (e) 'Mediterranean Sea' means the maritime waters of the Mediterranean to the East of line 5°36' W;
- (f) 'Black Sea' means waters in GFCM geographical sub-area 29 as defined in Annex I to Regulation (EU) No 1343/2011 of the European Parliament and of the Council <sup>(25)</sup>;
- (g) 'Union waters in the Indian Ocean and the West Atlantic' means waters around Guadeloupe, French Guiana, Martinique, Mayotte, Réunion and Saint Martin under the sovereignty or jurisdiction of a Member State;
- (h) 'NEAFC Regulatory Area' means the waters of the NEAFC Convention Area which lie beyond the waters under the fisheries jurisdiction of the Contracting Parties as defined in Regulation (EU) No 1236/2010 of the European Parliament and of the Council <sup>(26)</sup>;
- (i) 'GFCM Agreement area' means the Mediterranean Sea and the Black Sea and connecting waters, as defined in Regulation (EU) No 1343/2011.

*Article 6***Definitions**

For the purposes of this Regulation, in addition to the definitions set out in Article 4 of Regulation (EU) No 1380/2013, the following definitions apply:

- (1) 'exploitation pattern' means how fishing mortality is distributed across the age and size profile of a stock;
- (2) 'selectivity' means a quantitative expression represented as a probability of capture of marine biological resources of a certain size and/or species;

<sup>(23)</sup> ICES (International Council for the Exploration of the Sea) divisions are as defined in Regulation (EC) No 218/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic (OJ L 87, 31.3.2009, p. 70).

<sup>(24)</sup> CECAF (Eastern Central Atlantic or FAO major fishing zone 34) zones are as defined in Regulation (EC) No 216/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of nominal catch statistics by Member States fishing in certain areas other than those of the North Atlantic (OJ L 87, 31.3.2009, p. 1).

<sup>(25)</sup> Regulation (EU) No 1343/2011 of the European Parliament and of the Council of 13 December 2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area and amending Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea (OJ L 347, 30.12.2011, p. 44).

<sup>(26)</sup> Regulation (EU) No 1236/2010 of the European Parliament and of the Council of 15 December 2010 laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries and repealing Council Regulation (EC) No 2791/1999 (OJ L 348, 31.12.2010, p. 17).

- (3) 'directed fishing' means fishing effort targeted at a specific species or group of species and may be further specified at regional level in delegated acts adopted pursuant to Article 27(7) of this Regulation;
- (4) 'good environmental status' means the environmental status of marine waters as defined by Article 3(5) of Directive 2008/56/EC;
- (5) 'conservation status of a species' means the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations;
- (6) 'conservation status of a habitat' means the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species;
- (7) 'sensitive habitat' means a habitat whose conservation status, including its extent and the condition (structure and function) of its biotic and abiotic components, is adversely affected by pressures arising from human activities, including fishing activities. Sensitive habitats, in particular, include habitat types listed in Annex I, and habitats of species listed in Annex II to Directive 92/43/EEC, habitats of species listed in Annex I to Directive 2009/147/EC, habitats whose protection is necessary to achieve good environmental status under Directive 2008/56/EC and vulnerable marine ecosystems as defined by point (b) of Article 2 of Council Regulation (EC) No 734/2008 <sup>(27)</sup>;
- (8) 'sensitive species' means a species whose conservation status, including its habitat, distribution, population size or population condition is adversely affected by pressures arising from human activities, including fishing activities. Sensitive species, in particular, include species listed in Annexes II and IV to Directive 92/43/EEC, species covered by Directive 2009/147/EC and species whose protection is necessary to achieve good environmental status under Directive 2008/56/EC;
- (9) 'small pelagic species' means species such as mackerel, herring, horse mackerel, anchovy, sardine, blue whiting, argentines, sprat, and boarfish;
- (10) 'Advisory Councils' means stakeholder groups established in accordance with Article 43 of Regulation (EU) No 1380/2013;
- (11) 'trawl' means fishing gear which is actively towed by one or more fishing vessels and consisting of a net closed at the back by a bag or a codend;
- (12) 'towed gear' means any trawls, Danish seines, dredges and similar gear which are actively moved in the water by one or more fishing vessels or by any other mechanised system;
- (13) 'bottom trawl' means a trawl designed and rigged to operate on or near the seabed;
- (14) 'bottom pair trawl' means a bottom trawl towed by two boats simultaneously, one towing each side of the trawl. The horizontal opening of the trawl is maintained by the distance between the two vessels as they tow the gear;

<sup>(27)</sup> Council Regulation (EC) No 734/2008 of 15 July 2008 on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears (OJ L 201, 30.7.2008, p. 8).

- (15) 'pelagic trawl' means a trawl designed and rigged to operate in midwater;
- (16) 'beam trawl' means gear with a trawl net open horizontally by a beam, wing or similar device;
- (17) 'electric pulse trawl' means a trawl which uses an electric current to catch marine biological resources;
- (18) 'Danish seine' or 'Scottish seine' means an encircling and towed gear, operated from a boat by means of two long ropes (seine ropes) designed to herd the fish towards the opening of the seine. The gear is made up of a net which is similar in design to a bottom trawl;
- (19) 'shore seines' means surrounding nets and towed seines set from a boat and pulled towards the shore as they are being operated from the shore or from a vessel moored or anchored by the shore;
- (20) 'surrounding nets' means nets which catch fish by surrounding them both from the sides and from below. They may or may not be equipped with a purse line;
- (21) 'purse seine' or 'ring nets' means any surrounding net where the bottom is drawn together by means of a purse line situated at the bottom of the net, which passes through a series of rings along the groundrope, enabling the net to be pursed and closed;
- (22) 'dredges' means gear which are either actively towed by the main boat engine (boat dredge) or hauled by a motorised winch from an anchored vessel (mechanised dredge) to catch bivalves, gastropods or sponges and which consist of a net bag or metal basket mounted on a rigid frame or rod of variable size and shape whose lower part may carry a scraper blade that can be either rounded, sharp or toothed, and may or may not be equipped with skids and diving boards. Some dredges are equipped with hydraulic equipment (hydraulic dredges). Dredges pulled by hand or by manual winches in shallow waters with or without a boat to catch bivalves, gastropods or sponges (hand dredges) shall not be considered towed gear for the purpose of this Regulation;
- (23) 'static nets' means any type of gillnet, entangling net or trammel net that is anchored to the seabed for fish to swim into and become entangled or enmeshed in the netting;
- (24) 'driftnet' means a net held on the water surface or at a certain distance below it by floating devices and drifting with the current, either independently or with the boat to which it may be attached. It may be equipped with devices aiming to stabilise the net or to limit its drift;
- (25) 'gillnet' means a static net made up of a single piece of net and held vertically in the water by floats and weights;
- (26) 'entangling net' means a static net consisting of a wall of netting rigged so that the netting is hung onto the ropes to create a greater amount of slack netting than a gillnet;
- (27) 'trammel net' means a static net made up of several layers of netting with two outer layers of a large mesh size with a sheet of small mesh sandwiched between them;

- (28) 'combined gillnet and trammel net' means any bottom-set gillnet combined with a trammel net which constitutes the lower part;
- (29) 'longline' means a fishing gear consisting of a main line of variable length, to which branch lines (snoods) with hooks are fixed at intervals determined by the target species. The main line is anchored either horizontally on or near the bottom or vertically, or can be allowed to drift on the surface;
- (30) 'pots and creels' means traps in the form of cages or baskets having one or more entrances, designed to catch crustaceans, molluscs or fish, that are set on the seabed or suspended above it;
- (31) 'handline' means a single fishing line with one or more lures or baited hooks;
- (32) 'St Andrew's cross' means a grab which employs a scissor-like action to harvest for example bivalve molluscs or red coral from the seabed;
- (33) 'codend' means the rearmost part of the trawl, having either a cylindrical shape, with the same circumference throughout, or a tapering shape. It can be made up of one or more panels (pieces of netting) attached to one another along their sides and can include the lengthening piece which is made up of one or more panels located just in front of the codend *sensu stricto*;
- (34) 'mesh size' means:
- (i) for knotted netting: the longest distance between two opposite knots in the same mesh when fully extended;
  - (ii) for knotless netting: the inside distance between the opposite joints in the same mesh when fully extended along its longest possible axis;
- (35) 'square mesh' means a quadrilateral mesh composed of two sets of parallel bars of the same nominal length, where one set is parallel to, and the other is at right angles to, the longitudinal axis of the net;
- (36) 'diamond mesh' means a mesh composed of four bars of the same length where the two diagonals of the mesh are perpendicular and one diagonal is parallel to the longitudinal axis of the net;
- (37) 'T90' means trawls, Danish seines or similar towed gear having a codend and extension piece produced from knotted diamond mesh netting turned 90° so that the main direction of run of the netting is parallel to the towing direction;
- (38) 'Bacoma exit window' means an escape panel constructed in knotless square mesh netting fitted into the top panel of a codend with its lower edge no more than four meshes from the codline;
- (39) 'sieve net' means a piece of netting attached to the full circumference of the shrimp trawl in front of the codend or extension piece, and tapering to an apex where it is attached to the bottom sheet of the shrimp trawl. An exit hole is cut where the sieve net and codend join, allowing species or individuals too large to pass through the sieve to escape, whereas the shrimp can pass through the sieve and into the codend;

- (40) 'drop' means the sum of the height of the meshes (including knots) in a net when wet and stretched perpendicular to the float line;
- (41) 'immersion time' or 'soak time' means the period from the point of time when the gear is first put in the water until the point of time when the gear is fully recovered on board the fishing vessel;
- (42) 'gear monitoring sensors' means remote electronic sensors that are placed on fishing gear to monitor key performance parameters such as the distance between trawl doors or volume of the catch;
- (43) 'weighted line' means a line of baited hooks with added weight to increase its sinking speed and thereby reduce its time of exposure to seabirds;
- (44) 'acoustic deterrent device' means devices aimed to deter species such as marine mammals from fishing gear by emitting acoustic signals;
- (45) 'bird scaring lines' (also called a tori line) means lines with streamers that are towed from a high point near the stern of fishing vessels as baited hooks are deployed, with the aim of scaring seabirds away from the hooks;
- (46) 'direct restocking' means the activity of releasing live wild animals of selected species into waters where they occur naturally, in order to use the natural production of the aquatic environment to increase the number of individuals available for fisheries and/or to increase natural recruitment;
- (47) 'transplantation' means the process by which a species is intentionally transported and released by humans within areas of established populations of that species;
- (48) 'selectivity performance indicator' means a reference tool to monitor progress over time towards the achievement of the CFP objective of minimising unwanted catches;
- (49) 'spear gun' means a pneumatic or mechanically powered hand-held gun that shoots a spear for the purpose of underwater fishing;
- (50) 'length of optimal selectivity ( $L_{opt}$ )' is the average length of capture, provided by the best available scientific advice, that optimises the growth of individuals in a stock.

## CHAPTER II

### COMMON TECHNICAL MEASURES

#### SECTION 1

#### *Prohibited fishing gear and uses*

##### *Article 7*

#### **Prohibited fishing gear and methods**

1. It shall be prohibited to catch or harvest marine species using the following methods:
  - (a) toxic, stupefying or corrosive substances;

- (b) electric current except for the electric pulse trawl, which shall only be allowed under the specific provisions of Part D of Annex V;
- (c) explosives;
- (d) pneumatic hammers or other percussive instruments;
- (e) towed devices for harvesting red coral or other type of corals or coral-like organisms;
- (f) St Andrew's cross and similar grabs for harvesting, in particular, red coral or other type of corals and coral-like species;
- (g) any type of projectile, with the exception of those used to kill caged or trapped tuna and of hand-held spears and spear guns used in recreational fishing without an aqualung, from dawn until dusk.

2. Notwithstanding Article 2, this Article shall apply to Union vessels in international waters and the waters of third countries, except where the rules adopted by multilateral fisheries organisations, under bilateral or multilateral agreements, or by a third country, specifically provide otherwise.

## SECTION 2

### ***General restrictions on gear and conditions for their use***

#### *Article 8*

### **General restrictions on the use of towed gear**

1. For the purpose of Annexes V to XI, the mesh size of a towed gear as set out in those Annexes shall mean the minimum mesh size of any codend and any extension piece found on board a fishing vessel and attached to, or suitable for attachment to, any towed net. This paragraph shall not apply to netting devices used for the attachment of gear monitoring sensors or when used in conjunction with fish and turtle excluder devices. Further derogations to improve size or species selectivity for marine species may be provided for in a delegated act adopted in accordance with Article 15.
2. Paragraph 1 shall not apply to dredges. However, during any voyage when dredges are carried on board the following shall apply:
  - (a) it shall be prohibited to tranship marine organisms;
  - (b) in the Baltic Sea it shall be prohibited to retain on board or land any quantity of marine organisms unless at least 85 % of the live weight thereof consists of molluscs and/or *Furcellaria lumbricalis*;
  - (c) in all other sea basins, except in the Mediterranean Sea, where Article 13 of Regulation (EC) No 1967/2006 applies, it shall be prohibited to retain on board or land any quantity of marine organisms unless at least 95 % by live weight thereof consists of bivalve molluscs, gastropods and sponges.



Points (b) and (c) of this paragraph shall not apply to unintended catches of species subject to the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013. Such unintended catches shall be landed and counted against quotas.

3. Whenever more than one net is towed simultaneously by a fishing vessel or by more than one fishing vessel, each net shall have the same nominal mesh size. The Commission is empowered to adopt delegated acts pursuant to Article 15 and in accordance with Article 29 derogating from this paragraph, where the use of several nets having a different mesh size leads to such benefits for the conservation of marine biological resources that are at least equivalent to those of existing fishing methods.

4. It shall be prohibited to use any device that obstructs or otherwise effectively diminishes the mesh size of the codend or any part of a towed gear, as well as to carry on board any such device that is specifically designed for that purpose. This paragraph shall not exclude the use of specified devices used to reduce wear and tear of and strengthen the towed gear, or to limit the escape of catches in the forward part of towed gear.

5. The Commission may adopt implementing acts establishing detailed rules for the specification of codends and the devices referred to in paragraph 4. Those implementing acts shall be based on the best available scientific and technical advice and may define:

- (a) restrictions on twine thickness;
- (b) restrictions on the circumference of codends;
- (c) restrictions on the use of netting materials;
- (d) structure and attachment of codends;
- (e) permitted devices to reduce wear and tear; and
- (f) permitted devices to limit the escape of catches.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 30(2).

#### *Article 9*

##### **General restrictions on the use of static nets and driftnets**

1. It shall be prohibited to have on board or deploy one or more driftnets the individual or total length of which is more than 2,5 km.
2. It shall be prohibited to use driftnets to fish for the species listed in Annex III.

3. Notwithstanding paragraph 1, it shall be prohibited to have on board or deploy any driftnet in the Baltic Sea.
4. It shall be prohibited to use bottom-set gillnets, entangling nets and trammel nets to catch the following species:
  - (a) Albacore (*Thunnus alalunga*);
  - (b) Bluefin tuna (*Thunnus thynnus*);
  - (c) Ray's bream (*Brama brama*);
  - (d) Swordfish (*Xiphias gladius*);
  - (e) Sharks belonging to the following species or families *Hexanchus griseus*; *Cetorhinus maximus*; all species of *Alopiidae*; *Carcharhinidae*; *Sphyrnidae*; *Isuridae*; *Lamnidae*.
5. By way of derogation from paragraph 4, incidental catches in the Mediterranean Sea of no more than three specimens of the shark species referred to in that paragraph may be retained on board or landed provided that they are not protected species under Union law.
6. It shall be prohibited to deploy any bottom set gillnet, entangling net and trammel net at any position where the charted depth is greater than 200 m.
7. Notwithstanding paragraph 6 of this Article:
  - (a) specific derogations as set out in point 6.1 of Part C of Annex V, point 9.1 of Part C of Annex VI and point 4.1 of Part C of Annex VII shall apply where the charted depth is between 200 and 600 m;
  - (b) the deployment of bottom set gillnets, entangling nets and trammel nets at any position where the charted depth is greater than 200 m shall be allowed in the Mediterranean Sea.

### SECTION 3

#### **Protection of sensitive species and habitats**

##### Article 10

#### **Prohibited fish and shellfish species**

1. The catching, retention on board, transshipment or landing of fish or shellfish species referred to in Annex IV to Directive 92/43/EEC shall be prohibited except when derogations are granted under Article 16 of that Directive.
2. In addition to the species referred to in paragraph 1, it shall be prohibited for Union vessels to fish for, retain on board, tranship, land, store, sell, display or offer for sale the species listed in Annex I or species for which fishing is prohibited under other Union legal acts.

3. When caught accidentally, species referred to in paragraphs 1 and 2 shall not be harmed and specimens shall be promptly released back into the sea, except for the purpose of allowing scientific research on accidentally killed specimens in accordance with applicable Union law.

4. The Commission is empowered to adopt delegated acts in accordance with Article 29 to amend the list set out in Annex I, where the best available scientific advice indicates that an amendment of that list is necessary.

5. Measures adopted pursuant to paragraph 4 of this Article shall aim at achieving the target set out in point (b) of Article 4(1) and may take into account international agreements concerning the protection of sensitive species.

#### *Article 11*

##### **Catches of marine mammals, seabirds and marine reptiles**

1. The catching, retention on board, transshipment or landing of marine mammals or marine reptiles referred to in Annexes II and IV to Directive 92/43/EEC and of species of seabirds covered by Directive 2009/147/EC shall be prohibited.

2. When caught, species referred to in paragraph 1 shall not be harmed and specimens shall be promptly released.

3. Notwithstanding paragraphs 1 and 2, the retention on board, transshipment or landing of specimens of marine species referred to in paragraph 1 which have been caught accidentally, shall be permitted as far as this activity is necessary to secure assistance for the recovery of the individual animals and to allow for scientific research on incidentally killed specimens, provided that the competent national authorities concerned have been fully informed in advance as soon as possible after the catch and in accordance with applicable Union law.

4. On the basis of the best available scientific advice a Member State may, for vessels flying its flag, put in place mitigation measures or restrictions on the use of certain gear. Such measures shall minimise, and where possible eliminate, the catches of the species referred to in paragraph 1 of this Article and shall be compatible with the objectives set out in Article 2 of Regulation (EU) No 1380/2013 and be at least as stringent as technical measures applicable under Union law.

5. Measures adopted pursuant to paragraph 4 of this Article shall aim at achieving the target set out in point (b) of Article 4(1). The Member States shall, for control purposes, inform the other Member States concerned of provisions adopted under paragraph 4 of this Article. They shall also make publicly available appropriate information concerning such measures.

#### *Article 12*

##### **Protection for sensitive habitats including vulnerable marine ecosystems**

1. It shall be prohibited to deploy the fishing gear specified in Annex II within the relevant areas set out in that Annex.

2. Where the best available scientific advice recommends an amendment of the list of areas set out in Annex II, the Commission is empowered to adopt delegated acts in accordance with Article 29 of this Regulation and pursuant to the procedure laid down in Article 11(2) and (3) of Regulation (EU) No 1380/2013, to amend Annex II accordingly. When adopting such amendments, the Commission shall give particular attention to the mitigation of negative effects of the displacement of fishing activity to other sensitive areas.

3. Where the habitats referred to in paragraph 1 or other sensitive habitats, including vulnerable marine ecosystems, occur in waters under the sovereignty or jurisdiction of a Member State, that Member State may establish closed areas or other conservation measures to protect such habitats, pursuant to the procedure laid down in Article 11 of Regulation (EU) No 1380/2013. Such measures shall be compatible with the objectives of Article 2 of Regulation (EU) No 1380/2013 and be at least as stringent as measures under Union law.

4. Measures adopted pursuant to paragraphs 2 and 3 of this Article shall aim at achieving the target set out in point (c) of Article 4(1).

#### SECTION 4

##### **Minimum conservation reference sizes**

##### *Article 13*

##### **Minimum conservation reference sizes**

1. The minimum conservation reference sizes of marine species specified in Part A of Annexes V to X to this Regulation shall apply for the purpose of:

(a) ensuring the protection of juveniles of marine species pursuant to Article 15(11) and (12) of Regulation (EU) No 1380/2013;

(b) establishing fish stock recovery areas pursuant to Article 8 of Regulation (EU) No 1380/2013;

(c) constituting minimum marketing sizes pursuant to Article 47(2) of Regulation (EU) No 1379/2013 of the European Parliament and of the Council <sup>(28)</sup>.

2. The size of a marine species shall be measured in accordance with Annex IV.

3. Where more than one method of measuring the size of a marine species is provided for, the specimen shall not be considered to be below the minimum conservation reference size if the size measured by any one of those methods is equal to, or greater than, the minimum conservation reference size.

4. Lobsters, crawfish, and bivalve and gastropod molluscs belonging to any such species for which a minimum conservation reference size is established in Annexes V, VI or VII may only be retained on board whole and may only be landed whole.

<sup>(28)</sup> Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).

## SECTION 5

**Measures to reduce discarding**

## Article 14

**Pilot projects for the avoidance of unwanted catches**

1. Without prejudice to Article 14 of Regulation (EU) No 1380/2013, Member States may conduct pilot projects with the aim of exploring methods for the avoidance, minimisation and elimination of unwanted catches. Those pilot projects shall take account of the opinions of the relevant Advisory Councils and be based on the best available scientific advice.
  
2. Where the results of those pilot studies or other scientific advice indicate that unwanted catches are significant, the Member States concerned shall endeavour to establish technical measures to reduce those unwanted catches in accordance with Article 19 of Regulation (EU) No 1380/2013.

## CHAPTER III

**REGIONALISATION**

## Article 15

**Regional technical measures**

1. Technical measures established at regional level are set out in the following Annexes:
  - (a) in Annex V for the North Sea;
  
  - (b) in Annex VI for North Western Waters;
  
  - (c) in Annex VII for South Western Waters;
  
  - (d) in Annex VIII for the Baltic Sea;
  
  - (e) in Annex IX for the Mediterranean Sea;
  
  - (f) in Annex X for the Black Sea;
  
  - (g) in Annex XI for Union waters in the Indian Ocean and the West Atlantic;
  
  - (h) in Annex XIII for sensitive species.

2. In order to take into account regional specificities of the relevant fisheries, the Commission is empowered to adopt delegated acts in accordance with Article 29 of this Regulation and Article 18 of Regulation (EU) No 1380/2013 in order to amend, supplement, repeal or derogate from the technical measures set out in the Annexes referred to in paragraph 1 of this Article, including when implementing the landing obligation in the context of Article 15(5) and (6) of Regulation (EU) No 1380/2013. The Commission shall adopt such delegated acts on the basis of a joint recommendation submitted in accordance with Article 18 of Regulation (EU) No 1380/2013 and in accordance with the relevant Articles of Chapter III of this Regulation.

3. For the purpose of adopting such delegated acts, Member States having a direct management interest may submit joint recommendations in accordance with Article 18(1) of Regulation (EU) No 1380/2013 for the first time not later than 24 months, and thereafter 18 months, after each submission of the report referred to in Article 31(1) of this Regulation. They may also submit such recommendations when deemed necessary by them.

4. The technical measures adopted pursuant to paragraph 2 of this Article shall:

- (a) aim at achieving the objectives and targets set out in Articles 3 and 4 of this Regulation;
- (b) aim at achieving the objectives and comply with the conditions set out in other relevant Union acts adopted in the area of the CFP, in particular in the multiannual plans referred to in Articles 9 and 10 of Regulation (EU) No 1380/2013;
- (c) be guided by the principles of good governance set out in Article 3 of Regulation (EU) No 1380/2013;
- (d) as a minimum, lead to such benefits for the conservation of marine biological resources that are at least equivalent, in particular in terms of exploitation patterns and the level of protection provided for sensitive species and habitats, to the measures referred to in paragraph 1. The potential impact of fishing activities on the marine ecosystem shall also be taken into account.

5. The application of the conditions in relation to the mesh size specifications set out in Article 27 and in Part B of Annexes V to XI shall not lead to a deterioration of selectivity standards, in particular in terms of an increase in the catches of juveniles, existing on 14 August 2019, and shall aim at achieving the objectives and targets set out in Articles 3 and 4.

6. In the joint recommendations submitted for the purpose of adopting the measures referred to in paragraph 2, the Member States shall provide scientific evidence to support the adoption of those measures.

7. The Commission may require STECF to assess the joint recommendations referred to in paragraph 2.

#### *Article 16*

### **Species and size selectivity of fishing gear**

A joint recommendation submitted for the purpose of adopting the measures referred to in Article 15(2) in relation to size-selective and species-selective characteristics of gear shall provide scientific evidence demonstrating that those measures result in selectivity characteristics for specific species or combination of species which are at least equivalent to the selectivity characteristics of the gear set out in Part B of Annexes V to X and in Part A of Annex XI.

#### *Article 17*

### **Closed or restricted areas to protect juveniles and spawning aggregations**

A joint recommendation submitted for the purpose of adopting the measures referred to in Article 15(2) in relation to Part C of Annexes V to VIII and X and Part B of Annex XI or in order to establish new closed or restricted areas shall include the following elements in respect of such closed or restricted areas:

- (a) the objective of the closure;

- (b) the geographical extent and duration of the closure;
- (c) restrictions on specific gear; and
- (d) control and monitoring arrangements.

#### Article 18

##### **Minimum conservation reference sizes**

A joint recommendation submitted for the purpose of adopting the measures referred to in Article 15(2) in relation to Part A of Annexes V to X shall respect the objective of ensuring the protection of juveniles of marine species.

#### Article 19

##### **Real-time closures and moving-on provisions**

1. A joint recommendation submitted for the purpose of adopting the measures referred to in Article 15(2) in relation to the creation of real-time closures with the aim of ensuring the protection of sensitive species or of aggregations of juveniles, spawning fish or shellfish species, shall include the following elements:

- (a) the geographical extent and duration of the closures;
- (b) the species and threshold levels that trigger the closure;
- (c) the use of highly selective gear to allow access to otherwise closed areas; and
- (d) control and monitoring arrangements.

2. A joint recommendation submitted for the purpose of adopting the measures referred to in Article 15(2), in relation to moving-on provisions, shall include:

- (a) the species and threshold levels that trigger an obligation to move;
- (b) the distance by which a vessel is to move away from its previous fishing position.

#### Article 20

##### **Innovative fishing gear**

1. A joint recommendation submitted for the purpose of adopting the measures referred to in Article 15(2) in relation to the use of innovative fishing gear, within a specific sea basin, shall contain an assessment of the likely impacts of using such gear on the targeted species and on sensitive species and habitats. The Member States concerned shall collect the appropriate data necessary for such assessment.

2. The use of innovative fishing gear shall not be permitted where the assessments referred to in paragraph 1 indicate that their use will lead to significant negative impacts on sensitive habitats and non-target species.

*Article 21***Nature conservation measures**

A joint recommendation submitted for the purpose of adopting the measures referred to in Article 15(2), in relation to the protection of sensitive species and habitats, may in particular:

- (a) develop lists of sensitive species and habitats most at risk from fishing activities within the relevant region based on the best available scientific advice;
- (b) specify the use of additional or alternative measures to those referred to in Annex XIII to minimise the incidental catches of the species referred to in Article 11;
- (c) provide information on the effectiveness of existing mitigation measures and monitoring arrangements;
- (d) specify measures to minimise the impacts of fishing gear on sensitive habitats;
- (e) specify restrictions on the operation of certain gear or introduce a total prohibition on the use of certain fishing gear within an area where such gear represent a threat to the conservation status of species in that area as referred to in Articles 10 and 11 or other sensitive habitats.

*Article 22***Regional measures under temporary discard plans**

1. When Member States submit joint recommendations for the establishment of technical measures in temporary discard plans referred to in Article 15(6) of Regulation (EU) No 1380/2013, those recommendations may contain, inter alia, the following elements:

- (a) specifications of fishing gear and the rules governing their use;
- (b) specifications of modifications to fishing gear or use of selectivity devices to improve size or species selectivity;
- (c) restrictions or prohibitions on the use of certain fishing gear and on fishing activities in certain areas or during certain periods;
- (d) minimum conservation reference sizes;
- (e) derogations adopted on the basis of Article 15(4) of Regulation (EU) No 1380/2013.

2. The measures referred to in paragraph 1 of this Article shall aim at achieving the objectives set out in Article 3 and in particular for the protection of juveniles or spawning aggregations of fish or shellfish species.

*Article 23***Pilot projects on full documentation of catches and discards**

1. The Commission is empowered to adopt delegated acts in accordance with Article 29 of this Regulation and Article 18 of Regulation (EU) No 1380/2013, supplementing this Regulation by defining pilot projects that develop a system of full documentation of catches and discards based on measurable objectives and targets, for the purpose of a results-based management of fisheries.



2. The pilot projects referred to in paragraph 1 may derogate from the measures set out in Part B of Annexes V to XI for a specific area and for a maximum period of one year, provided that it can be demonstrated that such pilot projects contribute to achieving the objectives and targets set out in Articles 3 and 4 and, in particular, aim at improving the selectivity of the fishing gear or practice concerned or otherwise reduce its environmental impact. That one-year period may be extended by one additional year under the same conditions. It shall be limited to no more than 5 % of the vessels in that metier per Member State.

3. Where Member States submit joint recommendations for the establishment of pilot projects as referred to in paragraph 1, they shall provide scientific evidence to support their adoption. STEFC shall assess those joint recommendations and shall make that assessment public. Within six months of the conclusion of the project, the Member States shall submit a report to the Commission outlining the results, including a detailed assessment of the changes in selectivity and other environmental impacts.

4. STECF shall assess the report referred to in paragraph 3. In the case of a positive assessment of the contribution of the new gear or practice to the objective in paragraph 2, the Commission may submit a proposal in accordance with the TFEU to allow for the generalised use of that gear or practice. The STECF assessment shall be made public.

5. The Commission is empowered to adopt delegated acts in accordance with Article 29 supplementing this Regulation by defining the technical specifications of a system for full documentation of catches and discards referred to in paragraph 1 of this Article.

#### Article 24

#### **Implementing acts**

1. The Commission may adopt implementing acts, establishing the following:

- (a) the specifications of the selection devices attached to the gear set out in Part B of Annexes V to IX;
- (b) detailed rules on the specifications of the fishing gear described in Part D of Annex V relating to restrictions on gear construction and the control and monitoring measures to be adopted by the flag Member State;
- (c) detailed rules on the control and monitoring measures to be adopted by the flag Member State when using the gear referred to in point 6 of Part C of Annex V, point 9 of Part C of Annex VI, and point 4 of Part C of Annex VII;
- (d) detailed rules on the control and monitoring measures to be adopted for the closed or restricted areas described in point 2 of Part C of Annex V, and points 6 and 7 of part C of Annex VI;
- (e) detailed rules on the signal and implementation characteristics of acoustic deterrent devices as referred to in Part A of Annex XIII;
- (f) detailed rules on the design and deployment of bird scaring lines and weighted lines as referred to in Part B of Annex XIII;

- (g) detailed rules on the specifications for the turtle excluder device referred to in Part C of Annex XIII.
2. The implementing acts referred to in paragraph 1 shall be adopted in accordance with Article 30(2).

#### CHAPTER IV

#### SCIENTIFIC RESEARCH, DIRECT RESTOCKING AND TRANSPLANTATION

##### Article 25

##### Scientific research

1. The technical measures provided for in this Regulation shall not apply to fishing operations conducted for the purpose of scientific investigations subject to the following conditions:

- (a) the fishing operations are to be carried out with the permission and under the authority of the flag Member State;
- (b) the Commission and the Member State in the waters under the sovereignty or jurisdiction of which the fishing operations take place ('the coastal Member State'), are to be informed at least two weeks in advance of the intention to conduct such fishing operations detailing the vessels involved and the scientific investigations to be undertaken;
- (c) the vessel or vessels conducting the fishing operations are to have a valid fishing authorisation in accordance with Article 7 of Regulation (EC) No 1224/2009;
- (d) if requested by the coastal Member State to the flag Member State, the master of the vessel shall be required to take on board an observer from the coastal Member State during the fishing operations, unless this is not possible for security reasons;
- (e) fishing operations conducted by commercial vessels for the purpose of scientific investigation shall be limited in time. When the fishing operations conducted by commercial vessels for a specific research involve more than six commercial vessels, the Commission shall be informed by the flag Member State at least three months in advance and shall seek, where appropriate, the advice of STECF to confirm that this level of participation is justified on scientific grounds; if the level of participation is not considered justified according to the advice of STECF, the concerned Member State shall amend the conditions of the scientific research accordingly;
- (f) in the case of electric pulse trawl, vessels conducting scientific research must follow a specific scientific protocol as part of a scientific research plan that has been reviewed or validated by ICES or STECF, as well as a system for monitoring, control and evaluation.

2. Marine species caught for the purposes specified in paragraph 1 of this Article may be sold, stored, displayed or offered for sale, provided that they are counted against quotas in accordance with Article 33(6) of Regulation (EC) No 1224/2009, where applicable, and:

- (a) they meet the minimum conservation reference sizes set out in Annexes IV to X to this Regulation; or
- (b) they are sold for purposes other than direct human consumption.

*Article 26***Direct restocking and transplantation**

1. The technical measures provided for in this Regulation shall not apply to fishing operations conducted solely for the purpose of direct restocking or transplantation of marine species, provided that those operations are carried out with the permission and under the authority of the Member State or Member States having a direct management interest.
2. Where the direct restocking or transplantation is carried out in the waters of another Member State or Member States, the Commission and all those Member States shall be informed, at least 20 calendar days in advance, of the intention to conduct such fishing operations.

## CHAPTER V

**CONDITIONS IN RELATION TO MESH SIZE SPECIFICATIONS***Article 27***Conditions in relation to mesh size specifications**

1. The catch percentages referred to in the Annexes V to VIII shall mean the maximum percentage of species allowed so as to qualify for the specific mesh sizes set out in those Annexes. Such percentages shall be without prejudice to the obligation to land catches in Article 15 of Regulation (EU) No 1380/2013.
2. The catch percentages shall be calculated as the proportion by live weight of all marine biological resources landed after each fishing trip.
3. The catch percentages referred to in paragraph 2 may be calculated on the basis of one or more representative samples.
4. For the purpose of this Article, the equivalent weight of whole Norway lobster shall be obtained by multiplying the weight of Norway lobster tails by three.
5. Member States may issue fishing authorisations in accordance with Article 7 of Regulation (EC) No 1224/2009 for vessels flying their flag when engaged in fishing activities using the mesh-specific sizes provided for in Annexes V to XI. Such authorisations may be suspended or withdrawn where a vessel has been found to not have complied with the defined catch percentages provided for in Annexes V to VIII.
6. This Article shall be without prejudice to Regulation (EC) No 1224/2009.
7. The Commission is empowered to adopt delegated acts pursuant to Article 15 and in accordance with Article 29 in order to further define the term 'directed fishing' for relevant species in Part B of Annexes V to X and Part A of Annex XI. For this purpose, Member States having a direct management interest in the fisheries concerned shall submit any joint recommendations for the first time not later than 15 August 2020.

## CHAPTER VI

**TECHNICAL MEASURES IN THE NEAFC REGULATORY AREA***Article 28***Technical measures in the NEAFC Regulatory Area**

Technical measures applicable in the NEAFC Regulatory Area are set out in Annex XII.

## CHAPTER VII

**PROCEDURAL PROVISIONS***Article 29***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 2(2), Article 8(3), Article 10(4), Article 12(2), Article 15(2), Article 23(1) and (5), Article 27(7) and Article 31(4) shall be conferred on the Commission for a period of five years from 14 August 2019. 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 2(2), Article 8(3), Article 10(4), Article 12(2), Article 15(2), Article 23(1) and (5), Article 27(7) and Article 31(4) 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 2(2), Article 8(3), Article 10(4), Article 12(2), Article 15(2), Article 23(1) and (5), Article 27(7) and Article 31(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and to 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.

*Article 30***Committee procedure**

1. The Commission shall be assisted by the Committee for fisheries and aquaculture established by Article 47 of Regulation (EU) No 1380/2013. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

## CHAPTER VIII

**FINAL PROVISIONS***Article 31***Review and reporting**

1. By 31 December 2020 and every third year thereafter, and on the basis of information supplied by Member States and the relevant Advisory Councils and following evaluation by STECF, the Commission shall submit a report to the European Parliament and to the Council on the implementation of this Regulation. That report shall assess the extent to which technical measures both at regional level and at Union level have contributed to achieving the objectives set out in Article 3 and reaching the targets set out in Article 4. The report shall also refer to advice from ICES on the progress that has been made, or impact arising from innovative gear. The report shall draw conclusions about the benefits for, or negative effects on, marine ecosystems, sensitive habitats and selectivity.
2. The report referred to in paragraph 1 of this Article shall contain, inter alia, an assessment of the contribution of technical measures to optimise exploitation patterns, as provided for in point (a) of Article 3(2). For that purpose the report may include, inter alia, as a selectivity performance indicator for the key indicator stocks for the species listed in Annex XIV the length of optimal selectivity ( $L_{opt}$ ) compared to the average length of fish caught for each year covered.
3. On the basis of that report, where at regional level there is evidence that the objectives and targets have not been met, Member States within that region shall, within 12 months after the submission of the report referred to in paragraph 1, submit a plan setting out the actions to be taken to contribute to achieving those objectives and targets.
4. The Commission may also propose to the European Parliament and to the Council any necessary amendments to this Regulation on the basis of that report. The Commission is empowered to adopt delegated acts pursuant to Article 15 and in accordance with Article 29 in order to amend the list of species set out in Annex XIV.

*Article 32***Amendments to Regulation (EC) No 1967/2006**

Regulation (EC) No 1967/2006 is amended as follows:

- (a) Articles 3, 8 to 12, 14, 15, 16 and 25 are deleted;
- (b) Annexes II, III and IV are deleted.

References to the deleted Articles and Annexes shall be construed as references to the relevant provisions of this Regulation.

*Article 33***Amendments to Regulation (EC) No 1224/2009**

In Chapter IV of Regulation (EC) No 1224/2009, Title IV is amended as follows:

(a) Section 3 is deleted;

(b) the following Section is added:

**Section 4****On-board processing and pelagic fisheries***Article 54a***On-board processing**

1. The carrying out on board a fishing vessel of any physical or chemical processing of fish to produce fish-meal, fish-oil, or similar products or to tranship catches of fish for such purposes shall be prohibited.

2. Paragraph 1 shall not apply to:

(a) the processing or transhipment of offal; or

(b) the production on board a fishing vessel of surimi.

*Article 54b***Catch handling and discharge restrictions on pelagic vessels**

1. The maximum space between bars in the water separator on board pelagic fishing vessels targeting mackerel, herring and horse mackerel operating in the NEAFC Convention Area as defined in Article 3(2) of Regulation (EU) No 1236/2010 shall be 10 mm.

The bars shall be welded in place. If holes are used in the water separator instead of bars, the maximum diameter of the holes shall not exceed 10 mm. Holes in the chutes before the water separator shall not exceed 15 mm in diameter.

2. Pelagic vessels operating in the NEAFC Convention Area shall be prohibited from discharging fish under their water line from buffer tanks or refrigerated seawater (RSW) tanks.

3. Drawings related to the catch handling and discharge capabilities of pelagic vessels targeting mackerel, herring and horse mackerel in the NEAFC Convention Area which are certified by the competent authorities of the flag Member States, as well as any modifications thereto, shall be sent by the master of the vessel to the competent fisheries authorities of the flag Member State. The competent authorities of the flag Member State of the vessels shall carry out periodic verifications of the accuracy of the drawings submitted. Copies shall be carried on board the vessel at all times.

*Article 54c***Restrictions on the use of automatic grading equipment**

1. The carrying or use on board a fishing vessel of equipment which is capable of automatically grading, by size or by sex, herring or mackerel or horse mackerel shall be prohibited.
  
2. However, the carrying and use of such equipment shall be permitted provided that:
  - (a) the vessel does not simultaneously carry or use on board either towed gear of mesh size less than 70 mm or one or more purse seines or similar fishing gear; or
  
  - (b) the whole of the catch which may be lawfully retained on board:
    - (i) is stored in a frozen state;
  
    - (ii) the graded fish are frozen immediately after grading and no graded fish are returned to the sea; and
  
    - (iii) the equipment is installed and located on the vessel in such a way as to ensure immediate freezing and not to allow the return of marine species to the sea.
  
3. By way of derogation from paragraphs 1 and 2 of this Article, any vessel authorised to fish in the Baltic Sea, the Belts or the Sound may carry automatic grading equipment in the Kattegat provided that a fishing authorisation has been issued in accordance with Article 7. The fishing authorisation shall define the species, areas, time periods and any other required conditions applicable to the use and carriage on board of the grading equipment.
  
4. This Article shall not apply in the Baltic Sea.

*Article 34***Amendment to Regulation (EU) No 1380/2013**

In Article 15 of Regulation (EU) No 1380/2013, paragraph 12 is replaced by the following:

‘12. For species that are not subject to the landing obligation as specified in paragraph 1, the catches of species below the minimum conservation reference size shall not be retained on board, but shall be returned immediately to the sea, except when they are used as live bait.’

*Article 35***Amendment to Regulation (EU) 2016/1139**

In Regulation (EU) 2016/1139, Article 8 is amended as follows:

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

‘1. The Commission is empowered to adopt delegated acts in accordance with Article 16 of this Regulation and Article 18 of Regulation (EU) No 1380/2013 regarding the following technical measures, insofar as they are not covered by Regulation (EU) 2019/1241 of the European Parliament and of the Council (\*):

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(\*) Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fishery resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 (OJ L 198, 25.7.2019, p. 105).’;

(b) paragraph 2 is replaced by the following:

‘2. The measures referred to in paragraph 1 of this Article shall contribute to the achievement of the objectives set out in Article 3 of this Regulation and shall comply with Article 15(4) of Regulation (EU) 2019/1241’.

*Article 36***Amendments to Regulation (EU) 2018/973**

In Regulation (EU) 2018/973, Article 9 is amended as follows:

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

‘1. The Commission is empowered to adopt delegated acts in accordance with Article 16 of this Regulation and Article 18 of Regulation (EU) No 1380/2013 in order to supplement this Regulation regarding the following technical measures, insofar as they are not covered by Regulation (EU) 2019/1241 of the European Parliament and of the Council (\*):

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(\*) Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fishery resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 (OJ L 198, 25.7.2019, p. 105).’;

(b) paragraph 2 is replaced by the following:

‘2. The measures referred to in paragraph 1 of this Article shall contribute to the achievement of the objectives set out in Article 3 of this Regulation, and shall comply with Article 15(4) of Regulation (EU) 2019/1241’.



*Article 37***Amendment to Regulation (EU) 2019/472**

In Regulation (EU) 2019/472, Article 9 is amended as follows:

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

‘1. The Commission is empowered to adopt delegated acts in accordance with Article 18 of this Regulation and Article 18 of Regulation (EU) No 1380/2013 in order to supplement this Regulation regarding the following technical measures, insofar as they are not covered by Regulation (EU) 2019/1241 of the European Parliament and of the Council (\*):

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(\*) Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fishery resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 (OJ L 198, 25.7.2019, p. 105).’;

(b) paragraph 2 is replaced by the following:

‘2. The measures referred to in paragraph 1 of this Article shall contribute to the achievement of the objectives set out in Article 3 of this Regulation, and shall comply with Article 15(4) of Regulation (EU) 2019/1241’.

*Article 38***Amendment to Regulation (EU) 2019/1022**

In Regulation (EU) 2019/1022, Article 13 is amended as follows:

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

‘1. The Commission is empowered to adopt delegated acts in accordance with Article 18 of this Regulation and Article 18 of Regulation (EU) No 1380/2013 in order to supplement this Regulation regarding the following technical measures, insofar as they are not covered by Regulation (EU) 2019/1241 of the European Parliament and of the Council (\*):

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(\*) Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fishery resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 (OJ L 198, 25.7.2019, p. 105).’;

(b) paragraph 2 is replaced by the following:

‘2. The measures referred to in paragraph 1 of this Article shall contribute to the achievement of the objectives set out in Article 3 of this Regulation, and shall comply with Article 15(4) of Regulation (EU) 2019/1241’.

*Article 39*

**Repeals**

Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 are repealed.

References to the repealed Regulations shall be construed as references to this Regulation.

*Article 40*

**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, 20 June 2019.

*For the European Parliament*

*The President*

A. TAJANI

*For the Council*

*The President*

G. CIAMBA

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## ANNEX I

**PROHIBITED SPECIES**

Species for which there is a prohibition to fish for, retain on board, tranship, land, store, sell, display or offer for sale, as referred to in Article 10(2):

- (a) The following species of sawfish in all Union waters:
  - (i) narrow sawfish (*Anoxypristis cuspidata*);
  - (ii) dwarf sawfish (*Pristis clavata*);
  - (iii) smalltooth sawfish (*Pristis pectinata*);
  - (iv) largetooth sawfish (*Pristis pristis*);
  - (v) green sawfish (*Pristis zijsron*);
- (b) basking shark (*Cetorhinus maximus*) and white shark (*Carcharodon carcharias*) in all waters;
- (c) smooth lantern shark (*Etmopterus pusillus*) in Union waters of ICES division 2a and subarea 4 and in Union waters of ICES subareas 1, 5, 6, 7, 8, 12 and 14;
- (d) reef manta ray (*Manta alfredi*) in all Union waters;
- (e) giant manta ray (*Manta birostris*) in all Union waters;
- (f) the following species of *Mobula* rays in all Union waters:
  - (i) devil fish (*Mobula mobular*);
  - (ii) lesser Guinean devil ray (*Mobula rochebrunei*);
  - (iii) spinetail mobula (*Mobula japanica*);
  - (iv) smoothtail mobula (*Mobula thurstoni*);
  - (v) longhorned mobula (*Mobula eregoodootenkee*);
  - (vi) Munk's devil ray (*Mobula munkiana*);
  - (vii) Chilean devil ray (*Mobula tarapacana*);
  - (viii) shortfin devil ray (*Mobula kuhlii*);
  - (ix) lesser devil ray (*Mobula hypostoma*);

- (g) Norwegian skate (*Raja (Dipturus) nidarosiensis*) in Union waters of ICES divisions 6a, 6b, 7a, 7b, 7c, 7e, 7f, 7g, 7h and 7k;
  - (h) white skate (*Raja alba*) in Union waters of ICES subareas 6-10
  - (i) guitarfishes (*Rhinobatidae*) in Union waters of ICES subareas 1-10 and 12;
  - (j) angel shark (*Squatina squatina*) in all Union waters;
  - (k) salmon (*Salmo salar*) and sea trout (*Salmo trutta*) when fishing with any towed net within the waters outside the six-mile limit measured from Member States' baselines in ICES sub-areas 1, 2 and 4-10 (Union waters);
  - (l) houting (*Coregonus oxyrinchus*) in ICES division 4b (Union waters);
  - (m) the Adriatic sturgeon (*Acipenser naccarii*) and common sturgeon (*Acipenser sturio*) in Union waters;
  - (n) berried female crawfish (*Palinurus* spp.) and berried female lobster (*Homarus gammarus*) in the Mediterranean Sea except when used for direct restocking or transplantation purposes;
  - (o) date shell (*Lithophaga lithophaga*), fan mussel (*Pinna nobilis*) and common piddock (*Pholas dactylus*) in Union waters in the Mediterranean Sea;
  - (p) hatpin urchin (*Centrostephanus longispinus*).
-

## ANNEX II

**CLOSED AREAS FOR THE PROTECTION OF SENSITIVE HABITATS**

For the purposes of Article 12, the following restrictions on fishing activity are applicable in the areas enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

## PART A

**North Western Waters**

1. It shall be prohibited to deploy bottom trawls or similar towed nets, bottom set gillnets, entangling nets or trammel nets and bottom set longlines within the following areas:

Belgica Mound Province:

— 51°29.4' N, 11°51.6' W

— 51°32.4' N, 11°41.4' W

— 51°15.6' N, 11°33.0' W

— 51°13.8' N, 11°44.4' W

— 51°29.4' N, 11°51.6' W

Hovland Mound Province:

— 52°16.2' N, 13°12.6' W

— 52°24.0' N, 12°58.2' W

— 52°16.8' N, 12°54.0' W

— 52°16.8' N, 12°29.4' W

— 52°04.2' N, 12°29.4' W

— 52°04.2' N, 12°52.8' W

— 52°09.0' N, 12°56.4' W

— 52°09.0' N, 13°10.8' W

— 52°16.2' N, 13°12.6' W

North-West Porcupine Bank Area I:

— 53°30.6' N, 14°32.4' W

— 53°35.4' N, 14°27.6' W

— 53°40.8' N, 14°15.6' W

— 53°34.2' N, 14°11.4' W

— 53°31.8' N, 14°14.4' W

— 53°24.0' N, 14°28.8' W

— 53°30.6' N, 14°32.4' W

North-West Porcupine Bank Area II:

— 53°43.2' N, 14°10.8' W

— 53°51.6' N, 13°53.4' W

— 53°45.6' N, 13°49.8' W

— 53°36.6' N, 14°07.2' W

— 53°43.2' N, 14°10.8' W

South-West Porcupine Bank:

— 51°54.6' N, 15°07.2' W

— 51°54.6' N, 14°55.2' W

— 51°42.0' N, 14°55.2' W

— 51°42.0' N, 15°10.2' W

— 51°49.2' N, 15°06.0' W

— 51°54.6' N, 15°07.2' W.

2. All pelagic vessels fishing in the areas as described in point 1 shall:

— be on a list of authorised vessels and be issued with a fishing authorisation in accordance with Article 7 of Regulation (EC) No 1224/2009;

— carry on board exclusively pelagic gear;

— give four hours advance notification of their intention to enter an area for the protection of vulnerable deep-sea habitats to the Irish Fisheries Monitoring Centre (FMC) as defined in point 15 of Article 4 of Regulation (EC) No 1224/2009 and at the same time notify quantities of fish retained on board;

— have an operational, fully functioning secure Vessel Monitoring System (VMS) which complies fully with the respective rules when present in any of the areas described in point 1;

- make VMS reports every hour;
  - inform the Irish FMC on departure from the area and at the same time notify quantities of fish retained on board; and
  - have on board trawls with a codend mesh size range from 16-79mm.
3. It shall be prohibited to deploy any bottom trawl or similar towed nets within the following area:

Darwin Mounds:

- 59°54' N, 6°55' W
- 59°47' N, 6°47' W
- 59°37' N, 6°47' W
- 59°37' N, 7°39' W
- 59°45' N, 7°39' W
- 59°54' N, 7°25' W.

#### PART B

#### South Western Waters

1. El Cachucho
- 1.1. It shall be prohibited to deploy bottom trawls, bottom set gillnets, entangling nets or trammel nets and bottom set longlines within the following areas:
- 44°12' N, 5°16' W
  - 44°12' N, 4°26' W
  - 43°53' N, 4°26' W
  - 43°53' N, 5°16' W
  - 44°12' N, 5°16' W.
- 1.2. Vessels that conducted directed fisheries with bottom set longlines in 2006, 2007 and 2008 for greater forkbeard (*Phycis blennoides*) may continue to fish in the area south of 44°00.00' N provided they have a fishing authorisation issued in accordance with Article 7 of Regulation (EC) No 1224/2009.
- 1.3. All vessels having obtained this fishing authorisation shall, regardless of their overall length, have in use an operational, fully functioning secure VMS which complies with the respective rules, when conducting fisheries in the area described in point 1.1.
2. Madeira and the Canary Islands

It shall be prohibited to deploy bottom set gillnets, entangling nets and trammel nets at depths greater than 200 m or bottom trawls or similar towed gear within the following areas:

- 27°00' N, 19°00' W

— 26°00' N, 15°00' W

— 29°00' N, 13°00' W

— 36°00' N, 13°00' W

— 36°00' N, 19°00' W.

3. Azores

It shall be prohibited to deploy bottom set gillnets, entangling nets and trammel nets at depths greater than 200 m or bottom trawls or similar towed gear within the following areas:

— 36°00' N, 23°00' W

— 39°00' N, 23°00' W

— 42°00' N, 26°00' W

— 42°00' N, 31°00' W

— 39°00' N, 34°00' W

— 36°00' N, 34°00' W.

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## ANNEX III

## LIST OF SPECIES PROHIBITED FOR CAPTURE WITH DRIFTNETS

- Albacore: *Thunnus alalunga*
  - Bluefin tuna: *Thunnus thynnus*
  - Bigeye tuna: *Thunnus obesus*
  - Skipjack: *Katsuwonus pelamis*
  - Atlantic Bonito: *Sarda sarda*
  - Yellowfin tuna: *Thunnus albacares*
  - Blackfin tuna: *Thunnus atlanticus*
  - Little tuna: *Euthynnus* spp.
  - Southern bluefin tuna: *Thunnus maccoyii*
  - Frigate tuna: *Auxis* spp.
  - Oceanic sea breams: *Brama rayi*
  - Marlins: *Tetrapturus* spp.; *Makaira* spp.
  - Sailfishes: *Istiophorus* spp.
  - Swordfishes: *Xiphias gladius*
  - Sauries: *Scomberesox* spp.; *Cololabis* spp.
  - Dolphinfishes: *Coryphaena* spp.
  - Sharks: *Hexanchus griseus*; *Cetorhinus maximus*; *Alopiidae*; *Carcharhinidae*; *Sphyrnidae*; *Isuridae*; *Lamnidae*
  - *Cephalopods*: all species
-

## ANNEX IV

**MEASUREMENT OF THE SIZE OF A MARINE ORGANISM**

1. The size of any fish shall be measured, as shown in Figure 1, from the tip of the snout to the end of the tail fin.
2. The size of a Norway lobster (*Nephrops norvegicus*) shall be measured, as shown in Figure 2, either:
  - as the length of the carapace, parallel to the midline, from the back of either eye socket to the midpoint of the distal dorsal edge of the carapace, or
  - as the total length, from the tip of the rostrum to the rear end of the telson, not including the setae.

In the case of detached Norway lobster tails: from the front edge of the first tail segment present to the rear end of the telson, not including the setae. The tail shall be measured flat, unstretched and on the dorsal side.

3. The size of a lobster (*Homarus gammarus*) from the North Sea except Skagerrak or Kattegat shall be measured, as shown in Figure 3, as the length of the carapace, parallel to the midline, from the back of either eye socket to the distal edge of the carapace.
4. The size of a lobster (*Homarus gammarus*) from Skagerrak or Kattegat shall be measured, as shown in Figure 3, either:
  - as the length of the carapace, parallel to the midline, from the back of either eye socket to the midpoint of the distal dorsal edge of the carapace, or
  - as the total length, from the tip of the rostrum to the rear end of the telson, not including the setae.
5. The size of a crawfish (*Palinurus* spp.) shall be measured, as shown in Figure 4, as the length of the carapace, parallel to the midline, from the tip of the rostrum to the midpoint of the distal dorsal edge of the carapace.
6. The size of any bivalve mollusc shall be measured, as shown in Figure 5, across the longest part of the shell.
7. The size of a spinous spider crab (*Maja squinado*) shall be measured, as shown in Figure 6, as the length of the carapace, along the midline, from the edge of the carapace between the rostrums to the posterior edge of the carapace.
8. The size of an edible crab (*Cancer pagurus*) shall be measured, as shown in Figure 7, as the maximum width of the carapace measured perpendicular to the antero-posterior midline of the carapace.

9. The size of a whelk (*Buccinum* spp.) shall be measured, as shown in Figure 8, as the length of the shell.
10. The size of swordfish (*Xiphias gladius*) shall be measured, as shown in Figure 9, as the lower jaw to fork length (LJFL).

Figure 1 Fish species

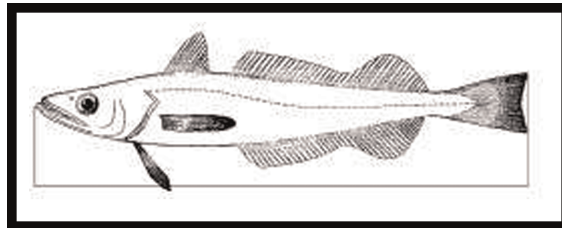


Figure 2 Norway Lobster  
(*Nephrops norvegicus*)

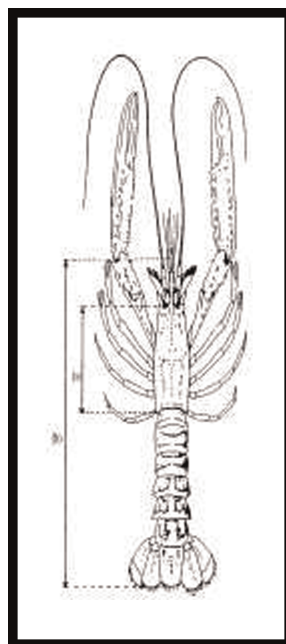


Figure 3 Lobster  
(*Hommarus gammarus*)

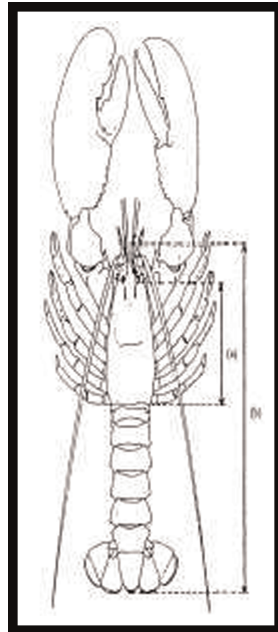


Figure 4 Crawfish  
(*Palinurus* spp.)

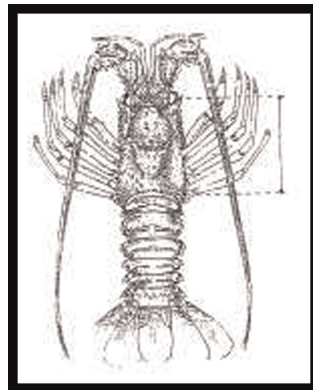


Figure 5 Bivalve molluscs

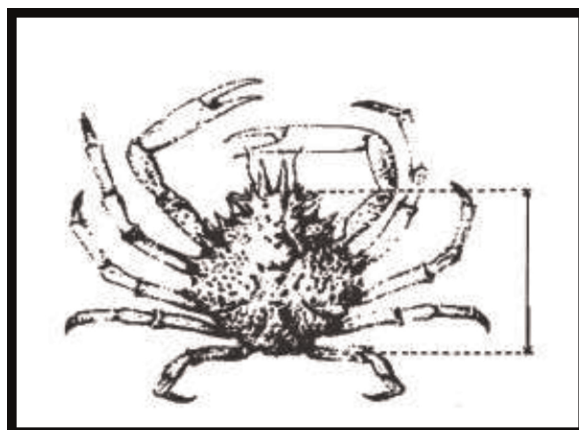
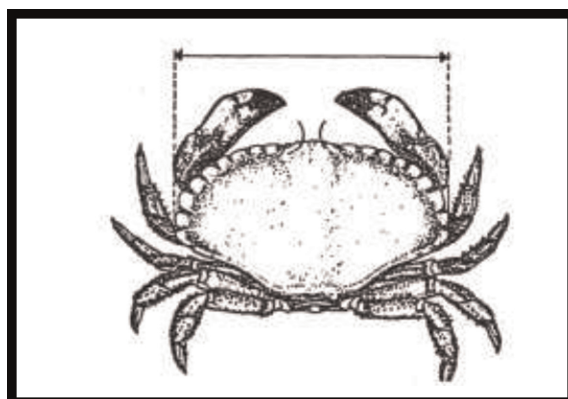
Figure 6 Spinous Spider Crabs  
(*Maja squinado*)Figure 7 Edible crab  
(*Cancer pagurus*)

Figure 8 Whelk  
(*Buccinum* spp.)

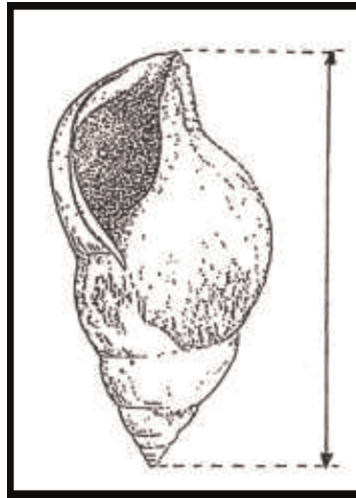
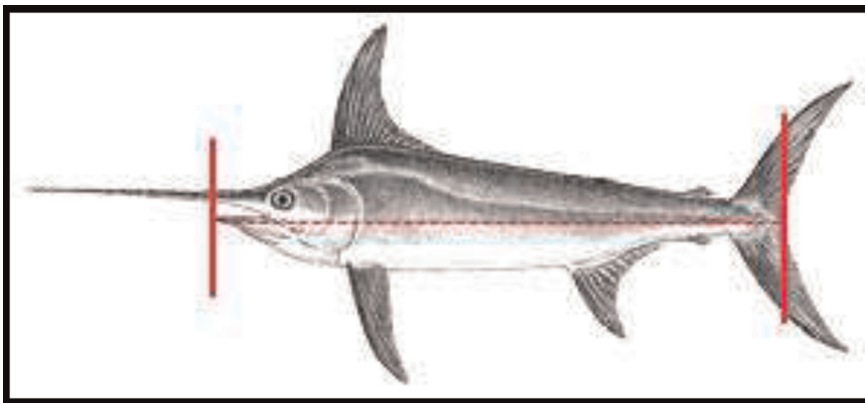


Figure 9 Swordfish  
(*Xiphias gladius*)



## ANNEX V

NORTH SEA <sup>(1)</sup>

## PART A

## Minimum conservation reference sizes

Species	North Sea
Cod ( <i>Gadus morhua</i> )	35 cm
Haddock ( <i>Melanogrammus aeglefinus</i> )	30 cm
Saithe ( <i>Pollachius virens</i> )	35 cm
Pollack ( <i>Pollachius pollachius</i> )	30 cm
Hake ( <i>Merluccius merluccius</i> )	27 cm
Megrim ( <i>Lepidorhombus</i> spp.)	20 cm
Sole ( <i>Solea</i> spp.)	24 cm
Plaice ( <i>Pleuronectes platessa</i> )	27 cm
Whiting ( <i>Merlangius merlangus</i> )	27 cm
Ling ( <i>Molva molva</i> )	63 cm
Blue ling ( <i>Molva dipterygia</i> )	70 cm
Norway lobster ( <i>Nephrops norvegicus</i> )	Total length 85 mm, Carapace length 25 mm Norway lobster tails 46 mm
Mackerel ( <i>Scomber</i> spp.)	30 cm <sup>(4)</sup>
Herring ( <i>Clupea harengus</i> )	20 cm <sup>(4)</sup>
Horse mackerel ( <i>Trachurus</i> spp.)	15 cm <sup>(4)</sup>
Anchovy ( <i>Engraulis encrasicolus</i> )	12 cm or 90 individuals per kg <sup>(4)</sup>
Bass ( <i>Dicentrarchus labrax</i> )	42 cm

<sup>(1)</sup> For the purposes of this Annex:

- the Kattegat is limited in the north by a line drawn from Skagen Lighthouse to the lighthouse in Tistlarna, and from there to the nearest point on the Swedish coast, and in the south by a line drawn from Hasenøre Head to Griben Point, from Korshage to Spodsbjerg, and from Gilbjerg Head to the Kullen,
- the Skagerrak is limited in the west by a line drawn from the lighthouse of Hanstholm to the lighthouse of Lindesnes, and in the south by a line drawn from Skagen Lighthouse to the lighthouse of Tistlarna, and from there to the nearest point on the Swedish coast,
- the North Sea shall comprise ICES sub-area 4, the adjacent part of ICES Division 2a lying south of latitude 64° N, and that part of ICES Division 3a which is not covered by the definition of Skagerrak given in the second indent.

Species	North Sea
Sardine ( <i>Sardina pilchardus</i> )	11 cm <sup>(4)</sup>
Lobster ( <i>Homarus gammarus</i> )	87 mm (carapace length)
Spinous spider crab ( <i>Maja squinado</i> )	120 mm
Queen scallop ( <i>Chalamys</i> spp.)	40 mm
Grooved carpetshell ( <i>Ruditapes decussatus</i> )	40 mm
Carpetshell ( <i>Venerupis pullastra</i> )	38 mm
Short-necked clam ( <i>Venerupis philippinarum</i> )	35 mm
Clam ( <i>Venus verrucosa</i> )	40 mm
Hard clam ( <i>Callista chione</i> )	6 cm
Razor clam ( <i>Ensis</i> spp.)	10 cm
Surf clams ( <i>Spisula solida</i> )	25 mm
Donax clams ( <i>Donax</i> spp.)	25 mm
Bean solen ( <i>Pharus legumen</i> )	65 mm
Whelk ( <i>Buccinum undatum</i> )	45 mm
Octopus ( <i>Octopus vulgaris</i> )	750 g
Crawfish ( <i>Palinurus</i> spp.)	95 mm (carapace length)
Deepwater rose shrimp ( <i>Parapenaeus longirostris</i> )	22 mm (carapace length)
Edible crab ( <i>Cancer pagurus</i> )	140 mm <sup>(1)</sup> <sup>(2)</sup> <sup>(3)</sup>
Scallop ( <i>Pecten maximus</i> )	100 mm
Cod ( <i>Gadus morhua</i> )	30 cm
Haddock ( <i>Melanogrammus aeglefinus</i> )	27 cm
Saithe ( <i>Pollachius virens</i> )	30 cm
Pollack ( <i>Pollachius pollachius</i> )	—
Hake ( <i>Merluccius merluccius</i> )	30 cm
Megrim ( <i>Lepidorhombus</i> spp.)	25 cm
Sole ( <i>Solea</i> spp.)	24 cm
Plaice ( <i>Pleuronectes platessa</i> )	27 cm



Species	North Sea
Whiting ( <i>Merlangius merlangus</i> )	23 cm
Ling ( <i>Molva molva</i> )	—
Blue ling ( <i>Molva dypterygia</i> )	—
Norway lobster ( <i>Nephrops norvegicus</i> )	Total length 105 mm Norway lobster tails 59 mm Carapace length 32 mm
Mackerel ( <i>Scomber</i> spp.)	20 cm <sup>(4)</sup>
Herring ( <i>Clupea harengus</i> )	18 cm <sup>(4)</sup>
Horse mackerel ( <i>Trachurus</i> spp.)	15 cm <sup>(4)</sup>
Lobster ( <i>Homarus gammarus</i> )	Total length 220 mm Carapace length 78 mm

<sup>(1)</sup> In Union waters in ICES division 4a. In ICES Divisions 4b and 4c, a minimum conservation reference size of 130 mm shall apply.

<sup>(2)</sup> In an area in ICES divisions 4b and 4c limited by a point at 53°28'22" N, 0°09'24" E, on the coast of England, a straight line joining this point with 53°28'22" N, 0°22'24" E, the 6-mile boundary of the United Kingdom, and a straight line connecting a point at 51°54'06" N, 1°30'30" E, with a point on the coast of England at 51°55'48" N, 1°17'00" E, a minimum conservation reference size of 115 mm shall apply.

<sup>(3)</sup> For edible crabs caught in pots or creels, a maximum of 1 % by weight of the total catch of edible crab may consist of detached claws. For edible crabs caught with any other fishing gear, a maximum of 75 kg of detached crab claws may be landed.

<sup>(4)</sup> By way of derogation from Article 15 of Regulation (EU) No 1380/2013, the minimum conservation reference sizes of sardine, anchovy, herring, horse mackerel and mackerel shall not apply within a limit of 10 % by live weight of the total catches retained on board of each of those species.

The percentage of sardine, anchovy, herring, horse mackerel or mackerel below minimum conservation reference size shall be calculated as the proportion by live weight of all marine organisms on board after sorting or on landing.

The percentage may be calculated on the basis of one or more representative samples. The limit of 10 % shall not be exceeded during transshipment, landing, transportation, storage, display or sale.

## PART B

### Mesh sizes

#### 1. Baseline mesh sizes for towed gear

1.1. Without prejudice to the landing obligation, vessels shall use a mesh size of at least 120 mm or at least 90 mm in Skagerrak and Kattegat <sup>(2)</sup>.

1.2. Without prejudice to the landing obligation, and notwithstanding point 1.1, vessels may use smaller mesh sizes as listed in the following table for the North Sea, Skagerrak and Kattegat provided that:

(i) the associated conditions set out in that table are complied with, and by-catches of cod, haddock and saithe do not exceed 20 % of the total catch in live weight of all marine biological resources landed after each fishing trip;  
or

(ii) other selectivity modifications are used which have been assessed by STECF upon request of one or more Member States and approved by the Commission. Those selectivity modifications shall result in the same or better selectivity characteristics for cod, haddock and saithe as that of 120 mm.

<sup>(2)</sup> In sub-divisions Skagerrak and Kattegat, a diamond mesh top panel of at least 270 mm mesh size or a square mesh top panel of at least 140 mm mesh size shall be fitted. In sub-division Kattegat, a square mesh panel of at least 120 mm may be fitted (on trawls in the period from 1 October to 31 December, and on seines in the period from 1 August to 31 October).

Mesh Size	Geographical Areas	Conditions
At least 100 mm <sup>(1)</sup>	North Sea south of 57° 30' N	Directed fishing for plaice and sole with otter trawls, beam trawls, and seines. A square mesh panel of at least 90 mm shall be fitted.
At least 80 mm <sup>(1)</sup>	ICES Divisions 4b and 4c	Directed fishing for sole with beam trawls. A panel with a mesh size of at least 180 mm fitted in the upper half of the anterior part of the net shall be fitted. Directed fishing for whiting, mackerel and species not subject to catch limits with bottom trawls. A square mesh panel of at least 80 mm shall be fitted.
At least 80 mm	North Sea	Directed fishing for Norway lobster ( <i>Nephrops norvegicus</i> ). A square mesh panel of at least 120 mm or sorting grid with a maximum bar spacing of 35 mm or equivalent selectivity device shall be fitted. Directed fishing for species not subject to catch limits and which are not covered elsewhere in the table. A square mesh panel of at least 80 mm shall be fitted. Directed fishing for skates and rays.
At least 80 mm	ICES division 4c	Directed fishing for sole using otter trawls. A square mesh panel of at least 80 mm shall be fitted.
At least 70 mm (square mesh) or 90 mm (diamond mesh)	Skagerrak and Kattegat	Directed fishing for Norway lobster ( <i>Nephrops norvegicus</i> ). A sorting grid with a maximum bar spacing of 35mm or equivalent selectivity device shall be fitted.
At least 40 mm	Whole area	Directed fishing for squid ( <i>Lolignidae</i> , <i>Ommastrephidae</i> ).
At least 35 mm	Skagerrak and Kattegat	Directed fishing for Northern prawn ( <i>Pandalus borealis</i> ). A sorting grid with a maximum bar spacing of 19mm or equivalent selectivity device shall be fitted.
At least 32 mm	Whole area except Skagerrak and Kattegat	Directed fishing for Northern prawn ( <i>Pandalus borealis</i> ). A sorting grid with a maximum bar spacing of 19 mm or equivalent selectivity device shall be fitted.

Mesh Size	Geographical Areas	Conditions
At least 16 mm	Whole area	Directed fishing for small pelagic species which are not covered elsewhere in the table. Directed fishing for Norway pout. A sorting grid with a maximum bar spacing of 35 mm in the Norway pout fishery shall be fitted. Directed fishing for common and Aesop shrimps. A separator trawl or sorting grid must be fitted in accordance with nationally or regionally established rules.
Less than 16 mm	Whole area	Directed fishing for sandeel.

(<sup>1</sup>) Vessels shall be prohibited from using any beam trawl with a mesh size between 32 and 99 mm north of a line joined by the following points by a point on the East Coast of the United Kingdom at latitude 55° N, then east to latitude 55°, longitude 5° E, then north to latitude 56° N and east to a point on the west coast of Denmark at latitude 56° N. It is prohibited to use any beam trawl of mesh size range 32 to 119 mm within ICES Division 2a and that part of ICES Sub-area 4 to the north of 56° 00' N.

## 2. Baseline mesh sizes for static nets and driftnets

2.1. Without prejudice to the landing obligation, vessels shall use a mesh size of at least 120 mm.

2.2. Without prejudice to the landing obligation, and notwithstanding point 2.1, vessels may use smaller mesh sizes as listed in the following table for the North Sea, Skagerrak and Kattegat provided that the associated conditions set out in that table are complied with and by-catches of cod, haddock and saithe do not exceed 20 % of the total catch in live weight of all marine biological resources landed after each fishing trip.

Mesh Size	Geographical Areas	Conditions
At least 100 mm	Whole area	Directed fishing for haddock, whiting, dab and bass
At least 90 mm	Whole area	Directed fishing for flatfish or species not subject to catch limits and which are not covered elsewhere in the table
At least 50 mm	Whole area	Directed fishing for small pelagic species which are not covered elsewhere in the table

## PART C

### Closed or restricted areas

1. Closure of an area to protect sandeel in ICES divisions 4a and 4b

1.1. Fishing for sandeel with any towed gear with a codend mesh size less than 32 mm shall be prohibited within the geographical area bounded by the east coast of England and Scotland, and enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

— the east coast of England at latitude 55°30' N

— 55°30' N, 01°00' W

— 58°00' N, 01°00' W

— 58°00' N, 02°00' W

— the east coast of Scotland at longitude 02°00' W.

1.2. Fisheries for scientific investigation shall be allowed in order to monitor the sandeel stock in the area and the effects of the closure.

2. Closure of an area to protect juvenile plaice in ICES subarea 4

2.1. Vessels exceeding 8 m in overall length shall be prohibited from using any demersal trawl, beam trawl, Danish seine or similar towed gear within the geographical areas enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84:

(a) the area within 12 nautical miles of the coasts of France, north of latitude 51°00' N, Belgium, and the Netherlands up to latitude 53°00' N, measured from the baselines;

(b) the area bounded by a line joining the following coordinates:

— a point on the west coast of Denmark at latitude 57°00' N

— 57°00' N, 7°15' E

— 55°00' N, 7°15' E

— 55°00' N, 7°00' E

— 54°30' N, 7°00' E

— 54°30' N, 7°30' E

— 54°00' N, 7°30' E

— 54°00' N, 6°00' E

— 53°50' N, 6°00' E

— 53°50' N, 5°00' E

— 53°30' N, 5°00' E

— 53°30' N, 4°15' E

— 53°00' N, 4°15' E

— a point on the coast of the Netherlands at latitude 53°00' N

— the area within 12 nautical miles of the west coast of Denmark from 57°00' N as far north as the Hirtshals Lighthouse, measured from the baselines.

2.2. The following vessels are permitted to fish in the area referred to in point 2.1:

- (a) vessels whose engine power does not exceed 221 kW using bottom trawls or Danish seines;
- (b) paired vessels whose combined engine power does not exceed 221 kW at any time using bottom pair trawls;
- (c) vessels whose engine power exceeds 221 kW shall be permitted to use bottom trawls or Danish seine, and paired vessels whose combined engine power exceeds 221 kW shall be permitted to use bottom pair trawls provided that such vessels do not engage in directed fishing for plaice and sole and comply with the relevant mesh size rules contained in Part B of this Annex.

2.3. When vessels referred to in point 2.2(a) use beam trawls, the beam length, or the aggregate length of combined beam trawls measured as the sum of the length of each beam, shall not be greater than or shall not be able to be extended to a length of greater than 9 m except when operating with gear having a mesh size between 16 and 31 mm. Fishing vessels whose primary activity is fishing for common shrimp (*Crangon crangon*) shall be permitted to use beam trawls of which the aggregate beam length, measured as the sum of the length of each beam, is greater than 9 m when operating with gear having a mesh size between 80 and 99 mm provided an additional fishing authorisation has been issued to these vessels.

2.4. Vessels permitted to fish in the area referred to in point 2.1 shall be included in a list to be provided to the Commission by each Member State. The total engine power of the vessels referred to in point 2.2(a) within the list shall not exceed the total engine power in evidence for each Member State at 1 January 1998. The permitted fishing vessels shall hold a fishing authorisation in accordance with Article 7 of Regulation (EC) No 1224/2009.

3. Restrictions on the use of beam trawls within 12 nautical miles of the coast of the United Kingdom

3.1. Vessels shall be prohibited from using any beam trawl inside the areas within 12 nautical miles of the coast of the United Kingdom, measured from the baselines of the territorial waters.

3.2. By way of derogation from point 3.1, fishing with beam trawls within the specified area shall be permitted provided that:

— The engine power of the vessels does not exceed 221 Kw and their overall length does not exceed 24 m; and

— The beam length or aggregated beam length, measured as the sum of each beam, is no more than 9 m, or cannot be extended to a length greater than 9 m, except when directed fishing for common shrimp (*Crangon crangon*) with a minimum mesh size of less than 31 mm.

#### 4. Restrictions on fishing for sprat to protect herring in ICES division 4b

Fishing with any towed gear with a codend mesh size of less than 32 mm or static nets less than 30 mm mesh size shall be prohibited within the geographical areas enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84, and during the following periods mentioned:

- from 1 January to 31 March, and from 1 October to 31 December, within ICES statistical area 39E8. For the purpose of this Regulation, that ICES area shall be the area bounded by a line due east from the east coast of the United Kingdom along latitude 55°00' N to a point at longitude 1°00' W, from there due north to a point at latitude 55°30' N and from there due west to the United Kingdom coast;
- from 1 January to 31 March, and from 1 October to 31 December, within the inner waters of the Moray Firth west of longitude 3°30' W, and in the inner waters of the Firth of Forth west of longitude 3°00' W,
- from 1 July to 31 October, within the geographical area bounded by the following coordinates:
  - the west coast of Denmark at latitude 55°30' N
  - latitude 55°30' N, longitude 7°00' E
  - latitude 57°00' N, longitude 7°00' E
  - the west coast of Denmark at latitude 57°00' N.

#### 5. Specific provisions for the Skagerrak and Kattegat in ICES division 3a

- 5.1. It shall be prohibited to fish with beam trawls in the Kattegat.
  - 5.2. It shall be prohibited for Union vessels to fish for, retain on board, tranship, land, store, sell and display or offer for sale salmon and sea trout.
  - 5.3. It shall be prohibited to deploy towed gear with a codend mesh size of less than 32 mm from 1 July to 15 September in the waters situated within three nautical miles of the baselines in the Skagerrak and Kattegat unless carrying out directed fishing for Northern Prawn (*Pandalus borealis*). For directed fishing for eelpout (*Zoarces viviparus*), gobies (*Gobiidae*) or scorpion fish (*Cottus* spp.) for use as bait, nets with any mesh size may be used.
- #### 6. Use of static nets in ICES divisions 3a and 4a
- 6.1. In accordance with point (a) of Article 9(7) and by way of derogation from Part B Point 2 of this Annex, it shall be permitted to use the following gear in waters with a charted depth of less than 600 m:

- Bottom set gillnets used for directed fishing for hake of a mesh size of at least 100 mm and no more than 100 meshes deep, where the total length of all nets deployed does not exceed 25 km per vessel and the maximum soak time is 24 hours;

- Entangling nets used for directed fishing for anglerfish of a mesh size of at least 250 mm and no more than 15 meshes deep, where the total length of all nets deployed does not exceed 100 km and the maximum soak time is 72 hours.

6.2. Directed fishing for deepwater sharks as listed in Annex I to Regulation (EU) 2016/2336 of the European Parliament and of the Council <sup>(3)</sup> in charted depths of less than 600 m shall be prohibited. When accidentally caught, deepwater sharks classified as prohibited in this Regulation and other Union legislation shall be recorded, unharmed to the extent possible, and shall be promptly released. Deepwater sharks subject to catch limits shall be retained on board. Such catches shall be landed and counted against quotas. In situations where quota is not or not sufficiently available to the Member State concerned, the Commission may resort to Article 105(5) of Regulation (EC) No 1224/2009. Where accidental catches of deepwater sharks by the vessels of any Member State exceed 10 tonnes then those vessels may no longer avail of the derogations set out in point 6.1.

#### PART D

##### **The use of electric pulse trawls in ICES divisions 4b and 4c**

1. Fishing with electric pulse trawl shall be prohibited in all Union waters as of 1 July 2021.
2. During the transitional period ending 30 June 2021, fishing with electric pulse trawl in ICES divisions 4b and 4c shall continue to be allowed under the conditions set out in this and any conditions defined in accordance with point (b) of Article 24(1) of this Regulation, regarding the characteristics of the pulse used and control monitoring measures in place south of a rhumb line joined by the following points, which shall be measured according to the WGS84 coordinate system:

- a point on east coast of the United Kingdom at latitude 55° N

- east to latitude 55° N, longitude 5° E

- north to latitude 56° N

- east to a point on the west coast of Denmark at latitude 56° N.

The following conditions shall apply:

- (a) no more than 5 % of the beam trawler fleet per Member State use the electric pulse trawl;
- (b) the maximum electrical power in kW for each beam trawl is no more than the length in metres of the beam multiplied by 1,25;
- (c) the effective voltage between the electrodes is no more than 15 V;
- (d) the vessel is equipped with an automatic computer management system which records the maximum power used per beam and the effective voltage between electrodes for at least the last 100 tows. It is not possible for non-authorised personnel to modify this automatic computer management system;
- (e) it is prohibited to use one or more tickler chains in front of the footrope.

<sup>(3)</sup> Regulation (EU) 2016/2336 of the European Parliament and of the Council of 14 December 2016 establishing specific conditions for fishing for deep-sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic and repealing Council Regulation (EC) No 2347/2002 (OJ L 354, 23.12.2016, p. 1).

3. New licences shall not be granted to any vessel during this period.
4. Until 30 June 2021 in the waters up to 12 nautical miles from baselines under their sovereignty or jurisdiction, Member States may take non-discriminatory measures to restrict or prohibit the use of electric pulse trawl. Member States shall inform the Commission and the Member States concerned of the measures put in place under this point.
5. If requested by the coastal Member State to the flag Member State, the master of a vessel using electric pulse trawl shall, in line with Article 12 of Regulation (EU) 2017/1004 of the European Parliament and of the Council <sup>(4)</sup>, take on board an observer from the coastal Member State during the fishing operations.

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<sup>(4)</sup> Regulation (EU) 2017/1004 of the European Parliament and of the Council of 17 May 2017 on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy and repealing Council Regulation (EC) No 199/2008 (OJ L 157, 20.6.2017, p. 1).



## ANNEX VI

## NORTH WESTERN WATERS

## PART A

## Minimum conservation reference sizes

Species	Whole area
Cod ( <i>Gadus morhua</i> )	35 cm
Haddock ( <i>Melanogrammus aeglefinus</i> )	30 cm
Saithe ( <i>Pollachius virens</i> )	35 cm
Pollack ( <i>Pollachius pollachius</i> )	30 cm
Hake ( <i>Merluccius merluccius</i> )	27 cm
Megrim ( <i>Lepidorhombus</i> spp.)	20 cm
Sole ( <i>Solea</i> spp.)	24 cm
Plaice ( <i>Pleuronectes platessa</i> )	27 cm
Whiting ( <i>Merlangius merlangus</i> )	27 cm
Ling ( <i>Molva molva</i> )	63 cm
Blue ling ( <i>Molva dypterygia</i> )	70 cm
Norway lobster ( <i>Nephrops norvegicus</i> ) Norway Lobster tails	Total length 85 mm, Carapace length 25 mm <sup>(1)</sup> 46 mm <sup>(2)</sup>
Mackerel ( <i>Scomber</i> spp.)	20 cm <sup>(6)</sup>
Herring ( <i>Clupea harengus</i> )	20 cm <sup>(6)</sup>
Horse mackerel ( <i>Trachurus</i> spp.)	15 cm <sup>(6)</sup>
Anchovy ( <i>Engraulis encrasicolus</i> )	12 cm or 90 individuals per kg <sup>(6)</sup>
Bass ( <i>Dicentrarchus labrax</i> )	42 cm
Sardine ( <i>Sardina pilchardus</i> )	11 cm <sup>(6)</sup>
Red sea-bream ( <i>Pagellus bogaraveo</i> )	33 cm
Lobster ( <i>Hommarus gammarus</i> )	87 mm
Spinous spider crab ( <i>Maja squinado</i> )	120 mm
Queen scallop ( <i>Chlamys</i> spp.)	40 mm
Grooved carpetshell ( <i>Ruditapes decussatus</i> )	40 mm
Carpetshell ( <i>Venerupis pullastra</i> )	38 mm
Short-necked clam ( <i>Venerupis philippinarum</i> )	35 mm
Clam ( <i>Venus verrucosa</i> )	40 mm

Species	Whole area
Hard clam ( <i>Callista chione</i> )	6 cm
Razor clam ( <i>Ensis</i> spp.)	10 cm
Surf clams ( <i>Spisula solida</i> )	25 mm
Donax clams ( <i>Donax</i> spp.)	25 mm
Bean solen ( <i>Pharus legumen</i> )	65 mm
Whelk ( <i>Buccinum undatum</i> .)	45 mm
Octopus ( <i>Octopus vulgaris</i> )	750 g
Crawfish ( <i>Palinurus</i> spp.)	95 mm
Deepwater rose shrimp ( <i>Parapenaeus longirostris</i> )	22 mm (carapace length)
Edible crab ( <i>Cancer pagurus</i> )	140 mm <sup>(3)</sup> <sup>(4)</sup>
Scallop ( <i>Pecten maximus</i> )	100 mm <sup>(5)</sup>

<sup>(1)</sup> In ICES divisions 6a and 7a a minimum conservation reference size of total length of 70 mm and a carapace length of 20 mm shall apply.

<sup>(2)</sup> In ICES divisions 6a and 7a a minimum conservation reference size of 37 mm shall apply.

<sup>(3)</sup> In Union waters in ICES sub-areas, 5, 6 south of 56° N and 7, except ICES divisions 7d, 7e and 7f, a minimum conservation reference size of 130 mm shall apply.

<sup>(4)</sup> For edible crabs caught in pots or creels, a maximum of 1 % by weight of the total catch of edible crab may consist of detached claws. For edible crabs caught with any other fishing gear, a maximum of 75 kg of detached crab claws may be landed.

<sup>(5)</sup> In ICES division 7a north of 52°30' N, and ICES division 7d, a minimum conservation reference size of 110 mm shall apply.

<sup>(6)</sup> By way of derogation from Article 15 of Regulation (EU) No 1380/2013, the minimum conservation reference sizes of sardine, anchovy, herring, horse mackerel and mackerel shall not apply within a limit of 10 % by live weight of the total catches retained on board of each of those species.

The percentage of sardine, anchovy, herring, horse mackerel or mackerel below the minimum conservation reference size shall be calculated as the proportion by live weight of all marine organisms on board after sorting or on landing.

The percentage may be calculated on the basis of one or more representative samples. The limit of 10 % shall not be exceeded during transshipment, landing, transportation, storage, display or sale.

#### PART B

#### Mesh sizes

1. Baseline mesh sizes for towed gear
  - 1.1. Without prejudice to the landing obligation, vessels shall use a mesh size of at least 120 mm <sup>(1)</sup>, or at least 100 mm in ICES sub-area 7b-7k.
  - 1.2. Without prejudice to the landing obligation, and notwithstanding point 1.1, vessels may use smaller mesh sizes as listed in the following table for the North Western waters provided that:
    - (i) the associated conditions set out in that table are complied with, and by-catches of cod, haddock and saithe do not exceed 20 % of the total catch in live weight of all marine biological resources landed after each fishing trip; or

<sup>(1)</sup> To be phased-in over a two-year period from the date of entry into force of this Regulation.

- (ii) other selectivity modifications are used which have been assessed by STECF upon request of one or more Member States and approved by the Commission. Those selectivity modifications shall result in the same or better selectivity characteristics for cod, haddock and saithe as that of 120 mm, or 100 mm in ICES sub-area 7b-7k, respectively.

Mesh Size	Geographical Areas	Conditions
At least 80 mm <sup>(1)</sup>	ICES sub-area 7	Directed fishing for hake, megrim and anglerfish, or directed fishing for whiting, mackerel and species not subject to catch limits and which are not covered elsewhere in the table, using bottom trawls. A square mesh panel of at least 120 mm shall be fitted <sup>(3)</sup> <sup>(5)</sup> .  Directed fishing for sole and species not covered by catch limits, using otter trawls. A square mesh panel of at least 80 mm shall be fitted <sup>(3)</sup> .
At least 80 mm	Whole area	Directed fishing for Norway lobster ( <i>Nephrops norvegicus</i> ) <sup>(2)</sup> . A square mesh panel of at least 120 mm or sorting grid with a maximum bar spacing of 35 mm or equivalent selectivity device shall be fitted.
At least 80 mm	ICES divisions 7a, 7b, 7d, 7e, 7f, 7g, 7h and 7j	Directed fishing for sole with beam trawls. A panel with a mesh size of at least 180 mm <sup>(4)</sup> fitted in the upper half of the anterior part of the net shall be fitted.
At least 80 mm	ICES divisions 7d and 7e	Directed fishing for whiting, mackerel and species not subject to catch limits and which are not covered elsewhere in the table, using bottom trawls.
At least 40 mm	Whole area	Directed fishing for squid ( <i>Lolignidae</i> , <i>Ommastrephidae</i> )
At least 16 mm	Whole area	Directed fishing for small pelagic species which are not covered elsewhere in the table. Directed fishing for common and Aesop shrimps. A separator trawl or sorting grid must be fitted in accordance with nationally established rules
Less than 16 mm	Whole area	Directed fishing for sandeel

<sup>(1)</sup> This is without prejudice to Article 5 of Commission Regulation (EC) No 494/2002 <sup>(2)</sup>.

<sup>(2)</sup> At least 70 mm mesh size shall apply for single rig vessels in ICES division 7a.

<sup>(3)</sup> This is without prejudice to Article 2(5) of Commission Implementing Regulation (EU) No 737/2012 <sup>(3)</sup>.

<sup>(4)</sup> This provision shall not apply to ICES division 7d.

<sup>(5)</sup> This provision shall not apply when directed fishing for whiting, mackerel and species not subject to catch limits in ICES divisions 7d and 7e.

## 2. Baseline mesh sizes for static nets and driftnets

2.1. Without prejudice to the landing obligation, vessels shall use a mesh size of at least 120 mm <sup>(4)</sup>.

2.2. Without prejudice to the landing obligation, and notwithstanding point 2.1, vessels may use smaller mesh sizes as listed in the following table for the North Western waters provided that the associated conditions set out in that table are complied with, and by-catches of cod, haddock and saithe do not exceed 20 % of the total catch in live weight of all marine biological resources landed after each fishing trip.

<sup>(2)</sup> Commission Regulation (EC) No 494/2002 of 19 March 2002 establishing additional technical measures for the recovery of the stock of hake in ICES sub-areas III, IV, V, VI and VII and ICES divisions VIII a, b, d, e (OJ L 77, 20.3.2002, p. 8).

<sup>(3)</sup> Commission Implementing Regulation (EU) No 737/2012 of 14 August 2012 on the protection of certain stocks in the Celtic Sea (OJ L 218, 15.8.2012, p. 8).

<sup>(4)</sup> A mesh size of at least 220 mm shall be used when fishing for anglerfish. A mesh size of at least 110 mm shall be used when directed fishing for pollack and hake in ICES divisions 7d and 7e.

Mesh Size	Geographical Areas	Conditions
At least 100 mm <sup>(1)</sup>	Whole area	Directed fishing for flatfish or species not subject to catch limits and which are not covered elsewhere in the table Directed fishing for whiting, dab and bass
At least 50 mm	Whole area	Directed fishing for small pelagic species which are not covered elsewhere in the table Directed fishing for red mullet

<sup>(1)</sup> In division 7d, at least 90 mm shall apply.

3. This Part is without prejudice to Commission Delegated Regulation (EU) 2018/2034 <sup>(5)</sup>, for the fisheries covered by that Delegated Regulation.

#### PART C

##### Closed or restricted areas

1. Closed area for the conservation of cod in ICES division 6a

From 1 January to 31 March, and from 1 October to 31 December, each year, it shall be prohibited to conduct any fishing activity using any towed gear or static nets in the area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 coordinate system:

— 55°25' N, 7°07' W

— 55°25' N, 7°00' W

— 55°18' N, 6°50' W

— 55°17' N, 6°50' W

— 55°17' N, 6°52' W

— 55°25' N, 7°07' W.

2. Closed area for the conservation of cod in ICES divisions 7f and 7g
- 2.1. From 1 February to 31 March each year, it shall be prohibited to conduct any fishing activity in the following ICES statistical rectangles: 30E4, 31E4, 32E3. This prohibition shall not apply within 6 nautical miles from the baseline.
- 2.2. It shall be permitted to conduct fishing activities using pots and creels within the specified areas and time periods, provided that:
- (i) no fishing gear other than pots and creels are carried on board; and
  - (ii) by-catches of a species subject to the landing obligation are landed and counted against quotas.
- 2.3. Directed fishing for small pelagic species with towed gear with a mesh size less than 55 mm shall be permitted, provided that:

<sup>(5)</sup> Commission Delegated Regulation (EU) 2018/2034 of 18 October 2018 establishing a discard plan for certain demersal fisheries in North-Western waters for the period 2019-2021 (OJ L 327, 21.12.2018, p. 8).

- (i) no net of mesh size greater than or equal to 55 mm is carried on board; and
  - (ii) by-catches of a species subject to the landing obligation are landed and counted against quotas.
3. Closed area for the conservation of cod in ICES division 7a
- 3.1. In the period from 14 February to 30 April each year it shall be prohibited to use any demersal trawl, seine or similar towed net, any gillnet, entangling net or trammel net or any fishing gear incorporating hooks within that part of ICES division 7a enclosed by the east coast of Ireland and the east coast of Northern Ireland and straight lines sequentially joining the following geographical coordinates, which shall be measured according to the WGS84 coordinate system:
- a point on the east coast of the Ards peninsula in Northern Ireland at 54°30' N
  - 54°30' N, 04°50' W
  - 53°15' N, 04°50' W
  - a point on the east coast of Ireland at 53°15' N.
- 3.2. By way of derogation from point 1, within the area and time period referred to therein the use of demersal trawls shall be permitted provided such trawls are fitted with selective devices that have been assessed by STECF.
4. Rockall haddock box in ICES sub-area 6

All fishing, except with longlines, shall be prohibited in the areas enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

- 57°00' N, 15°00' W
  - 57°00' N, 14°00' W
  - 56°30' N, 14°00' W
  - 56°30' N, 15°00' W
  - 57°00' N, 15°00' W.
5. Closed area for the conservation of Norway lobster in ICES divisions 7c and 7k
- 5.1. Directed fishing for Norway lobster (*Nephrops norvegicus*) and associated species (namely, cod, megrims, anglerfish, haddock, whiting, hake, plaice, pollack, saithe, skates and rays, common sole, tusk, blue ling, ling and spurdog) shall be prohibited from 1 May to 31 May each year within the geographical area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 coordinate system:
- 52°27' N, 12°19' W
  - 52°40' N, 12°30' W
  - 52°47' N, 12°39,60' W
  - 52°47' N, 12°56' W
  - 52°13,5' N, 13°53,83' W

- 51°22' N, 14°24' W
- 51°22' N, 14°03' W
- 52°10' N, 13°25' W
- 52°32' N, 13°07,50' W
- 52°43' N, 12°55' W
- 52°43' N, 12°43' W
- 52°38,80' N, 12°37' W
- 52°27' N, 12°23' W
- 52°27' N, 12°19' W.

5.2. Transit through the Porcupine Bank while carrying on board the species referred to in point 5.1 shall be permitted in accordance with Article 50(3), (4) and (5) of Regulation (EC) No 1224/2009.

6. Special rules for the protection of blue ling in ICES division 6a

6.1. From 1 March to 31 May each year directed fishing for blue ling shall be prohibited in the areas of ICES division 6a enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

Edge of Scottish continental shelf

- 59°58' N, 07°00' W
- 59°55' N, 06°47' W
- 59°51' N, 06°28' W
- 59°45' N, 06°38' W
- 59°27' N, 06°42' W
- 59°22' N, 06°47' W
- 59°15' N, 07°15' W
- 59°07' N, 07°31' W
- 58°52' N, 07°44' W
- 58°44' N, 08°11' W
- 58°43' N, 08°27' W
- 58°28' N, 09°16' W
- 58°15' N, 09°32' W

— 58°15' N, 09°45' W

— 58°30' N, 09°45' W

— 59°30' N, 07°00' W

— 59°58' N, 07°00' W

Edge of Rosemary bank

— 60°00' N, 11°00' W

— 59°00' N, 11°00' W

— 59°00' N, 09°00' W

— 59°30' N, 09°00' W

— 59°30' N, 10°00' W

— 60°00' N, 10°00' W

— 60°00' N, 11°00' W

Not including the area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

— 59°15' N, 10°24' W

— 59°10' N, 10°22' W

— 59°08' N, 10°07' W

— 59°11' N, 09°59' W

— 59°15' N, 09°58' W

— 59°22' N, 10°02' W

— 59°23' N, 10°11' W

— 59°20' N, 10°19' W

— 59°15' N, 10°24' W.

6.2. A by-catch of blue ling up to a threshold of 6 tonnes may be retained on board and landed. Once a vessel reaches this six-tonne threshold of blue ling:

- (a) it shall immediately cease fishing and exit the area in which it is present;
- (b) it may not re-enter either of the areas until its catch has been landed;
- (c) it may not return to the sea any quantity of blue ling.

6.3. From 15 February to 15 April each year, it shall be prohibited to use bottom trawls, longlines and static nets within an area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

— 60°58.76' N, 27°27.32' W

— 60°56.02' N, 27°31.16' W

— 60°59.76' N, 27°43.48' W

— 61°03.00' N, 27°39.41' W

— 60°58.76' N, 27°27.32' W.

7. Restrictions on fishing for mackerel in ICES divisions 7e, 7f, 7g and 7h

7.1. Directed fishing for mackerel with towed gear with a codend mesh size of less than 80 mm or with purse seines shall be prohibited, except where the weight of the mackerel does not exceed 15 % by live weight of the total quantities of mackerel and other marine organisms on board which have been caught, within the area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

— a point on the south coast of the United Kingdom at 02°00' W

— 49° 30' N, 2° 00' W

— 49° 30' N, 7° 00' W

— 52° 00' N, 7° 00' W

— a point on the west coast of the United Kingdom at 52° 00' N.

7.2. It shall be permitted to fish within the area defined in point 7.1 with:

— static nets and/or hand lines;

— demersal trawls, Danish seines or other similar towed nets, with a mesh size greater than 80 mm.

7.3. Vessels which are not equipped for fishing and to which mackerel are being transhipped shall be permitted within the area defined in point 7.1.

8. Restrictions on the use of beam trawls within 12 nautical miles of the coast of the United Kingdom and Ireland

8.1. The use of any beam trawl of mesh size less than 100 mm shall be prohibited in ICES division 5b and ICES sub-area 6 north of latitude 56°N.

8.2. Vessels shall be prohibited from using any beam trawl inside the areas within 12 nautical miles of the coasts of the United Kingdom and Ireland, measured from the baselines from which the territorial waters are measured.

8.3. Fishing with beam trawls within the specified area shall be permitted provided that:

— The engine power of the vessels does not exceed 221 Kw and their length does not exceed 24 m; and

— The beam length or aggregated beam length, measured as the sum of each beam, is no more than 9 m, or cannot be extended to a length greater than 9 m, except when directed fishing for common shrimp (*Crangon crangon*) with a codend mesh size of less than 31 mm.



9. Use of static nets in ICES divisions 5b, 6a, 6b, 7b, 7c, 7h, 7j and 7k
- 9.1. In accordance with point (a) of Article 9(7) and by way of derogation from Part B, Point 2 of this Annex, it shall be permitted to use the following gear in waters with a charted depth of less than 600 m:
- Bottom set gillnets used for directed fishing for hake with a mesh size of at least 100 mm and no more than 100 meshes deep, where the total length of all nets deployed does not exceed 25 km per vessel and the maximum soak time is 24 hours.
  - Entangling nets used for directed fishing for anglerfish with a mesh size of at least 250 mm and no more than 15 meshes deep, where the total length of all nets deployed does not exceed 100 km and the maximum soak time is 72 hours.
- 9.2. Directed fishing for deepwater sharks as listed in Annex I to Regulation (EU) 2016/2336 in charted depths of less than 600 m shall be prohibited. When accidentally caught, deepwater sharks classified as prohibited in this Regulation and other Union legislation shall be recorded, unharmed to the extent possible, and shall be promptly released. Deepwater sharks subject to catch limits shall be retained on board. Such catches shall be landed and counted against quotas. In situations where quota is not or not sufficiently available to the Member State concerned, the Commission may resort to Article 105(5) of Regulation (EC) No 1224/2009. Where accidental catches of deepwater sharks by the vessels of any Member State exceed 10 tonnes then those vessels may no longer avail of the derogations set out in point 9.1.
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## ANNEX VII

## SOUTH WESTERN WATERS

## PART A

## Minimum conservation reference sizes

Species	Whole area
Cod ( <i>Gadus morhua</i> )	35 cm
Haddock ( <i>Melanogrammus aeglefinus</i> )	30 cm
Saithe ( <i>Pollachius virens</i> )	35 cm
Pollack ( <i>Pollachius pollachius</i> )	30 cm
Hake ( <i>Merluccius merluccius</i> )	27 cm
Megrim ( <i>Lepidorhombus</i> spp.)	20 cm
Sole ( <i>Solea</i> spp.)	24 cm
Plaice ( <i>Pleuronectes platessa</i> )	27 cm
Whiting ( <i>Merlangius merlangus</i> )	27 cm
Ling ( <i>Molva molva</i> )	63 cm
Blue ling ( <i>Molva dypterygia</i> )	70 cm
Norway lobster ( <i>Nephrops norvegicus</i> )	Total length 70 mm, Carapace length 20 mm
Norway Lobster tails	37 mm
Mackerel ( <i>Scomber</i> spp.)	20 cm <sup>(6)</sup>
Herring ( <i>Clupea harengus</i> )	20 cm <sup>(6)</sup>
Horse mackerel ( <i>Trachurus</i> spp.)	15 cm <sup>(1)</sup> <sup>(6)</sup> <sup>(7)</sup>
Anchovy ( <i>Engraulis encrasicolus</i> )	12 cm or 90 individuals per kg <sup>(2)</sup> <sup>(6)</sup>
Bass ( <i>Dicentrarchus labrax</i> )	36 cm
Sardine ( <i>Sardina pilchardus</i> )	11 cm <sup>(6)</sup>
Red sea-bream ( <i>Pagellus bogaraveo</i> )	33 cm
Lobster ( <i>Hommarus gammarus</i> )	87 mm
Spinous spider crab ( <i>Maja squinado</i> )	120 mm
Queen scallop ( <i>Chlamys</i> spp.)	40 mm
Grooved carpetshell ( <i>Ruditapes decussatus</i> )	40 mm
Carpetshell ( <i>Venerupis pullastra</i> )	38 mm
Short-necked clam ( <i>Venerupis philippinarum</i> )	35 mm
Clam ( <i>Venus verrucosa</i> )	40 mm
Hard clam ( <i>Callista chione</i> )	6 cm

Species	Whole area
Razor clam ( <i>Ensis</i> spp.)	10 cm
Surf clams ( <i>Spisula solida</i> )	25 mm
Donax clams ( <i>Donax</i> spp.)	25 mm
Bean solen ( <i>Pharus legumen</i> )	65 mm
Whelk ( <i>Buccinum undatum</i> )	45 mm
Octopus ( <i>Octopus vulgaris</i> )	750 g <sup>(3)</sup>
Crawfish ( <i>Palinurus</i> spp.)	95 mm
Deepwater rose shrimp ( <i>Parapenaeus longirostris</i> )	22 mm (carapace length)
Edible crab ( <i>Cancer pagurus</i> )	140 mm <sup>(4)</sup> <sup>(5)</sup>
Scallop ( <i>Pecten maximus</i> )	100 mm

<sup>(1)</sup> No minimum conservation reference size shall apply to horse mackerel (*Trachurus pictaratus*) caught in waters adjacent to the Azores islands and under the sovereignty or jurisdiction of Portugal.

<sup>(2)</sup> In ICES sub-area 9 and CECAF area 34.1.2 a minimum conservation reference size of 9 cm shall apply.

<sup>(3)</sup> In all waters in that part of the eastern central Atlantic comprising divisions 34.1.1, 34.1.2 and 34.1.3 and sub-area 34.2.0 of fishing zone 34 of the CECAF region, a gutted weight of 450 g shall apply.

<sup>(4)</sup> In Union waters in ICES sub-areas 8 and 9 a minimum conservation reference size of 130 mm shall apply.

<sup>(5)</sup> For edible crabs caught in pots or creels, a maximum of 1 % by weight of the total catch of edible crab may consist of detached claws. For edible crabs caught with any other fishing gear, a maximum of 75 kg of detached crab claws may be landed.

<sup>(6)</sup> By way of derogation from Article 15 of Regulation (EU) No 1380/2013, the minimum conservation reference sizes of sardine, anchovy, herring, horse mackerel and mackerel shall not apply within a limit of 10 % by live weight of the total catches retained on board of each of those species.

The percentage of sardine, anchovy, herring, horse mackerel or mackerel below the minimum conservation reference size shall be calculated as the proportion by live weight of all marine organisms on board after sorting or on landing.

The percentage may be calculated on the basis of one or more representative samples. The limit of 10 % shall not be exceeded during transshipment, landing, transportation, storage, display or sale.

<sup>(7)</sup> No more than 5 % may consist of horse mackerel between 12 and 15 cm. For the purposes of the control of that quantity, the conversion factor to be applied to the weight of the catches shall be 1,20. These provisions shall not apply for catches subject to the landing obligation.

## PART B

### Mesh sizes

#### 1. Baseline mesh sizes for towed gear

1.1. Without prejudice to the landing obligation, vessels shall use a mesh size of at least 70 mm <sup>(1)</sup>, <sup>(2)</sup>, or at least 55 mm in ICES division 9a east of longitude 7°23' 48" W.

1.2. Without prejudice to the landing obligation and notwithstanding point 2.1, vessels may use smaller mesh sizes as listed in the following table for South Western waters provided that:

- (i) the associated conditions set out in that table are complied with, and by-catches of hake do not exceed 20 % of the total catch in live weight of all marine biological resources landed after each fishing trip; or
- (ii) other selectivity modifications are used which have been assessed by STECF upon request of one or more Member States and approved by the Commission. Those selectivity modifications shall result in the same or better selectivity characteristics for hake as that of 70 mm, or 55 mm in ICES division 9a east of longitude 7°23' 48" W respectively.

<sup>(1)</sup> This provision is without prejudice to Article 2 of Regulation (EC) No 494/2002.

<sup>(2)</sup> For directed fishing for Norway lobster (*Nephrops norvegicus*), a square mesh panel of at least 100 mm or equivalent selectivity device shall be fitted when fishing in ICES divisions 8a, 8b, 8d and 8e. For directed fishing for sole with beam trawls, a panel with a mesh size of at least 180 mm fitted in the upper half of the anterior part of the net shall be fitted.

Mesh Size	Geographical Areas	Conditions
At least 55mm	Whole area excluding ICES division 9a east of longitude 7°23' 48" W	Directed fishing for species not subject to catch limits and which are not covered elsewhere in the table Directed fishing for red sea bream Directed fishing for mackerel, horse mackerel and blue whiting with bottom trawls
At least 35mm	Whole area	Directed fishing for wedge sole
At least 55 mm	ICES division 9a west of longitude 7°23' 48" W	Directed fishing for crustaceans
At least 16 mm	Whole area	Directed fishing for small pelagic species which are not covered elsewhere in the table Directed fishing for shrimps ( <i>Palaemon serratus</i> , <i>Crangon crangon</i> ), and crab ( <i>Polybius henslowi</i> )
Less than 16 mm	Whole area	Directed fishing for sandeel

2. Baseline mesh sizes for static nets and driftnets

- 2.1. Without prejudice to the landing obligation, vessels shall use a mesh size of at least 100 mm <sup>(3)</sup>, or at least 80 mm in ICES division 8c and ICES sub-area 9.
- 2.2. Without prejudice to the landing obligation, and notwithstanding point 2.1, vessels may use smaller mesh sizes as listed in the following table for the South Western waters provided that the associated conditions set out in that table are complied with, and by-catches of hake do not exceed 20 % of the total catch in live weight of all marine biological resources landed after each fishing trip.

Mesh Size	Geographical Areas	Conditions
At least 80 mm	Whole area except ICES division 8c and ICES sub-area 9	Directed fishing for sea bass, whiting, turbot, flounder and pollack
At least 60 mm	Whole area	Directed fishing for species not subject to catch limits and which are not covered elsewhere in the table
At least 50 mm	Whole area	Directed fishing for small pelagic species <sup>(1)</sup> which are not covered elsewhere in the table
At least 40 mm	Whole area	Directed fishing for red mullet, shrimps ( <i>Penaeus</i> spp.), mantis shrimp, wedge sole and wrasse

<sup>(1)</sup> A mesh size of less than 40 mm may be used for sardines.

PART C

**Closed or restricted areas**

1. Closed area for the conservation of hake in ICES division 9a

Fishing with any trawl, Danish seine or similar towed net shall be prohibited within the geographical areas enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

- (a) from 1 October to 31 January in the following year:

— 43°46,5' N, 07°54,4' W

— 44°01,5' N, 07°54,4' W

<sup>(3)</sup> For directed fishing for anglerfish a mesh size of at least 220 mm shall be used.

— 43°25,0' N, 09°12,0' W

— 43°10,0' N, 09°12,0' W

(b) from 1 December to the last day of February in the following year:

— a point on the west coast of Portugal at 37°50' N

— 37°50' N, 09°08' W

— 37°00' N, 09°07' W

— a point on the west coast of Portugal at 37°00' N

2. Closed areas for the conservation of Norway lobster in ICES division 9a

2.1. Directed fishing for Norway lobster (*Nephrops norvegicus*) with any bottom trawl, Danish seine or similar towed net or with creels shall be prohibited, within the geographical areas enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

(a) from 1 June to 31 August:

— 42°23' N, 08°57' W

— 42°00' N, 08°57' W

— 42°00' N, 09°14' W

— 42°04' N, 09°14' W

— 42°09' N, 09°09' W

— 42°12' N, 09°09' W

— 42°23' N, 09°15' W

— 42°23' N, 08°57' W

(b) from 1 May to 31 August:

— 37°45' N, 09°00' W

— 38°10' N, 09°00' W

— 38°10' N, 09°15' W

— 37°45' N, 09°20' W

- 2.2. It shall be permitted to fish with bottom trawls or similar towed nets or creels in the geographical areas and during the period as described in point 2.1(b) provided that all by-catches of Norway lobster (*Nephrops norvegicus*) are landed and counted against quotas.
  - 2.3. Directed fishing for Norway lobster (*Nephrops norvegicus*) in the geographical areas and outside the periods referred to in point 2.1, shall be prohibited. By-catches of Norway lobster (*Nephrops norvegicus*) shall be landed and counted against quotas.
  3. Restrictions on directed fishing for anchovy in ICES division 8c
    - 3.1. Directed fishing for anchovy using pelagic trawls in ICES division 8c shall be prohibited.
    - 3.2. The carrying on board of pelagic trawls and purse seines simultaneously within ICES division 8c shall be prohibited.
  4. Use of static nets in ICES sub-areas 8, 9, 10, and 12 east of 27° W
    - 4.1. In accordance with point (a) of Article 9(7) and by way of derogation from Part B, Point 2 of this Annex, it shall be permitted to use the following gear in waters with a charted depth of less than 600 m:
      - Bottom set gillnets used for directed fishing for hake of a mesh size of at least 80 mm in ICES division 8c and ICES sub-area 9 and 100 mm in all remaining areas and no more than 100 meshes deep, where the total length of all nets deployed does not exceed 25 km per vessel and the maximum soak time is 24 hours.
      - Entangling nets used for directed fishing for anglerfish of a mesh size of at least 250 mm and no more than 15 meshes deep, where the total length of all nets deployed does not exceed 100 km and the maximum soak time is 72 hours.
      - Trammel nets in ICES sub-area 9 used for directed fishing for anglerfish of a mesh size of at least 220 mm and no more than 30 meshes deep, where the total length of nets deployed does not exceed 20 km per vessel and the maximum soak time is 72 hours.
    - 4.2. Directed fishing for deepwater sharks as listed in Annex I to Regulation (EU) 2016/2336 in charted depths of less than 600 m shall be prohibited. When accidentally caught, deepwater sharks classified as prohibited in this Regulation and other Union legislation shall be recorded, unharmed to the extent possible, and shall be promptly released. Deepwater sharks subject to catch limits shall be retained on board. Such catches shall be landed and counted against quotas. In situations where quota is not or not sufficiently available to the Member State concerned, the Commission may resort to Article 105(5) of Regulation (EC) No 1224/2009. Where accidental catches of deepwater sharks by the vessels of any Member State exceed 10 tonnes then those vessels may no longer avail of the derogations set out in point 4.1.
    - 4.3. Conditions for fisheries using certain towed gear authorised in the Bay of Biscay. By way of derogation from the provisions laid down in Article 5(2) of Regulation (EC) No 494/2002 establishing additional technical measures for the recovery of the stock of hake in ICES sub-areas 3-7 and ICES Divisions 8a, 8b 8d and 8e, it shall be permitted to conduct fishing activity using trawls, Danish seines and similar gear, with the exception of beam trawls, with a mesh size range of 70-99 mm in the area defined in point (b) of Article 5(1) of Regulation (EC) No 494/2002 if the gear is fitted with a 100 mm square mesh panel.
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## ANNEX VIII

## BALTIC SEA

## PART A

## Minimum conservation reference sizes

Species	Geographical Areas	Minimum Conservation Reference Size
Cod ( <i>Gadus morhua</i> )	Sub-divisions 22-32	35 cm
Plaice ( <i>Pleuronectes platessa</i> )	Sub-divisions 22-32	25 cm
Salmon ( <i>Salmo salar</i> )	Sub-divisions 22-30 and 32	60 cm
	Sub-division 31	50 cm
Flounder ( <i>Platichthys flesus</i> )	Sub-divisions 22-25	23 cm
	Sub-divisions 26, 27 and 28	21 cm
	Sub-divisions 29-32, south of 59°	18 cm
Turbot ( <i>Psetta maxima</i> )	Sub-divisions 22-32	30 cm
Brill ( <i>Scophthalmus rhombus</i> )	Sub-divisions 22-32	30 cm
Eel ( <i>Anguilla anguilla</i> )	Sub-divisions 22-32	35 cm
Sea trout ( <i>Salmo trutta</i> )	Sub-divisions 22-25 and 29-32	40 cm
	Sub-divisions 26, 27 and 28	50 cm

## PART B

## Mesh sizes

## 1. Baseline mesh sizes for towed gear

1.1. Without prejudice to the landing obligation, vessels shall use a mesh size of at least 120 mm constructed from T90 or at least 105 mm fitted with a Bacoma exit window of 120 mm.

1.2. Without prejudice to the landing obligation and notwithstanding point 1.1, vessels may use smaller mesh sizes as listed in the following table for the Baltic Sea provided that:

(i) the associated conditions set out in that table are complied with, and by-catches of cod do not exceed 10 % of the total catch in live weight of all marine biological resources landed after each fishing trip; or

(ii) other selectivity modifications are used which have been assessed by STECF upon request of one or more Member States and approved by the Commission. Those selectivity modifications shall result in the same or better selectivity characteristics for cod as that of 120 mm T90, or of 105 mm fitted with a 120 mm Bacoma exit window, respectively.

Mesh Size	Geographical Areas	Conditions
At least 90 mm	In sub-divisions 22 and 23	Directed fishing for flatfish <sup>(1)</sup> Directed fishing for whiting
At least 32 mm	In sub-divisions 22-27	Directed fishing for herring, mackerel, horse mackerel and blue whiting
At least 16 mm	In sub-divisions 22-27	Directed fishing for sprat <sup>(2)</sup>
At least 16 mm	Whole area	Directed fishing for species other than flatfish and which are not subject to catch limits and not covered elsewhere in the table
At least 16 mm	In sub-divisions 28-32	Directed fishing for small pelagic species which are not covered elsewhere in the table
Less than 16 mm	Whole area	Directed fishing for sandeel

<sup>(1)</sup> The use of beam trawl shall not be authorised.

<sup>(2)</sup> The catch may consist of up to 45 % of herring by live weight

## 2. Baseline mesh sizes for static nets

2.1. Without prejudice to the landing obligation, vessels shall use a mesh size of at least 110 mm, or 157 mm when fishing for salmon.

2.2. Without prejudice to the landing obligation and notwithstanding point 2.1, vessels may use smaller mesh sizes as listed in the following table for the Baltic Sea provided that the associated conditions set out in that table are complied with, and by-catches of cod do not exceed 10 % of the total catch live weight of all marine biological resources landed after each fishing trip or 5 specimens of salmon.

Mesh Size	Geographical Areas	Conditions <sup>(1)</sup>
At least 90 mm	Whole area	Directed fishing for flatfish species
Less than 90 mm	Whole area	Directed fishing for small pelagic species
At least 16 mm	Whole area	Directed fishing for species which are not subject to catch limits and not covered elsewhere in the table

<sup>(1)</sup> The use of gillnets, entangling nets or trammel nets of more than 9 km for vessels with an overall length of less than 12 m and 21 km for vessels with an overall length of more than 12 m shall be prohibited. The maximum immersion time for such gear shall be 48 hours, except when fishing under ice cover.

## PART C

### Closed or restricted areas

#### 1. Restrictions on fishing with towed gear

It shall be prohibited throughout the year, to fish with any towed gear in the geographical area enclosed by sequentially joining with rhumb lines the following positions, which shall be measured according to the WGS84 coordinate system:

— 54°23' N, 14°35' E



- 54°21' N, 14°40' E
- 54°17' N, 14°33' E
- 54°07' N, 14°25' E
- 54°10' N, 14°21' E
- 54°14' N, 14°25' E
- 54°17' N, 14°17' E
- 54°24' N, 14°11' E
- 54°27' N, 14°25' E
- 54°23' N, 14°35' E.

## 2. Restrictions on fishing for salmon and sea trout

### 2.1. Directed fishing for salmon (*Salmo salar*) or sea trout (*Salmo trutta*) shall be prohibited:

- (a) from 1 June to 15 September each year in waters of subdivisions 22-31;
- (b) from 15 June to 30 September each year in waters of subdivision 32.

### 2.2. The area of prohibition during the closed season shall be beyond four nautical miles measured from the baselines.

### 2.3. The retention on board of salmon (*Salmo salar*) or sea trout (*Salmo trutta*) caught with trap-nets shall be permitted.

## 3. Specific measures for the Gulf of Riga

### 3.1. In order to fish in sub-division 28-1, vessels shall hold a fishing authorisation issued in accordance with Article 7 of Regulation (EC) No 1224/2009.

### 3.2. Member States shall ensure that vessels, to which the fishing authorisation referred to in point 3.1 has been issued, are included in a list, containing their name and internal registration number, made publicly available via an internet website, the address of which shall be provided to the Commission and Member States by each Member State.

### 3.3. Vessels included in the list shall satisfy the following conditions:

- (a) the total engine power (kW) of the vessels within the lists must not exceed that observed for each Member State in the years 2000-2001 in subdivision 28-1; and
- (b) the engine power of a vessel must not exceed 221 kW at any time.

3.4. Any individual vessel on the list referred to in point 3.2 may be replaced by another vessel or vessels, provided that:

- (a) such replacement does not lead to an increase in the total engine power as indicated in point 3.3(a) for the Member State concerned; and
- (b) the engine power of any replacement vessel does not exceed 221 kW at any time.

3.5. An engine of any individual vessel included in the list referred to in point 3.2 may be replaced, provided that:

- (a) the replacement of an engine does not lead to the vessel's engine power exceeding 221 kW at any time; and
- (b) the power of the replacement engine is not such that replacement leads to an increase in the total engine power as indicated in point 3.3(a) for the Member State concerned.

3.6. In sub-division 28-1, fishing with trawls shall be prohibited in waters of less than 20 m in depth.

#### 4. Area restrictions on fishing

4.1. It shall be prohibited to conduct any fishing activity from 1 May to 31 October each year within the areas enclosed by sequentially joining with rhumb lines the following positions, which shall be measured according to the WGS84 coordinate system:

(a) Area 1:

- 55°45' N, 15°30' E
- 55°45' N, 16°30' E
- 55°00' N, 16°30' E
- 55°00' N, 16°00' E
- 55°15' N, 16°00' E
- 55°15' N, 15°30' E
- 55°45' N, 15°30' E

(b) Area 2:

- 55°00' N, 19°14' E
- 54°48' N, 19°20' E
- 54°45' N, 19°19' E
- 54°45' N, 18°55' E
- 55°00' N, 19°14' E

## (c) Area 3:

- 56°13' N, 18°27' E
- 56°13' N, 19°31' E
- 55°59' N, 19°13' E
- 56°03' N, 19°06' E
- 56°00' N, 18°51' E
- 55°47' N, 18°57' E
- 55°30' N, 18°34' E
- 56°13' N, 18°27' E.

4.2. Directed fishing for salmon with gillnets, entangling nets and trammel nets of a mesh size equal to or larger than 157 mm or with drifting lines shall be permitted. No other gear shall be kept on board.

4.3. Directed fishing for cod with the gear specified in point 5.2 shall be prohibited.

## 5. Restrictions on fishing for flounder and turbot

5.1. The retention on board of the following species of fish shall be prohibited where they are caught within the geographical areas and during the periods mentioned below:

Species	Geographical Areas	Period
Flounder	Sub-divisions 26-29 south of 59° 30' N	15 February to 15 May
	Subdivision 32	15 February to 31 May
Turbot	Sub-divisions 25, 26 and 28 south of 56° 50' N	1 June to 31 July

5.2. Directed fishing with trawls, Danish seines or similar gear with a codend mesh size equal to or greater than 90 mm or with gillnets, entangling nets or trammel nets with a mesh size equal to or greater than 90 mm shall be prohibited. By-catches of flounder and turbot may be retained on board and landed within a limit of 10 % by live weight of the total catch retained on board during the periods referred to in point 6.1.

## 6. Restrictions on fishing for eel

The retention on board of eel caught with any active gear shall be prohibited. When accidentally caught, eel shall not be harmed and shall be promptly released.

## ANNEX IX

## MEDITERRANEAN SEA

## PART A

## Minimum conservation reference sizes

Species	Whole Area
Bass ( <i>Dicentrarchus labrax</i> )	25 cm
Annular sea bream ( <i>Diplodus annularis</i> )	12 cm
Sharpsnout sea-bream ( <i>Diplodus puntazzo</i> )	18 cm
White sea-bream ( <i>Diplodus sargus</i> )	23 cm
Two-banded sea-bream ( <i>Diplodus vulgaris</i> )	18 cm
European anchovy ( <i>Engraulis encrasicolus</i> )	9 cm <sup>(1)</sup>
Groupers ( <i>Epinephelus</i> spp.)	45 cm
Stripped sea-bream ( <i>Lithognathus mormyrus</i> )	20 cm
Hake ( <i>Merluccius merluccius</i> )	20 cm
Red mullets ( <i>Mullus</i> spp.)	11 cm
Spanish sea-bream ( <i>Pagellus acarne</i> )	17 cm
Red sea-bream ( <i>Pagellus bogaraveo</i> )	33 cm
Common Pandora ( <i>Pagellus erythrinus</i> )	15 cm
Common sea bream ( <i>Pagrus pagrus</i> )	18 cm
Wreckfish ( <i>Polyprion americanus</i> )	45 cm
European sardine ( <i>Sardina pilchardus</i> )	11 cm <sup>(2)</sup> , <sup>(4)</sup>
Mackerel ( <i>Scomber</i> spp.)	18 cm
Common sole ( <i>Solea vulgaris</i> )	20 cm
Gilt-head sea-bream ( <i>Sparus aurata</i> )	20 cm
Horse mackerel ( <i>Trachurus</i> spp.)	15 cm
Norway lobster ( <i>Nephrops norvegicus</i> )	20 mm CL <sup>(3)</sup>
	70 mm TL <sup>(3)</sup>
Lobster ( <i>Homarus gammarus</i> )	105 mm CL <sup>(3)</sup>
	300 mm TL <sup>(3)</sup>
Crawfish ( <i>Palinuridae</i> )	90 mm CL <sup>(3)</sup>

Species	Whole Area
Deepwater rose shrimp ( <i>Parapenaeus longirostris</i> )	20 mm CL <sup>(3)</sup>
Scallop ( <i>Pecten jacobaeus</i> )	10 cm
Carpet Clams ( <i>Venerupis</i> spp.)	25 mm
Venus shells ( <i>Venus</i> spp.)	25 mm

<sup>(1)</sup> Member States may convert the minimum conservation reference size into 110 specimens per kg.

<sup>(2)</sup> Member States may convert the minimum conservation reference size into 55 specimens per kg.

<sup>(3)</sup> CL — carapace length; TL — total length.

<sup>(4)</sup> This minimum conservation reference size shall not apply to fries of sardine landed for human consumption if caught by boat seines or shore seines and authorised in accordance with national provisions established in a management plan as referred to in Article 19 of Regulation (EC) No 1967/2006, provided that the stock of sardine concerned is within safe biological limits.

## PART B

### Mesh sizes

#### 1. Baseline mesh sizes for towed gear

The following mesh sizes shall apply in the Mediterranean Sea.

Mesh Size <sup>(1)</sup>	Geographical Areas	Conditions
At least 40 mm square mesh codend <sup>(2)</sup>	Whole area	A diamond mesh codend of 50 mm <sup>2</sup> may be used as an alternative to the 40 mm square mesh codend at the duly justified request of the vessel owner
At least 20 mm	Whole area	Directed fishing for sardine and anchovy

<sup>(1)</sup> It shall be prohibited to use netting with a twine thickness greater than 3 mm or with multiple twines; or netting with a twine thickness of greater than 6 mm in any part of a bottom trawl.

<sup>(2)</sup> Only one type of net (either 40 mm square mesh or 50 mm diamond mesh) is allowed to be kept on board or deployed.

#### 2. Baseline mesh size for surrounding nets

Mesh Size	Geographical Areas	Conditions
At least 14 mm	Whole area	None

#### 3. Baseline mesh sizes for static nets

The following mesh sizes for bottom set gillnets shall apply in the Mediterranean Sea.

Mesh Size	Geographical Areas	Conditions
At least 16 mm	Whole area	None

4. Existing derogations from the provisions set out in points 1, 2 and 3 for boat seines and shore seines which are affected by a management plan as referred to in Article 19 of Regulation (EC) No 1967/2006 and issued within the framework of Article 9 of that Regulation shall continue to apply unless otherwise determined through Article 15 of this Regulation.

## PART C

**Restrictions on the use of fishing gear**

## 1. Restrictions on the use of dredges

The maximum breadth of dredges shall be 3 m, except for dredges used for directed fishing of sponges.

## 2. Restrictions on the use of purse seines

The length of purse seines and seines without purse lines shall be restricted to 800 m with a drop of 120 m, except in the case of purse seines used for directed fishing of tuna.

## 3. Restrictions on the use of static nets

## 3.1. It shall be prohibited to use the following static nets:

(a) A trammel net with a drop of more than 4 m;

(b) A bottom set gillnet or combined trammel and gillnet with a drop of more than 10 m except when such nets are shorter than 500 m, where a drop of not more than 30 m is permitted.

## 3.2. It shall be prohibited to use any gillnet, entangling net or trammel net constructed with a twine thickness greater than 0,5 mm.

## 3.3. It shall be prohibited to have on board or set more than 2 500 m of combined gillnets and trammel nets and 6 000 m of any gillnet, entangling net or trammel net.

## 4. Restrictions on the use of longlines

## 4.1. It shall be prohibited for vessels fishing with bottom-set longlines to have on board or deploy more than 5 000 hooks except for vessels undertaking fishing trips of more than 3 days which may have on board or deploy no more than 7 000 hooks.

## 4.2. It shall be prohibited for vessels fishing with surface-set longlines to have on board or deploy more than the number of hooks per vessel as follows:

(a) 2 500 hooks when directed fishing for swordfish; and

(b) 5 000 hooks when directed fishing for albacore tuna.

## 4.3. A vessel undertaking fishing trips longer than 2 days may have on board an equivalent number of spare hooks.

5. Restrictions on the use of pots and creels

It shall be prohibited to have on board or set more than 250 pots or creels per vessel to catch deepwater crustaceans.

6. Restrictions on the directed fishing for red sea bream

The directed fishing for red sea bream (*Pagellus bogaraveo*) with the following gear shall be prohibited:

- gillnets, entangling nets or trammel nets having a mesh size of less than 100 mm;
- longlines with hooks of a total length of less than 3,95 cm and a width of less than 1,65 cm.

7. Restrictions on fishing with spear guns

It shall be prohibited to fish with spear guns if used in conjunction with underwater breathing apparatus (aqualung) or at night from sunset to dawn.

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## ANNEX X

## BLACK SEA

## PART A

## Minimum conservation reference sizes

Species	Minimum Conservation Reference Size
Turbot ( <i>Psetta maxima</i> )	45 cm

## PART B

## Mesh sizes

## 1. Baseline mesh sizes for towed gear for demersal stocks

The following mesh sizes shall apply in the Black Sea:

Mesh Size	Geographical Areas	Conditions
At least 40 mm	Whole area	A diamond mesh codend of 50 mm <sup>(1)</sup> may be used as an alternative to the 40 mm square mesh cod end at the duly justified request of the vessel owner

<sup>(1)</sup> Only one type of net (either 40 mm square mesh or 50 mm diamond mesh) is allowed to be kept on board or deployed.

## 2. Baseline mesh sizes for static nets

The following mesh sizes for static nets shall apply in the Black Sea:

Mesh Size	Geographical Areas	Conditions
At least 400 mm	Whole area	Bottom set gillnets when used to catch turbot

## 3. Restrictions on the use of trawls and dredges

The use of trawls or dredges at depths beyond 1 000 m shall be prohibited.



## ANNEX XI

## UNION WATERS IN THE INDIAN OCEAN AND THE WEST ATLANTIC

## PART A

## 1. Baseline mesh sizes for towed gear

The following mesh sizes shall apply in Union waters in the Indian Ocean and the West Atlantic.

Mesh Size	Geographical Areas	Conditions
At least 100 mm	All waters off the coast of the French department of Guyana that come under the sovereignty or jurisdiction of France	None
At least 45 mm	All waters off the coast of the French department of Guyana that come under the sovereignty or jurisdiction of France	Directed fishing for shrimp ( <i>Penaeus subtilis</i> , <i>Penaeus brasiliensis</i> , <i>Xiphopenaeus kroyeri</i> ).

## 2. Baseline mesh size for surrounding nets

Mesh Size	Geographical Areas	Conditions
At least 14 mm	Whole area	None

## PART B

**Closed or restricted areas**

Restrictions on fishing activities in the 24-mile zone around Mayotte

Vessels shall be prohibited from using any purse-seine on tuna and tuna-like schools of fish within 24 nautical miles of the coast of Mayotte, measured from the baselines from which territorial waters are measured.

## ANNEX XII

## NEAFC REGULATORY AREA

## PART A

## Minimum conservation reference sizes

Species	NEAFC
Haddock ( <i>Melanogrammus aeglefinus</i> )	30 cm
Ling ( <i>Molva molva</i> )	63 cm
Blue ling ( <i>Molva dipterygia</i> )	70 cm
Mackerel ( <i>Scomber</i> spp.)	30 cm
Herring ( <i>Clupea harengus</i> )	20 cm

## PART B

## Mesh sizes

## 1. Baseline mesh sizes for towed gear

The following codend mesh sizes shall apply in the NEAFC Regulatory Area.

Codend Mesh Size	Geographical Areas	Conditions
At least 100 mm	Whole area	None
At least 35 mm	Whole area	Directed fishing for blue whiting
At least 32 mm	ICES sub-areas 1 and 2	Directed fishing for Northern prawn ( <i>Pandalus borealis</i> ). A sorting grid with a maximum bar spacing of 22 shall be fitted
At least 16 mm	Whole area	Directed fishing for mackerel, capelin and argentines

## 2. Baseline mesh sizes for static nets

The following mesh sizes for static nets shall apply in the NEAFC Regulatory Area.

Mesh Size	Geographical Areas	Conditions
At least 220 mm	Whole area	None

## PART C

## Closed or restricted areas

## 1. Measures for the redfish fishery in the Irminger Sea and adjacent waters

- 1.1. It shall be prohibited to catch redfish in international waters of ICES sub-area 5 and Union waters of ICES sub-areas 12 and 14.

By way of derogation from the first subparagraph, it shall be permitted to catch redfish from 11 May to 31 December in the area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system (the 'Redfish Conservation Area'):

— 64°45' N, 28°30' W

— 62°50' N, 25°45' W

— 61°55' N, 26°45' W

— 61°00' N, 26°30' W

— 59°00' N, 30°00' W

— 59°00' N, 34°00' W

— 61°30' N, 34°00' W

— 62°50' N, 36°00' W

— 64°45' N, 28°30' W.

- 1.2. Notwithstanding point 1.1, a fishery for redfish may be permitted, by a Union legal act, outside the Redfish Conservation Area in the Irminger Sea and adjacent waters from 11 May to 31 December each year on the basis of scientific advice and provided that NEAFC has established a recovery plan in respect of redfish in that geographical area. Only Union vessels that have been duly authorised by their respective Member State and notified to the Commission as required under Article 5 of Regulation (EU) No 1236/2010 shall participate in this fishery.
- 1.3. It shall be prohibited to use trawls with a mesh size of less than 100 mm.
- 1.4. The conversion factor to be applied to the gutted and headed presentation, including the Japanese cut presentation, of redfish caught in this fishery shall be 1,70.
- 1.5. Masters of fishing vessels engaged in the fishery outside the Redfish Conservation Area shall transmit the catch report provided for in point (b) of Article 9(1) of Regulation (EU) No 1236/2010 on a daily basis after the fishing operations of that calendar day have been completed. It shall indicate the catches on board taken since the last communication of catches.
- 1.6. In addition to Article 5 of Regulation (EU) No 1236/2010, an authorisation to fish for redfish shall only be valid if the reports transmitted by vessels are in accordance with Article 9(1) of that Regulation and are recorded in accordance with Article 9(3) thereof.
- 1.7. The reports referred to in point 1.6 shall be made in accordance with the relevant rules.

2. Special rules for the protection of blue ling

2.1. From 1 March to 31 May each year it shall be prohibited to retain on board any quantity of blue ling in excess of 6 tonnes per fishing trip in the areas of ICES division 6a enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

(a) Edge of Scottish continental shelf

— 59°58' N, 07°00' W

— 59°55' N, 06°47' W

— 59°51' N, 06°28' W

— 59°45' N, 06°38' W

— 59°27' N, 06°42' W

— 59°22' N, 06°47' W

— 59°15' N, 07°15' W

— 59°07' N, 07°31' W

— 58°52' N, 07°44' W

— 58°44' N, 08°11' W

— 58°43' N, 08°27' W

— 58°28' N, 09°16' W

— 58°15' N, 09°32' W

— 58°15' N, 09°45' W

— 58°30' N, 09°45' W

— 59°30' N, 07°00' W

— 59°58' N, 07°00' W;

(b) Edge of Rosemary bank

— 60°00' N, 11°00' W

— 59°00' N, 11°00' W

— 59°00' N, 09°00' W

— 59°30' N, 09°00' W

— 59°30' N, 10°00' W

— 60°00' N, 10°00' W

— 60°00' N, 11°00' W

Not including the area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

— 59°15' N, 10°24' W

— 59°10' N, 10°22' W

— 59°08' N, 10°07' W

— 59°11' N, 09°59' W

— 59°15' N, 09°58' W

— 59°22' N, 10°02' W

— 59°23' N, 10°11' W

— 59°20' N, 10°19' W

— 59°15' N, 10°24' W.

- 2.2. Where blue ling is subject to the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013, point 2.1 shall not apply.

Fishing for blue ling using any fishing gear within the period and areas referred to in point 2.1 shall be prohibited.

- 2.3. When entering and exiting the areas referred to in point 2.1, the master of a fishing vessel shall record the date, time and place of entry and exit in the logbook.

- 2.4. In either of the two areas referred to in point 2.1, if a vessel reaches the 6 tonnes of blue ling:

(a) it shall immediately cease fishing and exit the area in which it is present;

(b) it may not re-enter either of the areas until its catch has been landed;

(c) it may not return to the sea any quantity of blue ling.

- 2.5. The observers referred to in Article 16 of Regulation (EU) 2016/2336 who are assigned to fishing vessels present in one of the areas referred to in point 1 shall, for appropriate samples of the catches of blue ling, measure the fish in the samples and determine the stage of sexual maturity of subsampled fish. On the basis of advice from STECF, Member States shall establish detailed protocols for sampling and for the collation of results.
- 2.6. From 15 February to 15 April each year, it shall be prohibited to use bottom trawls, longlines and gillnets within an area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:
- 60°58.76' N, 27°27.32' W
  - 60°56.02' N, 27°31.16' W
  - 60°59.76' N, 27°43.48' W
  - 61°03.00' N, 27°39.41' W
  - 60°58.76' N, 27°27.32' W.
3. Measures for the redfish fishery in international waters of ICES sub-areas 1 and 2
- 3.1. Directed fishing for redfish in the international waters of ICES sub-areas 1 and 2 shall only be permitted within the period from 1 July to 31 December each year by vessels which have previously been engaged in the redfish fishery in the NEAFC Regulatory Area.
- 3.2. Vessels shall limit their by-catches of redfish in other fisheries to a maximum of 1 % of the total catch retained on board.
- 3.3. The conversion factor to be applied to the gutted and headed presentation, including the Japanese cut presentation, of redfish caught in this fishery shall be 1,70.
- 3.4. By way of derogation from point (b) of Article 9(1) of Regulation (EU) No 1236/2010, masters of fishing vessels engaged in this fishery shall report their catches on a daily basis.
- 3.5. In addition to Article 5 of Regulation (EU) No 1236/2010, an authorisation to fish for redfish shall only be valid if the reports transmitted by vessels are in accordance with Article 9(1) of that Regulation and are recorded in accordance with Article 9(3) thereof.
- 3.6. Member States shall ensure that scientific information is collected by scientific observers on board vessels flying their flag. As a minimum, the information collected shall include representative data on sex, age and length composition by depths. This information shall be reported to ICES by the competent authorities in the Member States.

3.7. The Commission shall inform Member States of the date on which the NEAFC Secretariat notifies the NEAFC Contracting Parties that the total allowable catch (TAC) has been fully utilised. Member States shall prohibit directed fishery for redfish by vessels flying their flag from that date.

4. Rockall haddock box in ICES sub-area 6

All fishing, except with longlines, shall be prohibited in the areas enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

— 57°00' N, 15°00' W

— 57°00' N, 14°00' W

— 56°30' N, 14°00' W

— 56°30' N, 15°00' W

— 57°00' N, 15°00' W.

PART D

**Closed areas for the protection of sensitive habitats**

1. It shall be prohibited to conduct bottom trawling and fishing with static gear, including bottom set gillnets and bottom set longlines, within the following areas sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

Part of the Reykjanes Ridge:

— 55°04.5327' N, 36°49.0135' W

— 55°05.4804' N, 35°58.9784' W

— 54°58.9914' N, 34°41.3634' W

— 54°41.1841' N, 34°00.0514' W

— 54°00' N, 34°00' W

— 53°54.6406' N, 34°49.9842' W

— 53°58.9668' N, 36°39.1260' W

— 55°04.5327' N, 36°49.0135' W

Northern MAR Area:

— 59°45' N, 33°30' W

— 57°30' N, 27°30' W

— 56°45' N, 28°30' W

— 59°15' N, 34°30' W

— 59°45' N, 33°30' W

Middle MAR Area (Charlie-Gibbs Fracture zone and Subpolar Frontal Region):

— 53°30' N, 38°00' W

— 53°30' N, 36°49' W

— 55°04.5327' N, 36°49' W

— 54°58.9914' N, 34°41.3634' W

— 54°41.1841' N, 34°00' W

— 53°30' N, 30°00' W

— 51°30' N, 28°00' W

— 49°00' N, 26°30' W

— 49°00' N, 30°30' W

— 51°30' N, 32°00' W

— 51°30' N, 38°00' W

— 53°30' N, 38°00' W

Southern MAR Area:

— 44°30' N, 30°30' W

— 44°30' N, 27°00' W

— 43°15' N, 27°15' W

— 43°15' N, 31°00' W

— 44°30' N, 30°30' W

The Altair Seamounts:

— 45°00' N, 34°35' W

— 45°00' N, 33°45' W



— 44°25' N, 33°45' W

— 44°25' N, 34°35' W

— 45°00' N, 34°35' W

The Antialtair Seamounts:

— 43°45' N, 22°50' W

— 43°45' N, 22°05' W

— 43°25' N, 22°05' W

— 43°25' N, 22°50' W

— 43°45' N, 22°50' W

Hatton Bank:

— 59°26' N, 14°30' W

— 59°12' N, 15°08' W

— 59°01' N, 17°00' W

— 58°50' N, 17°38' W

— 58°30' N, 17°52' W

— 58°30' N, 18°22' W

— 58°03' N, 18°22' W

— 58°03' N, 17°30' W

— 57°55' N, 17°30' W

— 57°45' N, 19°15' W

— 58°11.15' N, 18°57.51' W

— 58°11.57' N, 19°11.97' W

— 58°27.75' N, 19°11.65' W

— 58°39.09' N, 19°14.28' W

— 58°38.11' N, 19°01.29' W

— 58°53.14' N, 18°43.54' W

— 59°00.29' N, 18°01.31' W

— 59°08.01' N, 17°49.31' W

— 59°08.75' N, 18°01.47' W

— 59°15.16' N, 18°01.56' W

— 59°24.17' N, 17°31.22' W

— 59°21.77' N, 17°15.36' W

— 59°26.91' N, 17°01.66' W

— 59°42.69' N, 16°45.96' W

— 59°20.97' N, 15°44.75' W

— 59°21' N, 15°40' W

— 59°26' N, 14°30' W

North-West Rockall:

— 57°00' N, 14°53' W

— 57°37' N, 14°42' W

— 57°55' N, 14°24' W

— 58°15' N, 13°50' W

— 57°57' N, 13°09' W

— 57°50' N, 13°14' W

— 57°57' N, 13°45' W

— 57°49' N, 14°06' W

— 57°29' N, 14°19' W

— 57°22' N, 14°19' W

— 57°00' N, 14°34' W

— 56°56' N, 14°36' W

— 56°56' N, 14°51' W

— 57°00' N, 14°53' W

South-West Rockall (Empress of Britain Bank):

Area 1

— 56°24' N, 15°37' W

— 56°21' N, 14°58' W

— 56°04' N, 15°10' W

— 55°51' N, 15°37' W

— 56°10' N, 15°52' W

— 56°24' N, 15°37' W

Area 2

— 55°56.90 N -16°11.30 W

— 55°58.20 N -16°11.30 W

— 55°58.30 N -16°02.80 W

— 55°56.90 N -16°02.80 W

— 55°56.90 N -16°11.30 W

Area 3

— 55°49.90 N -15°56.00 W

— 55°48.50 N -15°56.00 W

— 55°48.30 N -15°50.60 W

— 55°49.60 N -15°50.60 W

— 55°49.90 N -15°56.00 W

Edora's bank

— 56°26.00 N -22°26.00 W

— 56°28.00 N -22°04.00 W

— 56°16.00 N -21°42.00 W

— 56°05.00 N -21°40.00 W

— 55°55.00 N -21°47.00 W

— 55°45.00 N -22°00.00 W

— 55°43.00 N -23°14.00 W

— 55°50.00 N -23°16.00 W

— 56°05.00 N -23°06.00 W

— 56°18.00 N -22°43.00 W

— 56°26.00 N -22°26.00 W

Southwest Rockall Bank

Area 1

— 55°58.16 N -16°13.18 W

— 55°58.24 N -16°02.56 W

— 55°54.86 N -16°05.55 W

— 55°58.16 N -16°13.18 W

Area 2

— 55°55.86 N -15°40.84 W

— 55°51.00 N -15°37.00 W

— 55°47.86 N -15°53.81 W

— 55°49.29 N -15°56.39 W

— 55°55.86 N -15°40.84 W

## Hatton-Rockall Basin

## Area 1

— 58°00.15 N -15°27.23 W

— 58°00.15 N -15°38.26 W

— 57°54.19 N -15°38.26 W

— 57°54.19 N -15°27.23 W

— 58°00.15 N -15°27.23 W

## Area 2

— 58°06.46 N -16°37.15 W

— 58°15.93 N -16°28.46 W

— 58°06.77 N -16°10.40 W

— 58°03.43 N -16° 10.43 W

— 58°01.49 N -16°25.19 W

— 58°02.62 N -16°36.96 W

— 58°06.46 N -16°37.15 W

## Hatton Bank 2

## Area 1

— 57°51.76 N -18°05.87 W

— 57°55.00 N -17°30.00 W

— 58°03.00 N -17°30.00 W

— 57°53.10 N -16°56.33 W

— 57°35.11 N -18°02.01 W

— 57°51.76 N -18°05.87 W

## Area 2

— 57°59.96 N -19°05.05 W

— 57°45.00 N -19°15.00 W

— 57°50.07 N -18°23.82 W

— 57°31.13 N -18°21.28 W

— 57°14.09 N -19°28.43 W

— 57°02.21 N -19°27.53 W

— 56°53.12 N -19°28.97 W

— 56°50.22 N -19°33.62 W

— 56°46.68 N -19°53.72 W

— 57°00.04 N -20°04.22 W

— 57°10.31 N -19°55.24 W

— 57°32.67 N -19°52.64 W

— 57°46.68 N -19°37.86 W

— 57°59.96 N -19°05.05 W

## Logachev Mound:

— 55°17' N, 16°10' W

— 55°34' N, 15°07' W

— 55°50' N, 15°15' W

— 55°33' N, 16°16' W

— 55°17' N, 16°10' W

West Rockall Mound:

— 57°20' N, 16°30' W

— 57°05' N, 15°58' W

— 56°21' N, 17°17' W

— 56°40' N, 17°50' W

— 57°20' N, 16°30' W

2. Where, in the course of fishing operations in new and existing bottom fishing areas within the NEAFC Regulatory Area, the quantity of live coral or live sponge caught per gear set exceeds 60 kg of live coral and/or 800 kg of live sponge, the vessel shall inform its flag State, cease fishing and move at least 2 nautical miles away from the position that the evidence suggests is closest to the exact location where this catch was made.

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## ANNEX XIII

## MITIGATION MEASURES TO REDUCE INCIDENTAL CATCHES OF SENSITIVE SPECIES

The following measures to monitor and reduce incidental catches of sensitive species shall apply:

1. The measures set out in Parts A, B and C.
2. Member States shall take the necessary steps to collect scientific data on incidental catches of sensitive species.
3. As a result of scientific evidence, validated by ICES, STECF, or in the framework of GFCM, of negative impacts of fishing gear on sensitive species, Member States shall submit joint recommendations for additional mitigation measures for the reduction of incidental catches of the concerned species or in a concerned area on the basis of Article 15 of this Regulation.
4. Member States shall monitor and assess the effectiveness of the mitigation measures established under this Annex.

## PART A

## Cetaceans

1. Fisheries in which the use of acoustic deterrent devices is mandatory
  - 1.1. It shall be prohibited for vessels with an overall length of 12 m or more to use the fishing gear in specific areas as defined below without the simultaneous use of active acoustic deterrent devices.

Area	Gear
Baltic Sea Area delimited by a line running from the Swedish coast at the point at longitude 13° E, thence due south to latitude 55° N, thence due east to longitude 14° E, thence due north to the coast of Sweden; and, Area delimited by a line running from the eastern coast of Sweden at the point at latitude 55°30' N, thence due east to longitude 15° E, thence due north to latitude 56° N, thence due east to longitude 16° E thence due north to the coast of Sweden	Any bottom-set gill net or entangling net
Baltic Sea sub-division 24 (except for the area covered above)	Any bottom-set gill net or entangling net
ICES sub-area 4 and ICES division 3a (only from 1 August to 31 October)	Any bottom-set gill net or entangling net, or combination of these nets, the total length of which does not exceed 400 m
	Any bottom-set gillnet or entangling net $\geq$ 220 mm
ICES divisions 7e, 7f, 7g, 7h and 7j	Any bottom-set gillnet or entangling net
ICES division 7d	Any bottom-set gillnet or entangling net



1.2. Point 1.1 shall not apply to fishing operations conducted solely for the purpose of scientific investigation which are carried out with the authorisation and under the authority of the Member State or Member States concerned and which aim at developing new technical measures to reduce the incidental capture or killing of cetaceans.

1.3. Member States shall take necessary steps to monitor and assess by means of scientific studies or pilot projects, the effects of acoustic deterrent device use over time in the fisheries and areas concerned.

## 2. Fisheries to be monitored

2.1. Monitoring schemes shall be undertaken on an annual basis and established for vessels flying their flag and with an overall length of 15 m or more to monitor cetacean by-catch, for the fisheries and under the conditions defined below.

Area	Gear
ICES sub-areas 6, 7 and 8	Pelagic trawls (single and pair)
Mediterranean Sea (of the east of line 5°36' west	Pelagic trawls (single and pair)
ICES divisions 6a, 7a, 7b, 8a, 8b, 8c and 9a	Bottom-set gillnet or entangling nets using mesh sizes equal to or greater than 80 mm
ICES sub area 4, ICES division 6a, and ICES sub-area 7, with the exception of ICES divisions 7c and 7k	Driftnets
ICES divisions 3a, 3b, 3c, 3d south of 59° N, 3d north of 59° (only from 1 June to 30 September) and ICES sub-areas 4 and 9	Pelagic trawls (single and pair)
ICES sub-areas 6, 7, 8 and 9	High-opening trawls
ICES divisions 3b, 3c and 3d	Bottom-set gillnet or entangling nets using mesh sizes equal to or greater than 80 mm

2.2. Point 2.1 shall not apply to fishing operations conducted solely for the purpose of scientific investigation which are carried out with the authorisation and under the authority of the Member State or Member States concerned and which aim at developing new technical measures to reduce the incidental capture or killing of cetaceans.

## PART B

### Seabirds

Where the data referred to in point 2 of the introductory paragraph of this Annex indicate a level of incidental catches of seabirds in specific fisheries which constitutes a serious threat to the conservation status of those seabirds, Member States shall use bird scaring lines and/or weighted lines, if it is scientifically proven that such use has a conservation benefit in that area, and where practical and beneficial shall set longlines during the hours of darkness with the minimum of deck lighting necessary for safety.

## PART C

**Marine turtles**

1. Fisheries in which the use of a turtle excluder device is mandatory.
- 1.1. It shall be prohibited for vessels to use the fishing gear specified below in specific areas as defined below without the simultaneous use of a turtle excluder device.

Area	Species	Gear
Union waters in the Indian Ocean and the West Atlantic	Shrimps ( <i>Penaeus</i> spp., <i>Xiphopenaeus kroyeri</i> )	Any shrimp trawl

- 1.2. The Commission may adopt implementing acts establishing detailed rules for the specification of the device referred to in point 1.1.

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## ANNEX XIV

**SPECIES FOR SELECTIVITY PERFORMANCE INDICATORS**

North Sea	North Western Waters	South Western Waters	Baltic Sea	Mediterranean Sea
Cod	Cod	Hake	Cod	Hake
Haddock	Haddock	Whiting	Plaice	Red Mullet
Saithe	Saithe	Megrim		
Whiting	Whiting			
Plaice	Plaice			

**REGULATION (EU) 2019/1242 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 20 June 2019**

**setting CO<sub>2</sub> emission performance standards for new heavy-duty vehicles and amending  
Regulations (EC) No 595/2009 and (EU) 2018/956 of the European Parliament and of the Council  
and Council Directive 96/53/EC**

(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 192(1) 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 <sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure <sup>(2)</sup>,

Whereas:

- (1) The Paris Agreement sets out, inter alia, a long-term goal in line with the objective to keep the global average temperature increase well below 2 °C above pre-industrial levels and to pursue efforts to keep it to 1,5 °C above pre-industrial levels. The latest scientific findings reported by the Intergovernmental Panel on Climate Change (IPCC) in its special report on the impacts of global warming of 1,5 °C above pre-industrial levels and related global greenhouse gas emission pathways unequivocally confirm the negative impacts of climate change. That special report concludes that emissions reductions in all sectors are crucial to limit global warming.
- (2) In order to contribute to the objectives of the Paris Agreement, the transformation of the entire transport sector towards zero emissions needs to be accelerated, considering the Commission's communication of 28 November 2018 entitled 'A Clean Planet for all — a European strategic long-term vision for a prosperous, modern, competitive and climate neutral economy', which outlines a vision of the economic and societal transformations required, engaging all sectors of the economy and society, to achieve the transition to net-zero greenhouse gas emissions by 2050. Emissions of air pollutants from transport that significantly harm our health, and the environment, need also to be drastically reduced without delay.

<sup>(1)</sup> OJ C 62, 15.2.2019, p. 286.

<sup>(2)</sup> Position of the European Parliament of 18 April 2019 (not yet published in the Official Journal) and decision of the Council of 13 June 2019.

- (3) The Commission adopted mobility packages on 31 May 2017 ('Europe on the Move: An agenda for a socially fair transition towards clean, competitive and connected mobility for all') and 8 November 2017 ('Delivering on low-emission mobility — A European Union that protects the planet, empowers its consumers and defends its industry and workers'). Those packages set out a positive agenda which also aimed at ensuring a smooth transition towards clean, competitive and connected mobility for all.
- (4) This Regulation is part of the Commission's third mobility package, of 17 May 2018, entitled 'Europe on the Move — Sustainable Mobility for Europe: safe, connected and clean', which is a follow-up to the Commission's communication of 13 September 2017 entitled 'Investing in a smart, innovative and sustainable Industry: A renewed EU Industrial Policy Strategy'. This Regulation is also designed to complete the process of enabling the Union to reap the full benefits of the modernisation and decarbonisation of mobility. The aim of that third mobility package is to make European mobility safer and more accessible, European industry more competitive, European jobs more secure, and the mobility system cleaner and better adapted to the imperative of tackling climate change. That will require the full commitment of the Union, Member States and stakeholders, not least in strengthening efforts to reduce carbon dioxide (CO<sub>2</sub>) emissions and air pollution.
- (5) This Regulation, together with Regulation (EU) 2019/631 of the European Parliament and of the Council <sup>(3)</sup>, provides a clear pathway for CO<sub>2</sub> emissions reductions from the road transport sector and contributes to the binding target of at least a 40 % domestic reduction in economy-wide greenhouse gas emissions by 2030 compared to 1990, as was endorsed in the conclusions of the European Council of 23-24 October 2014, and approved by the Council on 6 March 2015 as the 'Union Intended Nationally Determined Contribution under the Paris Agreement'.
- (6) The European Council conclusions of 23-24 October 2014 endorsed a greenhouse gas emissions reduction of 30 % by 2030 compared to 2005 for the sectors that are not part of the Union's emissions trading system. Greenhouse gas emissions from the road transport sector constitute a major contribution to the emissions of those sectors. The road transport sector was responsible for around a quarter of the total Union's emissions in 2016. Its emissions show an increasing trend and remain significantly above 1990 levels. If road transport emissions increase further, they will offset emissions reductions made by other sectors to combat climate change.
- (7) The European Council conclusions of 23-24 October 2014 highlighted the importance of reducing greenhouse gas emissions and risks related to fossil fuel dependency in the transport sector through a comprehensive and technology neutral approach for the promotion of emissions reductions and energy efficiency in transport, for electric transportation and for renewable energy sources in the transport sector also after 2020.
- (8) In order to give consumers in the Union secure, sustainable, competitive and affordable energy, the contribution of energy efficiency to moderation of demand is one of the five mutually-reinforcing and closely interrelated dimensions set out in the Commission's communication of 25 February 2015 entitled 'A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy'. That communication states that, while all economic sectors must take steps to increase the efficiency of their energy consumption, the transport sector has huge energy efficiency potential.
- (9) CO<sub>2</sub> emissions from heavy-duty vehicles, including lorries, buses and coaches, represent around 6 % of total CO<sub>2</sub> emissions in the Union and about 25 % of total road transport CO<sub>2</sub> emissions. Without further action, the share of CO<sub>2</sub> emissions from heavy-duty vehicles is expected to grow by around 9 % between 2010 and 2030. Currently, Union law does not set any CO<sub>2</sub> emissions reduction requirements for heavy-duty vehicles, and therefore specific measures for such vehicles are needed without delay.

<sup>(3)</sup> Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO<sub>2</sub> emission performance standards for new passenger cars and for new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011 (OJ L 111, 25.4.2019, p. 13).

- (10) CO<sub>2</sub> emissions reduction targets for the Union-wide fleets of new heavy-duty vehicles should therefore be set for 2025 and for 2030, taking into account the vehicle fleet renewal time and the need for the road transport sector to contribute to the Union climate and energy targets for 2030 and beyond. Such a stepwise approach also provides a clear and early signal for the industry to accelerate the market introduction of energy efficient technologies and zero- and low-emission heavy-duty vehicles. The deployment of zero-emission heavy-duty vehicles should also contribute to addressing urban mobility problems. While it is essential to reduce CO<sub>2</sub> emissions from road transport, the promotion of such heavy-duty vehicles by manufacturers is also important for the effective reduction of air pollutants and excessive noise levels in cities and urban areas.
- (11) In order to fully realise the energy efficiency potential and ensure that the road transport sector as a whole contributes to the greenhouse gas emission reductions agreed, it is appropriate to complement the already existing CO<sub>2</sub> emission performance standards for new passenger cars and for light commercial vehicles by setting CO<sub>2</sub> emission performance standards for new heavy-duty vehicles. Those performance standards will be a driver for innovation in fuel-efficient technologies, contributing to the strengthening of the technological leadership of the Union's manufacturers and suppliers, and securing high-skilled jobs in the long term.
- (12) Taking into account that climate change is a trans-boundary problem and the need to safeguard a well-functioning single market both for road transport services as well as for heavy-duty vehicles while avoiding market fragmentation, it is appropriate to set CO<sub>2</sub> emission performance standards for heavy-duty vehicles at Union level. Those performance standards should be without prejudice to Union competition law.
- (13) In defining the CO<sub>2</sub> emissions reduction levels that should be achieved by the Union fleet of heavy-duty vehicles, account should be taken of the effectiveness of those reduction levels in delivering a cost-effective contribution to reducing the CO<sub>2</sub> emissions of the sectors covered by Regulation (EU) 2018/842 of the European Parliament and of the Council<sup>(4)</sup> by 2030, of the resulting costs and savings for society, manufacturers, transport operators, consumers, as well as of their direct and indirect implications for employment, innovation and co-benefits generated in terms of reduced air pollution and improved energy security.
- (14) A socially acceptable and just transition towards zero-emission mobility should be ensured. It is therefore important to take into account the social effects of the transition throughout the whole automotive value chain and to address proactively the implications on employment. Targeted programmes at Union, national and regional levels are therefore to be considered for the re-skilling, up-skilling and redeployment of workers, as well as education and job-seeking initiatives in adversely affected communities and regions, in close dialogue with the social partners and competent authorities. As part of that transition, the employment of women as well as equal opportunities in that sector should be strengthened.
- (15) A successful transition to zero-emission mobility requires an integrated approach and the right enabling environment to stimulate innovation and maintain the Union's technological leadership in the road transport sector. This includes public and private investments in research and innovation, the increasing supply of zero- and low-emission heavy-duty vehicles, the roll-out of recharging and refuelling infrastructure, integration into the energy systems, as well as the sustainable materials supply for, and sustainable production, re-use and recycling of, batteries in Europe. This requires coherent action at Union, national, regional and local levels, including through incentives to support the uptake of zero- and low-emission heavy-duty vehicles.

<sup>(4)</sup> Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26).

- (16) A new procedure for determining the CO<sub>2</sub> emissions and fuel consumption of individual heavy-duty vehicles has been introduced as part of the implementation of Regulation (EC) No 595/2009 of the European Parliament and of the Council <sup>(5)</sup>. Commission Regulation (EU) 2017/2400 <sup>(6)</sup> provides a methodology, based on the VECTO tool, through which the CO<sub>2</sub> emissions and fuel consumption of whole heavy-duty vehicles can be simulated. That methodology allows the diversity of the heavy-duty vehicle sector and the high degree of customisation of individual heavy-duty vehicles to be taken into account. As a first step, from 1 July 2019, the CO<sub>2</sub> emissions are determined for four groups of heavy-duty vehicles that account for around 65 % to 70 % of all CO<sub>2</sub> emissions from the Union fleet of heavy-duty vehicles.
- (17) In light of innovation and to take into account the implementation of new technologies that improve the fuel efficiency of heavy-duty vehicles, the VECTO simulation tool as well as Regulation (EU) 2017/2400 will be continually updated in a timely manner.
- (18) The CO<sub>2</sub> emissions data determined pursuant to Regulation (EU) 2017/2400 are to be monitored under Regulation (EU) 2018/956 of the European Parliament and of the Council <sup>(7)</sup>. Those data should form the basis for determining the CO<sub>2</sub> emissions reduction targets to be achieved by the four groups of the most emitting heavy-duty vehicles in the Union, as well as for determining a manufacturer's average specific CO<sub>2</sub> emissions in a given reporting period.
- (19) A CO<sub>2</sub> emissions reduction target should be set for 2025 as a relative reduction based on the average CO<sub>2</sub> emissions of those heavy-duty vehicles that were newly registered in the period from 1 July 2019 to 30 June 2020, reflecting the deployment of readily available cost-effective technologies for conventional vehicles. For 2030 onwards, a CO<sub>2</sub> emissions reduction target should also be set. That target should apply unless decided otherwise pursuant to the review to be carried out in 2022. The 2030 target should be assessed in accordance with the European Union commitments under the Paris Agreement.
- (20) To ensure the robustness of the reference CO<sub>2</sub> emissions against increasing CO<sub>2</sub> emissions of heavy-duty vehicles by undue procedural means, which would not be representative for a situation where CO<sub>2</sub> emissions are already regulated, it is appropriate to provide a methodology for correcting the reference CO<sub>2</sub> emissions where necessary.
- (21) Liquefied natural gas (LNG) is an available alternative fuel to diesel for heavy-duty vehicles. The deployment of current and upcoming more innovative LNG-based technologies will contribute to meeting the CO<sub>2</sub> emissions reduction targets in the short and medium term as the use of LNG technologies leads to lower CO<sub>2</sub> emissions when compared to diesel vehicles. The CO<sub>2</sub> emissions reduction potential of LNG vehicles is already fully reflected in VECTO. In addition, current LNG technologies ensure a low level of air pollutant emissions, such as NO<sub>x</sub> and particulate matters. A sufficient minimum refuelling infrastructure is also in place and is being further deployed as part of national policy frameworks for alternative fuel infrastructure.
- (22) In calculating the reference CO<sub>2</sub> emissions serving as the basis for determining the 2025 and 2030 specific CO<sub>2</sub> emissions targets, the expected CO<sub>2</sub> emissions reduction potential of the heavy-duty fleet should be taken into account. It is therefore appropriate to exclude vocational vehicles, such as vehicles used for garbage collection or construction works, from that calculation. Those vehicles have a comparatively low mileage, and due to their specific driving pattern, technical measures for reducing CO<sub>2</sub> emissions and fuel consumption do not appear to be as cost effective in the same way as they are for heavy-duty vehicles used for the delivery of goods.

<sup>(5)</sup> Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type-approval of motor vehicles and engines with respect to emissions from heavy-duty vehicles (Euro VI) and on access to vehicle repair and maintenance information and amending Regulation (EC) No 715/2007 and Directive 2007/46/EC and repealing Directives 80/1269/EEC, 2005/55/EC and 2005/78/EC (OJ L 188, 18.7.2009, p. 1).

<sup>(6)</sup> Commission Regulation (EU) 2017/2400 of 12 December 2017 implementing Regulation (EC) No 595/2009 of the European Parliament and of the Council as regards the determination of the CO<sub>2</sub> emissions and fuel consumption of heavy-duty vehicles and amending Directive 2007/46/EC of the European Parliament and of the Council and Commission Regulation (EU) No 582/2011 (OJ L 349, 29.12.2017, p. 1).

<sup>(7)</sup> Regulation (EU) 2018/956 of the European Parliament and of the Council of 28 June 2018 on the monitoring and reporting of CO<sub>2</sub> emissions from and fuel consumption of new heavy-duty vehicles (OJ L 173, 9.7.2018, p. 1).

- (23) The CO<sub>2</sub> emissions reduction requirements should be expressed in grams of CO<sub>2</sub> per tonne kilometre to reflect the utility of the heavy-duty vehicles.
- (24) A fair distribution of the overall CO<sub>2</sub> emissions reduction requirements among the manufacturers needs to be ensured, taking into account the diversity of heavy-duty vehicles in terms of their design and driving pattern, annual mileage, payload and trailer configuration. It is therefore appropriate to distinguish the heavy-duty vehicles according to different and separate vehicle sub-groups that reflect the vehicles' typical usage pattern and specific technical characteristics. By setting annual manufacturer specific CO<sub>2</sub> emissions targets as a weighted average of the targets defined for each such vehicle sub-group, manufacturers are also given the means to effectively balance a possible underperformance of vehicles in certain vehicle sub-groups with an overachievement in other vehicle sub-groups, taking into account the average lifetime CO<sub>2</sub> emissions of vehicles in the different vehicle sub-groups.
- (25) A manufacturer's compliance with its annual specific CO<sub>2</sub> emissions targets should be assessed on the basis of its average CO<sub>2</sub> emissions. In determining the average specific CO<sub>2</sub> emissions, the specificities that are reflected in the different vehicle sub-groups should also be considered. As a consequence, the average specific CO<sub>2</sub> emissions of a manufacturer should be based on the average CO<sub>2</sub> emissions determined for each vehicle sub-group, including a weighting based on its assumed average annual mileage and average payload, which reflects the total lifetime CO<sub>2</sub> emissions. Due to the limited CO<sub>2</sub> emissions reduction potential of vocational vehicles, those vehicles should not be taken into account for the calculation of the average specific CO<sub>2</sub> emissions.
- (26) In order to ensure the smooth transition towards zero-emission mobility and to provide incentives for the development and deployment on the Union market of zero- and low-emission heavy-duty vehicles that would complement demand-side instruments, such as Directive 2009/33/EC of the European Parliament and of the Council<sup>(8)</sup>, a dedicated mechanism in the form of super credits should be introduced for the reporting periods before 2025 and a benchmark for the share of zero- and low-emission heavy-duty vehicles in a manufacturer's fleet should be set for the reporting periods as from 2025.
- (27) The incentive system should be designed so as to ensure investment certainty for charging infrastructure providers and manufacturers in order to promote the rapid deployment on the Union market of zero- and low-emission heavy-duty vehicles, while allowing certain flexibility for the manufacturers to decide on their investment timeline.
- (28) For the purpose of calculating the average specific CO<sub>2</sub> emissions of a manufacturer, in the reporting periods prior to 2025, all zero- and low-emission heavy-duty vehicles should be counted multiple times. For the reporting periods as from 2025, the average specific CO<sub>2</sub> emissions of a manufacturer should be calculated taking into account its performance against the benchmark of zero- and low-emission heavy-duty vehicles. The level of incentives should vary according to the actual CO<sub>2</sub> emissions of the vehicle. In order to avoid a weakening of the environmental objectives, the resulting CO<sub>2</sub> emissions reduction should be subject to a cap.
- (29) Low-emission heavy-duty vehicles should only be incentivised if their CO<sub>2</sub> emissions are less than half of the reference CO<sub>2</sub> emissions of all vehicles in the vehicle sub-group to which the heavy-duty vehicle belongs. That would incentivise innovation in this field.
- (30) In designing the incentive mechanism for the deployment of zero-emission heavy-duty vehicles, smaller lorries that are not subject to the CO<sub>2</sub> emissions reduction targets under this Regulation should also be included. Those vehicles also have significant benefits in terms of helping to address air pollution problems in cities. In order to ensure that the incentives are well balanced between the different types of vehicles, the reduction in the average specific CO<sub>2</sub> emissions of a manufacturer resulting from zero-emission smaller lorries should therefore also be subject to a cap.

<sup>(8)</sup> Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles (OJ L 120, 15.5.2009, p. 5).



- (31) In order to promote a cost-effective implementation of the CO<sub>2</sub> emissions reduction requirements, while taking into account fluctuations in the heavy-duty vehicles fleet composition and CO<sub>2</sub> emissions over the years, manufacturers should have the possibility of balancing their overachievement in complying with their specific CO<sub>2</sub> emissions target in one year with an underperformance in another year.
- (32) In order to incentivise early CO<sub>2</sub> emissions reductions, a manufacturer whose average specific CO<sub>2</sub> emissions are below the CO<sub>2</sub> emissions reduction trajectory defined by the reference CO<sub>2</sub> emissions and the 2025 CO<sub>2</sub> emissions target, should be able to bank those emission credits for the purpose of compliance with the 2025 target. Similarly, a manufacturer whose average specific CO<sub>2</sub> emissions are below the CO<sub>2</sub> emissions reduction trajectory between the 2025 target and the target applicable from 2030 onwards, should be able to bank those emission credits for the purpose of compliance with the CO<sub>2</sub> emissions targets from 1 July 2025 to 30 June 2030.
- (33) In the case of non-compliance with its specific CO<sub>2</sub> emissions target in any of the 12-month reporting periods starting from 1 July 2025 to 30 June 2030, a manufacturer should also have the possibility to acquire a limited emission debt. However, manufacturers should clear any remaining emission debt in the reporting period of the year 2029 ending on 30 June 2030.
- (34) Emission credits and emission debts should be considered only for the purpose of determining a manufacturer's compliance with its specific CO<sub>2</sub> emissions target and not as assets that are transferrable or subject to fiscal measures.
- (35) The Commission should impose a financial penalty, in the form of an excess CO<sub>2</sub> emissions premium, where a manufacturer is found to have excess CO<sub>2</sub> emissions, taking into account the emission credits and emission debts. Information about excess CO<sub>2</sub> emissions of manufacturers should be made publicly available. In order to provide manufacturers with sufficient incentive to take measures to reduce the specific CO<sub>2</sub> emissions from heavy-duty vehicles, it is important that the premium exceed the average marginal costs of the technologies needed to meet the CO<sub>2</sub> emissions targets. The methodology for collecting the premiums should be determined by means of an implementing act, taking into account the methodology adopted pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council<sup>(9)</sup>. The premium should be considered as revenue for the general budget of the European Union. As part of the evaluation to be performed pursuant to Regulation (EU) 2019/631, the Commission should evaluate the possibility of allocating those amounts to a specific fund or a relevant programme that aims to ensure a just transition towards zero-emission mobility and to support re-skilling, up-skilling and other skills training of workers in the automotive sector.
- (36) A robust compliance mechanism is necessary in order to ensure that the CO<sub>2</sub> emissions targets under this Regulation are met. The obligations on manufacturers to deliver accurate data pursuant to Regulation (EU) 2018/956 and the administrative fines that may be imposed in the case of non-compliance with that obligation contribute to ensuring the robustness of the data used for target compliance purposes under this Regulation.
- (37) In order to achieve the CO<sub>2</sub> emissions reductions pursuant to this Regulation, the CO<sub>2</sub> emissions of heavy-duty vehicles in use should be in conformity with the values determined pursuant to Regulation (EC) No 595/2009 and its implementing measures. It should therefore be possible for the Commission to take into account, in the calculation of the average specific CO<sub>2</sub> emissions of a manufacturer, any systematic non-conformity found by type-approval authorities with regard to the CO<sub>2</sub> emissions of heavy-duty vehicles in use.

<sup>(9)</sup> Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO<sub>2</sub> emissions from light-duty vehicles (OJ L 140, 5.6.2009, p. 1).

- (38) In order to be in a position to take such measures, the Commission should have the powers to establish and implement a procedure for verifying the correspondence between the CO<sub>2</sub> emissions of heavy-duty vehicles in-service as determined in accordance with Regulation (EC) No 595/2009 and its implementing measures, and the CO<sub>2</sub> emission values recorded in the certificates of conformity, individual approval certificates or customer information files. In developing that procedure, particular consideration should be given to identifying methods, including the use of data from on-board fuel and/or energy consumption monitoring devices, for detecting strategies through which a vehicle's CO<sub>2</sub> performance is artificially improved in the certification procedure. Where deviations or strategies that artificially improve a vehicle's CO<sub>2</sub> performance are found in the course of such verifications, those findings are to be considered as sufficient reason to suspect that there is a serious risk of non-compliance with the requirements laid down in Regulation (EC) No 595/2009 and in Regulation (EU) 2018/858 of the European Parliament and of the Council<sup>(10)</sup>, and Member States should, on that basis, take the necessary measures pursuant to Chapter XI of Regulation (EU) 2018/858.
- (39) The effectiveness of the CO<sub>2</sub> emissions targets set out in this Regulation is strongly dependent on the real-world representativeness of the methodology used for determining the CO<sub>2</sub> emissions. In line with the 2016 Opinion of the Scientific Advice Mechanism (SAM) as regards light-duty vehicles, and the recommendation of the European Parliament following its inquiry into emission measurements in the automotive sector, it is appropriate also in the case of heavy-duty vehicles to put in place a mechanism to assess the real-world representativeness of the CO<sub>2</sub> emission and energy consumption values determined pursuant to Regulation (EU) 2017/2400. The most reliable way to ensure the real-world representativeness of those values is by using data from the on-board fuel and/or energy consumption monitoring devices. The Commission should therefore have the powers to develop the procedures needed for collecting and processing fuel and energy consumption data required for making such assessments and to ensure the public availability of such data, whilst providing for the protection of any personal data.
- (40) The Commission should assess how fuel and energy consumption data may help to ensure that the vehicle CO<sub>2</sub> emissions determined with the VECTO tool in accordance with Regulation (EC) No 595/2009 and its implementing measures remain representative of real-world CO<sub>2</sub> emissions over time for all manufacturers, and, more precisely, how such data can be used to monitor the gap between the CO<sub>2</sub> emission values determined by the VECTO tool and real-world CO<sub>2</sub> emissions and, where necessary, to prevent this gap increasing.
- (41) In 2022, the Commission should assess the effectiveness of the CO<sub>2</sub> emission performance standards laid down in this Regulation and in particular the level of the CO<sub>2</sub> emissions reduction target to be achieved by 2030, the modalities that should be available for achieving that target and beyond, as well as the setting of CO<sub>2</sub> emissions reduction targets for other types of heavy-duty vehicles, such as smaller lorries, vocational vehicles, buses, coaches and trailers. That assessment should also include, strictly for the purpose of this Regulation, considerations of heavy-duty vehicles and vehicle combinations, taking into account weights and dimensions applicable to national transport, for example modular and intermodal concepts, while also assessing possible transport safety and efficiency aspects, intermodal, environmental, infrastructural and rebound effects as well as the geographical situation of Member States.
- (42) It is important to assess the full life-cycle CO<sub>2</sub> emissions from heavy-duty vehicles at Union level. To that end, the Commission should evaluate not later than 2023 the possibility of developing a common Union methodology for the assessment and the consistent data reporting of the full life-cycle CO<sub>2</sub> emissions of heavy-duty vehicles that are placed on the Union market. The Commission should adopt follow-up measures, including, where appropriate, legislative proposals.
- (43) In order to ensure that the specific CO<sub>2</sub> emissions of heavy-duty vehicles remain representative and fully up-to-date, amendments to Regulation (EC) No 595/2009 and its implementing measures that affect those specific CO<sub>2</sub> emissions, need to be reflected in this Regulation. For that purpose, the Commission should have the powers to determine a methodology for defining a representative heavy-duty vehicle for each vehicle sub-group, on the basis of which changes of the specific CO<sub>2</sub> emissions should be assessed.

<sup>(10)</sup> Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1).

- (44) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers in relation to the publication of a list of certain data and manufacturer performance should be conferred on the Commission.
- (45) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers in relation to identifying vehicles that are certified as vocational vehicles and applying corrections to the annual average specific CO<sub>2</sub> emissions of a manufacturer, collecting excess CO<sub>2</sub> emissions premiums, reporting deviations in CO<sub>2</sub> emissions values and taking them into account in the calculation of the average specific CO<sub>2</sub> emissions, assessing the application of the conditions under which the reference CO<sub>2</sub> emissions have been determined and the criteria to determine whether those emissions have been unduly increased and, if so, how they are to be corrected, ensuring that certain parameters relating to real world CO<sub>2</sub> emissions and energy consumption of heavy-duty vehicles are made available to the Commission, performing verifications that the CO<sub>2</sub> emission and fuel consumption values in the customer information files correspond to the CO<sub>2</sub> emission from and fuel consumption of heavy-duty vehicles in-service and on the presence of strategies to artificially improve the vehicle's performance in the tests performed or in calculations made, and defining one or more representative vehicles of a vehicle subgroup on the basis of which a payload adjustment is to be determined, should be conferred on the Commission. In order to ensure uniform conditions for the implementation of Regulation (EC) No 595/2009, implementing powers in relation to determining certain aspects of the environmental performance of vehicles of categories M<sub>2</sub>, M<sub>3</sub>, N<sub>2</sub>, N<sub>3</sub>, O<sub>3</sub> and O<sub>4</sub> should be conferred on the Commission. The implementing powers referred to in this recital should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(1)</sup>.
- (46) In order to amend or supplement non-essential elements of the provisions of this Regulation, 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 adjusting the reference CO<sub>2</sub> emissions, in respect of setting out the guiding principles and criteria to define the procedures to verify CO<sub>2</sub> emissions of heavy-duty vehicles in-service and in respect of amending the Annexes to this Regulation as regards certain technical parameters, including the mission profile weights, the payload values, the annual mileage values and the payload adjustment factors. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making <sup>(12)</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (47) Since the objective of this Regulation, namely the establishment of CO<sub>2</sub> emissions performance standards for new heavy-duty vehicles, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. 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 that objective.
- (48) Regulations (EC) No 595/2009 and (EU) 2018/956 and Council Directive 96/53/EC <sup>(13)</sup> should therefore also be amended accordingly,

HAVE ADOPTED THIS REGULATION:

#### Article 1

##### Subject matter and objective

In order to contribute to achieving the Union's target of reducing its greenhouse gas emissions by 30 % below 2005 levels in 2030 in the sectors covered by Article 2 of Regulation (EU) 2018/842 and to achieving the objectives of the

<sup>(1)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>(12)</sup> OJ L 123, 12.5.2016, p. 1.

<sup>(13)</sup> Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic (OJ L 235, 17.9.1996, p. 59).

Paris Agreement, and to ensure the proper functioning of the internal market, this Regulation sets CO<sub>2</sub> emission performance requirements for new heavy-duty vehicles whereby the specific CO<sub>2</sub> emissions of the Union fleet of new heavy-duty vehicles shall be reduced compared to the reference CO<sub>2</sub> emissions as follows:

- (a) for the reporting periods of the year 2025 onwards by 15 %;
- (b) for the reporting periods of the year 2030 onwards by 30 %, unless decided otherwise pursuant to the review referred to in Article 15.

The reference CO<sub>2</sub> emissions shall be based on the monitoring data reported pursuant to Regulation (EU) 2018/956 for the period from 1 July 2019 to 30 June 2020 ('the reference period'), excluding vocational vehicles, and shall be calculated in accordance with point 3 of Annex I to this Regulation.

## Article 2

### Scope

1. This Regulation shall apply to new heavy-duty vehicles of categories N<sub>2</sub> and N<sub>3</sub> that meet the following characteristics:

- (a) rigid lorries with an axle configuration of 4×2 and a technically permissible maximum laden mass exceeding 16 tonnes;
- (b) rigid lorries with an axle configuration of 6×2;
- (c) tractors with an axle configuration of 4x2 and a technically permissible maximum laden mass exceeding 16 tonnes; and
- (d) tractors with an axle configuration of 6x2.

It shall also apply, for the purposes of Article 5 of, and point 2.3 of Annex I to, this Regulation, to new heavy-duty vehicles of category N that do not fall within the scope of Regulation (EU) No 510/2011 of the European Parliament and of the Council<sup>(14)</sup> and do not meet the characteristics set out in points (a) to (d) of the first subparagraph.

The vehicle categories referred to in the first and second subparagraphs of this paragraph refer to the vehicle categories as defined in Annex II to Directive 2007/46/EC of the European Parliament and of the Council<sup>(15)</sup>.

2. The vehicles referred to paragraph 1 shall, for the purposes of this Regulation, be considered as new heavy-duty vehicles in a given 12-month period starting from 1 July, if they are registered in the Union for the first time in that period and have not been previously registered outside the Union.

A previous registration outside the Union made less than three months before registration in the Union shall not be taken into account.

<sup>(14)</sup> Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO<sub>2</sub> emissions from light-duty vehicles (OJ L 145, 31.5.2011, p. 1).

<sup>(15)</sup> Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ L 263, 9.10.2007, p. 1).

3. The Commission shall, by means of implementing acts, adopt a specific procedure for identifying heavy-duty vehicles that are certified as vocational vehicles pursuant to Regulation (EC) No 595/2009 and its implementing measures but are not registered as such, and shall apply corrections to the annual average specific CO<sub>2</sub> emissions of a manufacturer to take those vehicles into account, starting from the reporting period of the year 2021 and for each subsequent reporting period. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2) of this Regulation.

### Article 3

#### Definitions

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

- (1) 'reference CO<sub>2</sub> emissions' means the average of the specific CO<sub>2</sub> emissions in the reference period referred to in the second paragraph of Article 1 of all new heavy-duty vehicles in each of the vehicle sub-groups, excluding vocational vehicles, determined in accordance with point 3 of Annex I;
- (2) 'specific CO<sub>2</sub> emissions' means the CO<sub>2</sub> emissions of an individual heavy-duty vehicle determined in accordance with point 2.1 of Annex I;
- (3) 'reporting period of the year Y' means the period from 1 July of the year Y to 30 June of the year Y+1;
- (4) 'average specific CO<sub>2</sub> emissions' means the average of the specific CO<sub>2</sub> emissions of a manufacturer's new heavy-duty vehicles in a given reporting period determined in accordance with point 2.7 of Annex I;
- (5) 'specific CO<sub>2</sub> emissions target' means the CO<sub>2</sub> emissions target of an individual manufacturer, expressed in g/tkm and determined annually for the preceding reporting period in accordance with point 4 of Annex I;
- (6) 'rigid lorry' means a lorry that is not designed or constructed for the towing of a semi-trailer;
- (7) 'tractor' means a tractor unit that is designed and constructed exclusively or principally to tow semi-trailers;
- (8) 'vehicle sub-group' means a grouping of vehicles as defined in point 1 of Annex I, that are characterised by a common and distinctive set of technical criteria relevant for determining the CO<sub>2</sub> emissions and fuel consumption of those vehicles;
- (9) 'vocational vehicle' means a heavy-duty vehicle for which the CO<sub>2</sub> emissions and fuel consumption have been determined, in accordance with Regulation (EC) No 595/2009 and its implementing measures, only for mission profiles other than those defined in point 2.1 of Annex I to this Regulation;
- (10) 'manufacturer' means the person or body responsible for submitting the data related to new heavy-duty vehicles pursuant to Article 5 of Regulation (EU) 2018/956 or, in the case of zero-emission heavy-duty vehicles, the person or body responsible to the approval authority for all aspects of the EC whole vehicle type-approval procedure or of the individual approval procedure in accordance with Directive 2007/46/EC and for ensuring conformity of production;
- (11) 'zero-emission heavy-duty vehicle' means a heavy-duty vehicle without an internal combustion engine, or with an internal combustion engine that emits less than 1 g CO<sub>2</sub>/kWh as determined in accordance with Regulation (EC) No 595/2009 and its implementing measures, or which emits less than 1 g CO<sub>2</sub>/km as determined in accordance with Regulation (EC) No 715/2007 of the European Parliament and of the Council<sup>(16)</sup> and its implementing measures;

<sup>(16)</sup> Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ L 171, 29.6.2007, p. 1).

- (12) 'low-emission heavy-duty vehicle' means a heavy-duty vehicle, other than a zero-emission heavy-duty vehicle, with specific CO<sub>2</sub> emissions of less than half of the reference CO<sub>2</sub> emissions of all vehicles in the vehicle sub-group to which the heavy-duty vehicle belongs, as determined in accordance with point 2.3.3 of Annex I;
- (13) 'mission profile' means a combination of a target speed cycle, a payload value, a body or trailer configuration and other parameters, if applicable, reflecting the specific use of a vehicle, on the basis of which official CO<sub>2</sub> emissions and fuel consumption of a heavy-duty vehicle are determined;
- (14) 'target speed cycle' means the description of the vehicle velocity, which the driver wants to reach or to which he is limited by traffic conditions, as a function of the distance covered in a trip;
- (15) 'payload' means the weight of the goods that a vehicle is carrying under different conditions.

#### *Article 4*

##### **Average specific CO<sub>2</sub> emissions of a manufacturer**

Starting from 1 July 2020, and in each subsequent reporting period, the Commission shall determine for each manufacturer the average specific CO<sub>2</sub> emissions in g/tkm for the preceding reporting period, by taking the following into account:

- (a) the data reported pursuant to Regulation (EU) 2018/956 for the manufacturer's new heavy-duty vehicles registered in the preceding reporting period, excluding vocational vehicles; and
- (b) the zero- and low-emission factor determined in accordance with Article 5.

The average specific CO<sub>2</sub> emissions shall be determined in accordance with point 2.7 of Annex I.

#### *Article 5*

##### **Zero- and low-emission heavy-duty vehicles**

1. Starting from 1 July 2020 and for each subsequent reporting period, the Commission shall determine for each manufacturer the zero- and low-emission factor for the preceding reporting period.

The zero- and low-emission factor shall take into account the number and the CO<sub>2</sub> emissions of zero- and low-emission heavy-duty vehicles in the manufacturer's fleet in a reporting period, including zero-emission heavy-duty vehicles referred to in the second subparagraph of Article 2(1), as well as zero- and low-emission vocational vehicles and shall be determined in accordance with point 2.3 of Annex I.

2. For the reporting periods 2019 to 2024, the zero- and low-emission heavy-duty vehicles shall be counted as follows for the purposes of paragraph 1:

- (a) a zero-emission heavy-duty vehicle shall be counted as two vehicles; and

- (b) a low-emission heavy-duty vehicle shall be counted as up to two vehicles according to a function of its specific CO<sub>2</sub> emissions and the low-emission threshold of the vehicle sub-group to which the vehicle belongs as defined in point 2.3.3 of Annex I.

The zero- and low-emission factor shall be determined in accordance with point 2.3.1 of Annex I.

3. For the reporting periods from 2025, onwards the zero- and low-emission factor shall be determined on the basis of a 2 % benchmark in accordance with point 2.3.2 of Annex I.

4. The zero- and low-emission factor shall reduce the average specific CO<sub>2</sub> emissions of a manufacturer by a maximum of 3 %. The contribution of the zero-emission heavy-duty vehicles referred to in the second subparagraph of Article 2(1) to that factor shall reduce the average specific CO<sub>2</sub> emissions of a manufacturer by a maximum of 1,5 %.

#### Article 6

##### Specific CO<sub>2</sub> emissions targets of a manufacturer

Starting from 1 July 2026 and in each subsequent reporting period, the Commission shall determine for each manufacturer a specific CO<sub>2</sub> emissions target for the preceding reporting period. That specific CO<sub>2</sub> emissions target shall be the sum, over all vehicle sub-groups, of the products of the following values:

- (a) the CO<sub>2</sub> emissions reduction target referred to in point (a) or (b) of the first paragraph of Article 1, as applicable;
- (b) the reference CO<sub>2</sub> emissions;
- (c) the manufacturer's share of vehicles in each vehicle sub-group;
- (d) the annual mileage and payload weighting factors applied to each vehicle sub-group.

The specific CO<sub>2</sub> emissions target shall be determined in accordance with point 4 of Annex I.

#### Article 7

##### Emission credits and emission debts

1. For the purpose of determining a manufacturer's compliance with its specific CO<sub>2</sub> emissions targets in the reporting periods of the years 2025 to 2029, account shall be taken of its emission credits or emission debts determined in accordance with point 5 of Annex I, which correspond to the number of new heavy-duty vehicles, excluding vocational vehicles, of the manufacturer in a reporting period, multiplied by:

- (a) the difference between the CO<sub>2</sub> emissions reduction trajectory as referred to in paragraph 2 and the average specific CO<sub>2</sub> emissions of that manufacturer, if that difference is positive ('emission credits'); or
- (b) the difference between the average specific CO<sub>2</sub> emissions and the specific CO<sub>2</sub> emissions target of that manufacturer, if that difference is positive ('emission debts').

Emission credits shall be acquired in the reporting periods of the years 2019 to 2029. However, the emission credits acquired in the reporting periods of the years 2019 to 2024 shall be taken into account for the purpose of determining the manufacturer's compliance with the specific CO<sub>2</sub> emissions target of the reporting period of the year 2025 only.

Emission debts shall be acquired in the reporting periods of the years 2025 to 2029. However, the total emission debt of a manufacturer shall not exceed 5 % of the manufacturer's specific CO<sub>2</sub> emissions target in the reporting period of the year 2025 multiplied by the number of heavy-duty vehicles of the manufacturer in that period ('emission debt limit').

Emission credits and emission debts acquired in the reporting periods of the years 2025 to 2028 shall, where applicable, be carried-over from one reporting period to the next reporting period. Any remaining emission debts shall be cleared in the reporting period of the year 2029.

2. The CO<sub>2</sub> emissions reduction trajectory shall be set for each manufacturer in accordance with point 5.1 of Annex I, based on a linear trajectory between the reference CO<sub>2</sub> emissions referred to in the second paragraph of Article 1 and the CO<sub>2</sub> emissions target for the reporting period of the year 2025 as specified in point (a) of the first paragraph of that Article, and between the CO<sub>2</sub> emissions target for the reporting period of the year 2025 and the CO<sub>2</sub> emissions target for the reporting periods of the year 2030 onwards as specified in point (b) of the first paragraph of that Article.

#### Article 8

##### Compliance with the specific CO<sub>2</sub> emissions targets

1. Where a manufacturer is found, pursuant to paragraph 2, to have excess CO<sub>2</sub> emissions in a given reporting period from 2025 onwards, the Commission shall impose an excess CO<sub>2</sub> emissions premium, calculated in accordance with the following formula:

(a) from 2025 to 2029,

$$(\text{Excess CO}_2 \text{ emissions premium}) = (\text{Excess CO}_2 \text{ emissions} \times 4\,250 \text{ EUR/gCO}_2/\text{tkm})$$

(b) from 2030 onwards,

$$(\text{Excess CO}_2 \text{ emissions premium}) = (\text{Excess CO}_2 \text{ emissions} \times 6\,800 \text{ EUR/gCO}_2/\text{tkm}).$$

2. A manufacturer shall be deemed to have excess CO<sub>2</sub> emissions in any of the following cases:

(a) where, in any of the reporting periods of the years 2025 to 2028, the sum of the emission debts reduced by the sum of the emission credits exceeds the emission debt limit referred to in the third subparagraph of Article 7(1);

(b) where, in the reporting period of the year 2029, the sum of the emission debts reduced by the sum of the emission credits is positive;

(c) where, from the reporting period of the year 2030 onwards, the manufacturer's average specific CO<sub>2</sub> emissions exceed its specific CO<sub>2</sub> emissions target.



The excess CO<sub>2</sub> emissions in a given reporting period shall be calculated in accordance with point 6 of Annex I.

3. The Commission shall, by means of implementing acts, determine the means for collecting excess CO<sub>2</sub> emissions premiums under paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

4. The excess CO<sub>2</sub> emissions premiums shall be considered as revenue for the general budget of the European Union.

#### Article 9

##### Verification of the monitoring data

1. Type-approval authorities shall, without delay, report to the Commission any deviations in the CO<sub>2</sub> emission values of heavy-duty vehicles in service as compared to the values that are indicated in certificates of conformity or in the customer information file referred to in Article 9(4) of Regulation (EU) 2017/2400 as a result of verifications performed in accordance with the procedure referred to in Article 13 of this Regulation.

2. The Commission shall take the deviations referred to in paragraph 1 into account for the purpose of calculating the average specific CO<sub>2</sub> emissions of a manufacturer.

3. The Commission shall, by means of implementing acts, adopt detailed rules on the procedures for reporting such deviations and for taking them into account in the calculation of the average specific CO<sub>2</sub> emissions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

#### Article 10

##### Assessment of reference CO<sub>2</sub> emissions

In order to ensure the robustness and representativeness of the reference CO<sub>2</sub> emissions as a basis for determining the Union fleet-wide CO<sub>2</sub> emissions targets, the Commission shall, by means of implementing acts, establish the methodology for assessing the application of the conditions under which the reference CO<sub>2</sub> emissions have been determined and establish the criteria to determine whether those emissions have been unduly increased and, if so, how they are to be corrected.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

#### Article 11

##### Publication of data and manufacturer performance

1. By 30 April each year, the Commission shall, by means of implementing acts, publish a list indicating:

(a) from 1 July 2020, for each manufacturer, its average specific CO<sub>2</sub> emissions in the preceding reporting period, as referred to in Article 4;

(b) from 1 July 2020, for each manufacturer, its zero- and low-emission factor in the preceding reporting period, as referred to in Article 5(1);

- (c) from 1 July 2026, for each manufacturer, its specific CO<sub>2</sub> emissions target for the preceding reporting period, as referred to in Article 6;
- (d) from 1 July 2020 until 30 June 2031, for each manufacturer, its CO<sub>2</sub> emissions reduction trajectory, its emission credits and, from 1 July 2026 until 30 June 2031, its emission debts in the preceding reporting period, as referred to in Article 7;
- (e) from 1 July 2026, for each manufacturer, its excess CO<sub>2</sub> emissions in the preceding reporting period, as referred to in Article 8(1);
- (f) from 1 July 2020, the average specific CO<sub>2</sub> emissions of all new heavy-duty vehicles registered in the Union in the preceding reporting period.

The list to be published by 30 April 2021 shall include the reference CO<sub>2</sub> emissions referred to in the second paragraph of Article 1.

2. The Commission shall adopt delegated acts in accordance with Article 17 to adjust the reference CO<sub>2</sub> emissions in accordance with the following:

- (a) where the mission profile weights or the payload values have been adjusted pursuant to point (b) or (c) of Article 14(1), by applying the procedure set out in point 1 of Annex II;
- (b) where adjustment factors have been determined pursuant to Article 14(2), by applying those adjustment factors to the reference CO<sub>2</sub> emissions;
- (c) where an undue increase in the reference CO<sub>2</sub> emissions has been determined in accordance with the methodology referred to in Article 10, by correcting the reference CO<sub>2</sub> emissions by 30 April 2022.

The Commission shall publish the adjusted reference CO<sub>2</sub> emissions values and shall apply those values for the calculation of the manufacturer specific CO<sub>2</sub> emissions targets applicable in the reporting periods starting from the date of application of the delegated acts adjusting the values.

#### Article 12

##### **Real-world CO<sub>2</sub> emissions and energy consumption**

1. The Commission shall monitor and assess the real-world representativeness of the CO<sub>2</sub> emissions and energy consumption values determined within the framework of Regulation (EC) No 595/2009.

Furthermore, the Commission shall regularly collect data on the real-world CO<sub>2</sub> emissions and energy consumption of heavy-duty vehicles using on-board fuel and/or energy consumption monitoring devices, starting with new heavy-duty vehicles registered from the date of application of the measures referred to in point (b) of Article 5c of Regulation (EC) No 595/2009.

The Commission shall ensure that the public is informed of how that representativeness evolves over time.

2. For the purpose of paragraph 1 of this Article, the Commission shall ensure that the following parameters relating to real-world CO<sub>2</sub> emissions and energy consumption of heavy-duty vehicles are made available to it at regular intervals, starting from the date of application of the measures referred to in point (b) of Article 5c of Regulation (EC) No 595/2009, by manufacturers, national authorities or through direct data transfer from vehicles, as the case may be:

- (a) vehicle identification number;
- (b) fuel and electric energy consumed;
- (c) total distance travelled;
- (d) payload;
- (e) for externally chargeable hybrid electric heavy-duty vehicles, the fuel and electric energy consumed, and the distance travelled distributed over the different driving modes;
- (f) other parameters necessary to ensure that the obligations set out in paragraph 1 of this Article can be met.

The Commission shall process the data received under the first subparagraph of this paragraph to create an anonymised and aggregated dataset, including per manufacturer, for the purposes of paragraph 1. The vehicle identification numbers shall be used only for the purpose of that data processing and shall not be retained longer than needed for that purpose.

3. In order to prevent the real-world emissions gap from growing, the Commission shall, not later than two years and five months following the date of application of the measures referred to in point (b) of Article 5c of Regulation (EC) No 595/2009, assess how fuel and energy consumption data may be used to ensure that the vehicle CO<sub>2</sub> emission and energy consumption values determined pursuant to that Regulation remain representative of real-world emissions over time for each manufacturer.

The Commission shall monitor and report annually on how the gap referred to in the first subparagraph evolves, and shall, with a view to preventing an increase in that gap, assess, in 2027, the feasibility of a mechanism to adjust the manufacturer's average specific CO<sub>2</sub> emissions as of 2030, and, if appropriate, submit a legislative proposal to put such a mechanism in place.

4. The Commission shall adopt, by means of implementing acts, the detailed procedure for collecting and processing the data referred to in paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

#### Article 13

##### **Verification of the CO<sub>2</sub> emissions of heavy-duty vehicles in-service**

1. Manufacturers shall ensure that the CO<sub>2</sub> emission and fuel consumption values recorded in the customer information file referred to in Article 9(4) of Regulation (EU) 2017/2400 correspond to the CO<sub>2</sub> emissions from and fuel consumption of heavy-duty vehicles in-service as determined in accordance with that Regulation.

2. Following the entry into force of the procedures referred to in paragraph 4, type-approval authorities shall verify, for those manufacturers to which they have granted a licence to operate the simulation tool in accordance with Regulation (EC) No 595/2009 and its implementing measures, on the basis of appropriate and representative vehicle samples, that the CO<sub>2</sub> emission and fuel consumption values recorded in the customer information files correspond to the CO<sub>2</sub> emissions from and fuel consumption of heavy-duty vehicles in-service as determined in accordance with that Regulation and its implementing measures, while considering, inter alia, using available data from on-board fuel and/or energy consumption monitoring devices.

Type-approval authorities shall also verify the presence of any strategies on board or relating to the sampled vehicles that artificially improve the vehicle's performance in the tests performed or in the calculations made for the purpose of certifying the CO<sub>2</sub> emissions and fuel consumption by, inter alia, using data from on-board fuel and/or energy consumption monitoring devices.

3. Where a lack of correspondence of CO<sub>2</sub> emission and fuel consumption values which cannot be attributed to a malfunctioning of the simulation tool, or the presence of any strategies artificially improving a vehicle's performance, is found as a result of the verifications performed pursuant to paragraph 2, the responsible type-approval authority shall, in addition to taking the necessary measures set out in Chapter XI of Regulation (EU) 2018/858, ensure that the customer information files, the certificates of conformity and the individual approval certificates are corrected, as the case may be.

4. The Commission shall determine, by means of implementing acts, the procedures for performing the verifications referred to in paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

The Commission is empowered, prior to adopting the implementing acts referred to in the first subparagraph, to adopt a delegated act in accordance with Article 17, in order to supplement this Regulation by setting out the guiding principles and criteria for defining the procedures referred to in the first subparagraph.

#### Article 14

##### Amendments to Annexes I and II

1. In order to ensure that the technical parameters used for the calculation of the average specific CO<sub>2</sub> emissions of a manufacturer pursuant to Article 4 and the calculation of the specific CO<sub>2</sub> emissions targets pursuant to Article 6 take into account technical progress and the evolution of freight transport logistics, the Commission is empowered to adopt delegated acts in accordance with Article 17 to amend the following provisions set out in Annexes I and II:

- (a) the entries for cab type and engine power set out in Table 1 of Annex I and the definitions of 'sleeper cab' and 'day cab' referred to in that Table;
- (b) the mission profile weights set out in Table 2 of Annex I;
- (c) the payload values set out in Table 3 of Annex I, and the payload adjustment factors set out in Table 1 of Annex II;
- (d) the annual mileage values set out in Table 4 of Annex I.

2. Where the type-approval procedures laid down in Regulation (EC) No 595/2009 and its implementing measures are modified by amendments other than those referred to in points (b) and (c) of paragraph 1 of this Article in such a way that the level of the CO<sub>2</sub> emissions of the representative vehicles defined pursuant to this paragraph increase or decrease by more than 5 g CO<sub>2</sub>/km, the Commission shall, in accordance with point (b) of the first subparagraph of Article 11(2), apply an adjustment factor to the reference CO<sub>2</sub> emissions that is to be calculated in accordance with the formula set out in point 2 of Annex II.

3. The Commission shall, by means of implementing acts, establish a methodology for defining one or more representative vehicles of a vehicle sub-group, including their statistical weightings, on the basis of which the adjustment referred to in paragraph 2 of this Article shall be determined, taking into account the monitoring data reported pursuant to Regulation (EU) 2018/956 and the technical characteristics of the vehicles listed in Article 12(1) of Regulation (EU) 2017/2400. Those implementing acts shall be adopted in accordance with the examination procedure set out in Article 16(2) of this Regulation.

#### Article 15

##### **Review and report**

1. By 31 December 2022, the Commission shall submit a report to the European Parliament and to the Council on the effectiveness of this Regulation, on the CO<sub>2</sub> emissions reduction target and the level of the incentive mechanism for zero- and low-emission heavy-duty vehicles applicable from 2030, on setting CO<sub>2</sub> emissions reduction targets for other types of heavy-duty vehicles, including trailers, buses and coaches, and vocational vehicles, and on the introduction of binding CO<sub>2</sub> emissions reduction targets for heavy-duty vehicles for 2035 and 2040 onwards. The 2030 target shall be assessed in accordance with the European Union commitments under the Paris Agreement.

2. The report referred to in paragraph 1 of this Article shall also, in particular, include the following:

- (a) an assessment of the effectiveness of the system of emission credits and emission debts referred to in Article 7 and the appropriateness of extending its application to 2030 and beyond;
- (b) an assessment of the deployment of zero- and low-emission heavy-duty vehicles, taking into account the targets set out in Directive 2009/33/EC, as well as relevant parameters and conditions affecting the placing on the market of such heavy-duty vehicles;
- (c) an assessment of the effectiveness of the incentive mechanism for zero- and low-emission heavy-duty vehicles set out in Article 5 and the appropriateness of its different elements, with a view to adjusting it for the period after 2025 towards a possible differentiation by zero-emission driving range and vehicle sub-group, combined with mileage payload weighting factors, with a date of application that provides at least three years of lead time;

- (d) an assessment of the roll-out of the necessary recharging and refuelling infrastructure, of the possibility of introducing engine CO<sub>2</sub> emission performance standards, in particular for vocational vehicles, and of the real-world representativeness of the CO<sub>2</sub> emission and fuel consumption values determined in accordance with Regulation (EU) 2017/2400;
- (e) strictly for the purpose of this Regulation, considerations of heavy-duty vehicles and vehicle combinations taking into account weights and dimensions applicable to national transport, for example modular and intermodal concepts, while also assessing possible transport safety and efficiency aspects, intermodal, environmental, infrastructural and rebound effects as well as the geographical situation of Member States;
- (f) an assessment of the VECTO simulation tool to ensure that this tool is updated continually and in a timely manner;
- (g) an assessment of the possibility of developing a specific methodology to include the potential contribution to CO<sub>2</sub> emissions reductions of the use of synthetic and advanced alternative liquid and gaseous renewable fuels, including e-fuels, produced with renewable energy and meeting the sustainability and greenhouse gas emissions saving criteria referred to in Directive (EU) 2018/2001 of the European Parliament and of the Council <sup>(17)</sup>;
- (h) an assessment of the feasibility of introducing an open, transparent and non-discriminatory pooling mechanism between manufacturers;
- (i) an assessment of the level of the excess CO<sub>2</sub> emissions premium to ensure that it exceeds the average marginal costs of the technologies needed to meet the CO<sub>2</sub> emissions targets.

3. The report referred to in paragraph 1 shall, where appropriate, be accompanied by a legislative proposal to amend this Regulation.

4. As part of the evaluation pursuant to Article 15(5) of Regulation (EU) 2019/631, the Commission shall evaluate the possibility to assign the revenues from the excess CO<sub>2</sub> emissions premiums to a specific fund or a relevant programme, with the objective of ensuring a just transition towards a climate-neutral economy as referred to in Article 4.1 of the Paris Agreement, in particular to support re-skilling, up-skilling and other skills training and reallocation of workers in the automotive sector in all affected Member States, in particular in the regions and the communities most affected by the transition. The Commission shall, if appropriate, submit a legislative proposal to that effect by 2027 at the latest.

5. The Commission shall, not later than 2023, evaluate the possibility of developing a common Union methodology for the assessment, and the consistent data reporting, of the full life-cycle CO<sub>2</sub> emissions of new heavy-duty vehicles that are placed on the Union market. The Commission shall transmit that evaluation, including where appropriate proposals for follow-up measures, such as legislative proposals, to the European Parliament and to the Council.

#### Article 16

#### Committee procedure

1. The Commission shall be assisted by the Climate Change Committee referred to in point (a) of Article 44(1) of Regulation (EU) 2018/1999 of the European Parliament and of the Council <sup>(18)</sup>. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

<sup>(17)</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

<sup>(18)</sup> Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
  
3. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

#### Article 17

##### 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 11(2), the second subparagraph of Article 13(4) and Article 14(1) shall be conferred on the Commission for a period of five years from 14 August 2019. 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 11(2), the second subparagraph of Article 13(4) and Article 14(1) 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 act 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 11(2), the second subparagraph of Article 13(4) and Article 14(1) 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 to 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.

#### Article 18

##### Amendments to Regulation (EC) No 595/2009

Regulation (EC) No 595/2009 is amended as follows:

- (1) in Article 2, first paragraph, the following sentence is added:

'It shall also apply, for the purpose of Articles 5a, 5b, and 5c, to vehicles of categories O<sub>3</sub> and O<sub>4</sub>.'

(2) the following Articles are inserted:

*Article 5a*

**Specific requirements for manufacturers with regard to the environmental performance of vehicles of categories M<sub>2</sub>, M<sub>3</sub>, N<sub>2</sub>, N<sub>3</sub>, O<sub>3</sub> and O<sub>4</sub>**

1. Manufacturers shall ensure that new vehicles of categories O<sub>3</sub> and O<sub>4</sub> that are sold, registered or put into service meet the following requirements:

(a) the influence of those vehicles on the CO<sub>2</sub> emissions, fuel consumption, electric consumption and zero-emission driving range of motor vehicles is determined in accordance with the methodology referred to in point (a) of Article 5c;

(b) they are fitted with on-board devices for the monitoring and recording of the payload in accordance with the requirements referred to in point (b) of Article 5c.

2. Manufacturers shall ensure that new vehicles of categories M<sub>2</sub>, M<sub>3</sub>, N<sub>2</sub> and N<sub>3</sub> that are sold, registered or put into service are fitted with on-board devices for the monitoring and recording of fuel and/or energy consumption, payload and mileage in accordance with the requirements referred to in point (b) of Article 5c.

They shall also ensure that the zero-emission driving range and electricity consumption of those vehicles are determined in accordance with the methodology referred to in point (c) of Article 5c.

*Article 5b*

**Specific requirements for Member States with regard to the environmental performance of vehicles of categories M<sub>2</sub>, M<sub>3</sub>, N<sub>2</sub>, N<sub>3</sub>, O<sub>3</sub> and O<sub>4</sub>**

1. National authorities shall, in accordance with the implementing measures referred to in Article 5c, refuse to grant EC type-approval or national type-approval in respect of new vehicle types of categories M<sub>2</sub>, M<sub>3</sub>, N<sub>2</sub>, N<sub>3</sub>, O<sub>3</sub> and O<sub>4</sub> which do not comply with the requirements set out in those implementing measures.

2. National authorities shall, in accordance with the implementing measures referred to in Article 5c, prohibit the sale, registration or entry into service of new vehicles of categories M<sub>2</sub>, M<sub>3</sub>, N<sub>2</sub>, N<sub>3</sub>, O<sub>3</sub> and O<sub>4</sub> which do not comply with the requirements set out in those implementing measures.

*Article 5c*

**Measures for determining certain aspects of the environmental performance of vehicles of categories M<sub>2</sub>, M<sub>3</sub>, N<sub>2</sub>, N<sub>3</sub>, O<sub>3</sub> and O<sub>4</sub>**

By 31 December 2021, the Commission shall, by means of implementing acts, adopt the following measures:

(a) a methodology for assessing the performance of vehicles of categories O<sub>3</sub> and O<sub>4</sub> with regard to their influence on the CO<sub>2</sub> emissions, fuel consumption, electricity consumption and zero-emission driving ranges of motor vehicles;



- (b) technical requirements for the fitting of on-board devices for the monitoring and recording of fuel and/or energy consumption and mileage of motor vehicles of categories M<sub>2</sub>, M<sub>3</sub>, N<sub>2</sub> and N<sub>3</sub>, and for determining and recording the payloads or total weight of vehicles meeting the characteristics set out in point (a), (b), (c) or (d) of the first subparagraph of Article 2(1) of Regulation (EU) 2019/1242 of the European Parliament and of the Council (\*) and of their combinations with category O<sub>3</sub> and O<sub>4</sub> vehicles, including the transmission of data between vehicles within a combination, as necessary;
- (c) a methodology for determining the zero-emission driving range and electricity consumption of new vehicles of categories M<sub>2</sub>, M<sub>3</sub>, N<sub>2</sub> and N<sub>3</sub>.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13a.

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(\*) Regulation (EU) 2019/1242 of the European Parliament and of the Council of 20 June 2019 setting CO<sub>2</sub> emission performance standards for new heavy-duty vehicles and amending Regulations (EC) No 595/2009 and (EU) 2018/956 of the European Parliament and of the Council and Council Directive 96/53/EC (OJ L 198, 25.7.2019, p. 202).;

- (3) the following Article is added:

*'Article 13a*

**Committee procedure**

1. The Commission shall be assisted by the Technical Committee for Motor Vehicles established by Regulation (EU) 2018/858 of the European Parliament and of the Council (\*). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

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(\*) Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1).;

## Article 19

**Amendments to Regulation (EU) 2018/956**

Regulation (EU) 2018/956 is amended as follows:

(1) Article 3 is replaced by the following:

*Article 3*

**Definitions**

For the purposes of this Regulation, the definitions set out in Directive 2007/46/EC of the European Parliament and of the Council (\*), in Regulation (EC) No 595/2009 and in Regulation (EU) 2019/1242 of the European Parliament and of the Council (\*\*) apply.

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(\*) Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ L 263, 9.10.2007, p. 1).

(\*\*) Regulation (EU) 2019/1242 of the European Parliament and of the Council of 20 June 2019 setting CO<sub>2</sub> emission performance standards for new heavy-duty vehicles and amending Regulations (EC) No 595/2009 and (EU) 2018/956 of the European Parliament and of the Council and Council Directive 96/53/EC (OJ L 198, 25.7.2019, p. 202).;

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

‘1. Starting from 1 January 2019, Member States shall monitor the data specified in Part A of Annex I relating to new heavy-duty vehicles registered for the first time in the Union.

By 30 September each year, starting in 2020, the competent authorities of the Member States shall report those data of the previous reporting period of 1 July to 30 June to the Commission in accordance with the reporting procedure set out in Annex II.

With regard to 2019, the data reported by 30 September 2020 shall include data monitored from 1 January 2019 to 30 June 2020.

Data relating to new heavy-duty vehicles that were registered previously outside the Union shall not be monitored and reported, unless that registration was made less than three months before registration in the Union.’;

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

‘1. From the starting years set out in point 1 of Part B of Annex I, manufacturers of heavy-duty vehicles shall monitor the data specified in point 2 of Part B of Annex I, for each new heavy-duty vehicle.

By 30 September each year, from the starting years set out in point 1 of Part B of Annex I, manufacturers of heavy-duty vehicles shall report those data for each new heavy-duty vehicle with a date of simulation falling within the preceding reporting period of 1 July to 30 June to the Commission in accordance with the reporting procedure set out in Annex II.

With regard to 2019, manufacturers shall report the data for each new heavy-duty vehicle with a date of simulation falling within the period 1 January 2019 to 30 June 2020.

The date of simulation shall be the date reported in accordance with data entry 71 in point 2 of Part B of Annex I.;

(4) in Article 10, paragraph 1 is replaced by the following:

‘1. By 30 April every year, the Commission shall publish an annual report with its analysis of the data transmitted by Member States and manufacturers for the preceding reporting period.’;

(5) in Annex II, point 3.2 is replaced by the following:

‘3.2. The data relating to heavy-duty vehicles registered in the preceding reporting period and recorded in the Register shall be made public by 30 April each year, starting from 2021, with the exception of the data entries specified in Article 6(1).’.

#### Article 20

#### Amendments to Directive 96/53/EC

Directive 96/53/EC is amended as follows:

(1) in Article 2, the following definition is inserted after the definition of ‘alternatively fuelled vehicle’:

‘— “zero-emission vehicle” shall mean a zero-emission heavy-duty vehicle as defined in point (11) of Article 3 of Regulation (EU) 2019/1242 of the European Parliament and of the Council (\*).

(\*) Regulation (EU) 2019/1242 of the European Parliament and of the Council of 20 June 2019 setting CO<sub>2</sub> emission performance standards for new heavy-duty vehicles and amending Regulations (EC) No 595/2009 and (EU) 2018/956 of the European Parliament and of the Council and Council Directive 96/53/EC (OJ L 198, 25.7.2019, p. 202).’;

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

#### ‘Article 10b

The maximum authorised weights of alternatively fuelled or zero-emission vehicles shall be those set out in points 2.2.1, 2.2.2, 2.2.3, 2.2.4, 2.3.1, 2.3.2 and 2.4 of Annex I.

Alternatively fuelled or zero-emission vehicles shall also comply with the maximum authorised axle weight limits set out in point 3 of Annex I.

The additional weight required by alternatively fuelled or zero-emission vehicles shall be defined on the basis of the documentation provided by the manufacturer when the vehicle in question is approved. That additional weight shall be indicated in the official proof required in accordance with Article 6.

The Commission shall be empowered to adopt delegated acts in accordance with Article 10h to update, for the purposes of this Directive, the list of alternative fuels referred to in Article 2 that require additional weight. It is of particular importance that the Commission follow its usual practice and carry out consultations with experts, including Member States’ experts, before adopting those delegated acts.’;

(3) Annex I is amended as follows:

(a) the following subparagraph is added to the second column of points 2.2.1, 2.2.2, 2.2.3 and 2.2.4:

‘In the case of vehicle combinations including alternatively fuelled or zero-emission vehicles, the maximum authorised weights provided for in this section shall be increased by the additional weight of the alternative fuel or zero-emission technology with a maximum of 1 tonne and 2 tonnes respectively.’;

(b) the following subparagraph is added to the second column of point 2.3.1:

‘Zero-emission vehicles: the maximum authorised weight of 18 tonnes is increased by the additional weight of the zero-emission technology with a maximum of 2 tonnes.’;

(c) the following subparagraph is added to the third column of point 2.3.2:

‘Three-axle zero-emission vehicles: the maximum authorised weight of 25 tonnes, or 26 tonnes where the driving axle is fitted with twin tyres and air suspension or suspension recognised as being equivalent within the Union as defined in Annex II or where each driving axle is fitted with twin tyres and the maximum weight of each axle does not exceed 9,5 tonnes, is increased by the additional weight of the zero-emission technology with a maximum of 2 tonnes.’;

(d) the following subparagraph is added to the third column of point 2.4:

‘Three-axle articulated buses that are zero-emission vehicles: the maximum authorised weight of 28 tonnes is increased by the additional weight of the zero-emission technology with a maximum of 2 tonnes.’.

#### Article 21

#### 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, 20 June 2019.

*For the European Parliament*

*The President*

A. TAJANI

*For the Council*

*The President*

G. CIAMBA

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## ANNEX I

**Average specific CO<sub>2</sub> emissions, specific CO<sub>2</sub> emissions targets and excess CO<sub>2</sub> emissions**

## 1. VEHICLE SUB-GROUPS

Each new heavy-duty vehicle shall be attributed to one of the vehicle sub-groups defined in Table 1 in accordance with the conditions set out therein.

*Table 1*  
**Vehicle sub-groups (sg)**

Heavy-duty vehicles	Cab type	Engine power	Vehicle sub-group (sg)
Rigid lorries with axle configuration 4 × 2 and technically permissible maximum laden mass > 16 tonnes	All	< 170 kW	4-UD
	Day cab	≥ 170 kW	4-RD
	Sleeper cab	≥ 170 kW and < 265 kW	
	Sleeper cab	≥ 265 kW	4-LH
Rigid lorries with axle configuration 6 × 2	Day cab	All	9-RD
	Sleeper cab		9-LH
Tractors with axle configuration 4 × 2 and technically permissible maximum laden mass > 16 tonnes	Day cab	All	5-RD
	Sleeper cab	< 265 kW	
	Sleeper cab	≥ 265 kW	5-LH
Tractors with axle configuration 6 × 2	Day cab	All	10-RD
	Sleeper cab		10-LH

'Sleeper cab' means a type of cab that has a compartment behind the driver's seat intended to be used for sleeping as reported in accordance with Regulation (EU) 2018/956.

'Day cab' means a type of cab that is not a sleeper cab.

If a new heavy-duty vehicle cannot be attributed to a vehicle sub-group because information on the cab type or engine power is not available, it shall be attributed to the long-haul (LH) vehicle sub-group corresponding to its chassis type (rigid lorry or tractor) and axle configuration (4 × 2 or 6 × 2).

Where a new heavy-duty vehicle is attributed to vehicle sub-group 4-UD, but data on the CO<sub>2</sub> emissions in g/km are not available for the UDL or UDR mission profiles as defined in Table 2 of point 2.1, the new heavy-duty vehicle shall be attributed to vehicle sub-group 4-RD.

2. AVERAGE SPECIFIC CO<sub>2</sub> EMISSIONS OF A MANUFACTURER2.1. Specific CO<sub>2</sub> emissions of a new heavy-duty vehicle

The specific CO<sub>2</sub> emissions in g/km of a new heavy-duty vehicle  $v$  ( $CO_{2v}$ ), attributed to the vehicle sub-group  $sg$  shall be calculated as follows:

$$CO_{2v} = \sum_{mp} W_{sg,mp} \times CO_{2v,mp}$$

where:

$\sum_{mp}$  is the sum over all mission profiles  $mp$  listed in Table 2;

$sg$  is the vehicle sub-group to which the new heavy-duty vehicle  $v$  has been attributed according to point 1 of this Annex;

$W_{sg,mp}$  is the mission profile weight specified in Table 2;

$CO_{2v,mp}$  is the CO<sub>2</sub> emissions in g/km of a new heavy-duty vehicle  $v$  determined for a mission profile  $mp$  and reported in accordance with Regulation (EU) 2018/956.

The specific CO<sub>2</sub> emissions of a zero-emission heavy-duty vehicle shall be set to 0 g CO<sub>2</sub>/km.

The specific CO<sub>2</sub> emissions of a vocational vehicle shall be the average of the CO<sub>2</sub> emissions in g/km reported in accordance with Regulation (EU) 2018/956.

Table 2  
Mission profile weights ( $W_{sg,mp}$ )

Vehicle sub-group (sg)	Mission profile (!) (mp)						
	RDL	RDR	LHL	LHR	UDL	UDR	REL, RER, LEL, LER
4-UD	0	0	0	0	0,5	0,5	0
4-RD	0,45	0,45	0,05	0,05	0	0	0
4-LH	0,05	0,05	0,45	0,45	0	0	0
9-RD	0,27	0,63	0,03	0,07	0	0	0
9-LH	0,03	0,07	0,27	0,63	0	0	0

Vehicle sub-group (sg)	Mission profile <sup>(1)</sup> (mp)						
	RDL	RDR	LHL	LHR	UDL	UDR	REL, RER, LEL, LER
5-RD	0,27	0,63	0,03	0,07	0	0	0
5-LH	0,03	0,07	0,27	0,63	0	0	0
10-RD	0,27	0,63	0,03	0,07	0	0	0
10-LH	0,03	0,07	0,27	0,63	0	0	0

<sup>(1)</sup> See mission profile definitions under this Table.

### Mission profile definitions

RDL	Regional delivery payload low
RDR	Regional delivery payload representative
LHL	Long haul payload low
LHR	Long haul payload representative
UDL	Urban delivery payload low
UDR	Urban delivery payload representative
REL	Regional delivery (EMS) payload low
RER	Regional delivery (EMS) payload representative
LEL	Long haul (EMS) payload low
LER	Long haul (EMS) payload representative

#### 2.2. Average specific CO<sub>2</sub> emissions of all new heavy-duty vehicles in a vehicle sub-group for a manufacturer

For each manufacturer and each reporting period, the average specific CO<sub>2</sub> emissions in g/tkm of all new heavy-duty vehicles in the vehicle sub-group *sg* (*avgCO<sub>2sg</sub>*) shall be calculated as follows:

$$avgCO_{2sg} = \frac{\sum_v CO_{2v}}{V_{sg} \times PL_{sg}}$$

where:

$\sum_v$  is the sum over all new heavy-duty vehicles of the manufacturer in the vehicle sub-group *sg*, excluding vocational vehicles, in accordance with point (a) of the first paragraph of Article 4;

$CO_{2v}$  is the specific  $CO_2$  emissions of a new heavy-duty vehicle  $v$  determined in accordance with point 2.1;

$V_{sg}$  is the number of new heavy-duty vehicles of the manufacturer in the vehicle sub-group  $sg$ , excluding vocational vehicles, in accordance with point (a) of the first paragraph of Article 4;

$PL_{sg}$  is the average payload of vehicles in the vehicle sub-group  $sg$  as determined in point 2.5.

### 2.3. The zero- and low-emission factor referred to in Article 5

#### 2.3.1. Reporting periods 2019 to 2024

For each manufacturer and reporting period from 2019 to 2024, the zero- and low-emission factor (ZLEV) referred to in Article 5 shall be calculated as follows:

$$ZLEV = V / (V_{conv} + V_{zlev}) \text{ with a minimum of } 0,97$$

where:

$V$  is the number of new heavy-duty vehicles of the manufacturer that meet the characteristics set out in the first subparagraph of Article 2(1), excluding vocational vehicles, in accordance with point (a) of the first paragraph of Article 4;

$V_{conv}$  is the number of new heavy-duty vehicles of the manufacturer that meet the characteristics set out in the first subparagraph of Article 2(1), excluding vocational vehicles, in accordance with point (a) of the first paragraph of Article 4 and excluding zero- and low-emission heavy-duty vehicles;

$V_{zlev}$  is the sum of  $V_{in}$  and  $V_{out}$ ,

where:

$$V_{in} \text{ is } \sum_v (1 + (1 - CO_{2v} / LET_{sg}))$$

with  $\sum_v$  being the sum over all new zero- and low-emission heavy-duty vehicles that meet the characteristics set out in the first subparagraph of Article 2(1);

$CO_{2v}$  is the specific  $CO_2$  emissions in g/km of a zero- or low-emission heavy-duty vehicle  $v$  determined in accordance with point 2.1;

$LET_{sg}$  is the low-emission threshold of the vehicle sub-group  $sg$  to which the vehicle  $v$  belongs as defined in point 2.3.3;

$V_{out}$  is the total number of newly registered zero-emission heavy-duty vehicles referred to in the second subparagraph of Article 2(1), multiplied by 2, and with a maximum of 1,5 % of  $V_{conv}$ .



### 2.3.2. Reporting periods from 2025 onwards

For each manufacturer and reporting period, the zero- and low-emission factor (ZLEV) referred to in Article 5 shall be calculated as follows:

$$ZLEV = 1 - (y - x) \quad \text{unless this sum is larger than 1 or lower than 0,97 in which case the ZLEV factor shall be set to 1 or 0,97, as the case may be}$$

where:

$x$  is 0,02

$y$  is the sum of  $V_{in}$  and  $V_{out}$ , divided by  $V_{total}$ , where:

$V_{in}$  is the total number of newly registered low- and zero-emission heavy-duty vehicles that meet the characteristics set out in the first subparagraph of Article 2(1), where each of them is counted as  $ZLEV_{specific}$  in accordance with the formula below:

$$ZLEV_{specific} = 1 - (CO2_v / LET_{sg})$$

where:

$CO2_v$  is the specific  $CO_2$  emissions in g/km of a zero- or low-emission heavy-duty vehicle  $v$  determined in accordance with point 2.1;

$LET_{sg}$  is the low-emission threshold of the vehicle sub-group  $sg$  to which the vehicle  $v$  belongs as defined in point 2.3.3;

$V_{out}$  is the total number of newly registered zero-emission heavy-duty vehicles referred to in the second subparagraph of Article 2(1), and with a maximum of 0,035 of  $V_{total}$ ;

$V_{total}$  is the total number of newly registered heavy-duty vehicles of the manufacturer in that reporting period.

Where  $V_{in}/V_{total}$  is lower than 0,0075, the ZLEV factor shall be set to 1.

### 2.3.3. Low-emission threshold

The low-emission threshold  $LET_{sg}$  of the vehicle sub-group  $sg$  is defined as follows:

$$LET_{sg} = (rCO2_{sg} \times PL_{sg}) / 2$$

where:

$rCO2_{sg}$  is the reference CO<sub>2</sub> emissions of the vehicle sub-group  $sg$ , as determined in point 3;

$PL_{sg}$  is the average payload of vehicles in the vehicle sub-group  $sg$ , as determined in point 2.5.

#### 2.4. The manufacturer's share of new heavy-duty vehicles in a vehicle sub-group

For each manufacturer and each reporting period, the share of new heavy-duty vehicles in the vehicle sub-group  $sg$  ( $share_{sg}$ ) shall be calculated as follows:

$$share_{sg} = \frac{V_{sg}}{V}$$

where:

$V_{sg}$  is the number of new heavy-duty vehicles of the manufacturer in the vehicle sub-group  $sg$ , excluding vocational vehicles, in accordance with point (a) of the first paragraph of Article 4;

$V$  is the number of new heavy-duty vehicles of the manufacturer, excluding vocational vehicles, in accordance with point (a) of the first paragraph of Article 4.

#### 2.5. Average payload values of all vehicles in a vehicle sub-group

The average payload value of a vehicle in the vehicle sub-group  $sg$  ( $PL_{sg}$ ) shall be calculated as follows:

$$PL_{sg} = \sum_{mp} W_{sg,mp} \times PL_{sg,mp}$$

where:

$\sum mp$  is the sum over all mission profiles  $mp$ ;

$W_{sg,mp}$  is the mission profile weight specified in Table 2 under point 2.1;

$PL_{sg,mp}$  is the payload value attributed to the vehicles in the vehicle sub-group  $sg$  for the mission profile  $mp$ , as specified in Table 3.

Table 3  
Payload values  $PL_{sg,mp}$  (in tonnes)

Vehicle sub-group sg	Mission profile <sup>(1)</sup> mp									
	RDL	RDR	LHL	LHR	UDL	UDR	REL	RER	LEL	LER
4-UD	0,9	4,4	1,9	14	0,9	4,4	3,5	17,5	3,5	26,5
4-RD										
4-LH										
5-RD	2,6	12,9	2,6	19,3	2,6	12,9	3,5	17,5	3,5	26,5
5-LH										
9-RD	1,4	7,1	2,6	19,3	1,4	7,1	3,5	17,5	3,5	26,5
9-LH										
10-RD	2,6	12,9	2,6	19,3	2,6	12,9	3,5	17,5	3,5	26,5
10-LH										

<sup>(1)</sup> See mission profile definitions under Table 2 of point 2.1

## 2.6. Mileage and payload weighting factor

The mileage and payload weighting factor ( $MPW_{sg}$ ) of the vehicle sub-group sg is defined as the product of the annual mileage specified in Table 4 and the payload value per vehicle sub-group specified in Table 3 of point 2.5, normalised to the respective value for vehicle sub-group 5-LH, and shall be calculated as follows:

$$MPW_{sg} = \frac{(AM_{sg} \times PL_{sg})}{(AM_{5-LH} \times PL_{5-LH})}$$

where:

$AM_{sg}$  is the annual mileage specified in Table 4 for the vehicles in the respective vehicle sub-group;

$AM_{5-LH}$  is the annual mileage specified for the vehicle sub-group 5-LH in Table 4;

$PL_{sg}$  is the average payload value as determined in point 2.5;

$PL_{5-LH}$  is the average payload value for the vehicle sub-group 5-LH as determined in point 2.5.

Table 4  
Annual mileages

Vehicle sub-group $sg$	Annual mileage $AM_{sg}$ (in km)
4-UD	60 000
4-RD	78 000
4-LH	98 000
5-RD	78 000
5-LH	116 000
9-RD	73 000
9-LH	108 000
10-RD	68 000
10-LH	107 000

2.7. Average specific CO<sub>2</sub> emissions in g/tkm of a manufacturer referred to in Article 4

For each manufacturer and each *reporting period*, the average specific CO<sub>2</sub> emissions in g/tkm (CO<sub>2</sub>) shall be calculated as follows:

$$CO_2 = ZLEV \times \sum_{sg} share_{sg} \times MPW_{sg} \times avgCO_{2sg}$$

where:

$\sum_{sg}$  is the sum over all vehicle sub-groups;

$ZLEV$  is the zero- and low-emission factor as determined in point 2.3;

$share_{sg}$  is the share of new heavy-duty vehicles in the vehicle sub-group  $sg$  as determined in point 2.4;

$MPW_{sg}$  is the mileage and payload weighting factor as determined in point 2.6;

$avgCO_{2sg}$  is the average specific CO<sub>2</sub> emissions in g/tkm as determined in point 2.2.

3. THE REFERENCE CO<sub>2</sub> EMISSIONS REFERRED TO IN THE SECOND PARAGRAPH OF ARTICLE 1

The reference CO<sub>2</sub> emissions ( $rCO_{2sg}$ ) shall be calculated for each vehicle sub-group  $sg$  on the basis of all new heavy-duty vehicles of all manufacturers of the reference period as follows:

$$rCO_{2sg} = \frac{\sum_v (CO_{2v/PL})_{sg}}{rV_{sg}}$$

where:

$\sum_v$  is the sum over all new heavy-duty vehicles registered in the reference period in the vehicle sub-group  $sg$ , excluding vocational vehicles, in accordance with the second paragraph of Article 1;

$CO_{2v}$  are the specific  $CO_2$  emissions of the new heavy-duty vehicle  $v$  as determined in accordance with point 2.1, if applicable adjusted pursuant to Annex II;

$rV_{sg}$  is the number of all new heavy-duty vehicles registered in the reference period in the vehicle sub-group  $sg$ , excluding vocational vehicles, in accordance with the second paragraph of Article 1;

$PL_{sg}$  is the average payload of vehicles in the vehicle sub-group  $sg$  as determined in point 2.5.

#### 4. THE SPECIFIC $CO_2$ EMISSIONS TARGET OF A MANUFACTURER REFERRED TO IN ARTICLE 6

For each manufacturer and each reporting period, from 1 July 2025 onwards, the specific  $CO_2$  emissions target  $T$  shall be calculated as follows:

$$T = \sum_{sg} share_{sg} \times MPW_{sg} \times (1 - rf) \times rCO_{2sg}$$

where:

$\sum_{sg}$  is the sum over all vehicle sub-groups;

$share_{sg}$  is the share of new heavy-duty vehicles in the vehicle sub-group  $sg$  as determined in point 2.4;

$MPW_{sg}$  is the mileage and payload weighting factor as determined in point 2.6;

$rf$  is the  $CO_2$  emissions reduction target (in %) applicable in that specific reporting period;

$rCO_{2sg}$  is the reference  $CO_2$  emissions as determined in point 3.

#### 5. EMISSION CREDITS AND EMISSION DEBTS REFERRED TO IN ARTICLE 7

##### 5.1. $CO_2$ emissions reduction trajectory for emission credits

For each manufacturer and each reporting period of the years  $Y$  from 2019 to 2030, a  $CO_2$  emissions reduction trajectory ( $ET_Y$ ) is defined as follows:

$$ET_Y = \sum_{sg} share_{sg} \times MPW_{sg} \times R - ET_Y \times rCO_{2sg}$$

where:

$\sum_{sg}$  is the sum over all vehicle sub-groups;

$share_{sg}$  is the share of new heavy-duty vehicles in the vehicle sub-group  $sg$  as determined in point 2.4;

$MPW_{sg}$  is the mileage and payload weighting factor as determined in point 2.6;

$rCO_{2sg}$  is the reference CO<sub>2</sub> emissions as determined in point 3;

$R-ET_Y$  is defined as follows:

for the reporting periods of the years Y from 2019 to 2025:

$$R - ET_Y = (1 - rf_{2025}) + rf_{2025} \times (2025 - Y)/6$$

and, for the reporting periods of the years Y from 2026 to 2030:

$$R - ET_Y = (1 - rf_{2030}) + (rf_{2030} - rf_{2025}) \times (2030 - Y)/5$$

$rf_{2025}$  and  $rf_{2030}$  are the CO<sub>2</sub> emissions reduction targets (in %) applicable for the reporting periods of the years 2025 and 2030, respectively.

## 5.2. Emission credits and emission debts in each reporting period

For each manufacturer and each reporting period of the years Y from 2019 to 2029, the emission credits ( $cCO_{2Y}$ ) and emission debts ( $dCO_{2Y}$ ) shall be calculated as follows:

If  $CO_{2Y} < ET_Y$ :

$$cCO_{2Y} = (ET_Y - CO_{2Y}) \times V_Y \text{ and}$$

$$dCO_{2Y} = 0$$

If  $CO_{2Y} > T_Y$  for the years 2025 to 2029:

$$dCO_{2Y} = (CO_{2Y} - T_Y) \times V_Y \text{ and}$$

$$cCO_{2Y} = 0$$

In all other cases  $dCO_{2Y}$  and  $cCO_{2Y}$  are set to 0.

where:

$ET_Y$  is the manufacturer's CO<sub>2</sub> emissions reduction trajectory in the reporting period of the year Y determined in accordance with point 5.1;

$CO_{2Y}$  is the average specific CO<sub>2</sub> emissions of the manufacturer in the reporting period of the year Y determined in accordance with point 2.7;

$T_Y$  is the manufacturer specific CO<sub>2</sub> emissions target in the reporting period of the year Y determined in accordance with point 4;

$V_Y$  is the number of new heavy-duty vehicles of the manufacturer in the reporting period of the year Y, excluding vocational vehicles, in accordance with point (a) of the first paragraph of Article 4.

## 5.3. Emission debt limit

For each manufacturer the emission debt limit ( $limCO_2$ ) is defined as follows:

$$limCO_2 = T_{2025} \times 0,05 \times V_{2025}$$

where:

$T_{2025}$  is the manufacturer specific CO<sub>2</sub> emissions target in the reporting period of the year 2025 determined in accordance with point 4;

$V_{2025}$  is the number of new heavy-duty vehicles of the manufacturer in the reporting period of the year 2025, excluding vocational vehicles, in accordance with point (a) of the first paragraph of Article 4.

#### 5.4. Emission credits acquired before the year 2025

Emission debts acquired for the reporting period of the year 2025 shall be reduced by an amount (*redCO<sub>2</sub>*) corresponding to the emission credits acquired prior to that reporting period, which is determined for each manufacturer as follows:

$$redCO_2 = \min(dCO_{2025}; \sum_{Y=2019}^{2024} cCO_{2Y})$$

where:

*min* is the minimum of the two values mentioned between the brackets;

$\sum_{Y=2019}^{2024}$  is the sum over the reporting periods of the years Y from 2019 to 2024;

$dCO_{2025}$  is the emission debts for reporting period of the year 2025 as determined in accordance with point 5.2;

$cCO_{2Y}$  is the emission credits for the reporting period of the year Y as determined in accordance with point 5.2.

#### 6. A MANUFACTURER'S EXCESS CO<sub>2</sub> EMISSIONS REFERRED TO IN ARTICLE 8(2)

For each manufacturer and each reporting period from the year 2025 onwards, the value of the excess CO<sub>2</sub> emissions (*exeCO<sub>2Y</sub>*) shall be calculated as follows, if the value is positive:

For the reporting period of the year 2025

$$exeCO_{2025} = dCO_{2025} - \sum_{Y=2019}^{2025} cCO_{2Y} - limCO_2$$

For the reporting periods of the years Y from 2026 to 2028

$$exeCO_{2Y} = \sum_{l=2025}^Y (dCO_{2l} - cCO_{2l}) - \sum_{j=2025}^{Y-1} exeCO_{2j} - redCO_2 - limCO_2$$

For the reporting period of the year 2029

$$exeCO2_Y = \sum_{I=2025}^{2029} (dCO2_I - cCO2_I) - \sum_{J=2025}^{2028} exeCO2_J - redCO2$$

For the reporting periods of the years Y from 2030 onwards

$$exeCO2_y = (CO2_Y - T_Y) \times V_Y$$

where:

- $\sum_{Y=2019}^{2025}$  is the sum over the reporting periods of the years Y from 2019 to 2025;
- $\sum_{I=2025}^Y$  is the sum over the reporting periods of the years I from 2025 to the year Y;
- $\sum_{J=2025}^{Y-1}$  is the sum over the reporting periods of the years J from 2025 to the year (Y-1);
- $\sum_{J=2025}^{2028}$  is the sum over the reporting periods of the years J from 2025 to 2028;
- $\sum_{I=2025}^{2029}$  is the sum over the reporting periods of the years I from 2025 to 2029;
- $dCO2_Y$  is the emission debts for the reporting period of the year Y as determined in accordance with point 5.2;
- $cCO2_Y$  is the emission credits for the reporting period of the year Y as determined in accordance with point 5.2;
- $limCO2$  is the emission debt limit as determined in accordance with point 5.3;
- $redCO2$  is the reduction of emission debts of the reporting period of the year 2025 as determined in accordance with 5.4.

In all other cases the value of the excess CO<sub>2</sub> emissions  $exeCO2_Y$  shall be set to 0.



## ANNEX II

**Adjustment procedures**

## 1. PAYLOAD ADJUSTMENT FACTORS REFERRED TO IN POINT (C) OF ARTICLE 14(1)

Subject to point (a) of Article 11(2), for the purposes of calculating the reference CO<sub>2</sub> emissions referred to in the second paragraph of Article 1, the mission profile weights and payload values applicable in the reporting period when the changes referred to in point (c) of Article 14(1) take effect for all new heavy-duty vehicles shall be used and the CO<sub>2</sub> emissions in g/km of a heavy-duty vehicle *v* determined for a mission profile *mp* referred to in Table 2 in point 2.1 of Annex I shall be adjusted as follows:

$$CO_{2v,mp} = CO_2(RP)_{v,mp} \times (1 + PLa_{sg,mp} \times (PL_{sg,mp} - PL(RP)_{sg,mp}))$$

where:

*sg* is the vehicle sub-group to which the vehicle *v* belongs;

$CO_2(RP)_{v,mp}$  is the specific CO<sub>2</sub> emissions of vehicle *v* in g/km, as determined on mission profile *mp* and based on the monitoring data for the reference period as reported in accordance with Regulation (EU) 2018/956;

$PL(RP)_{sg,mp}$  is the payload value, which was attributed to vehicle *v* in the vehicle sub-group *sg* on the mission profile *mp* in the reference period, in accordance with Table 3 of point 2.5 of Annex I, for the purposes of establishing the monitoring data for the reference period as reported in accordance with Regulation (EU) 2018/956;

$PL_{sg,mp}$  is the payload value attributed to vehicles in the vehicle sub-group *sg* on the mission profile *mp* in the reporting period when the changes referred to in point (c) of Article 14(1) take effect for all new heavy-duty vehicles, in accordance with Table 3 of point 2.5 of Annex I;

$PLa_{sg,mp}$  is the payload adjustment factor defined in Table 5.

Table 5

**Payload adjustment factors  $PLa_{sg,mp}$** 

$PLa_{sg,mp}$ (in 1/tonnes)		Mission profiles <i>mp</i> <sup>(1)</sup>				
		RDL, RDR	REL, RER	LHL, LHR	LEL, LER	UDL, UDR
Vehicle sub-groups ( <i>sg</i> )	4-UD	0,026	N.A.	0,015	N.A.	0,026
	4-RD					
	4-LH					
	5-RD	0,022	0,022	0,017	0,017	0,022
	5-LH					
	9-RD	0,026	0,025	0,015	0,015	0,026
	9-LH					
	10-RD	0,022	0,021	0,016	0,016	0,022
10-LH						

<sup>(1)</sup> See mission profile definitions in point 2.1 of Annex I.

## 2. ADJUSTMENT FACTORS REFERRED TO IN POINT (B) OF ARTICLE 11(2)

Subject to point (b) of Article 11(2), for the purposes of calculating the reference CO<sub>2</sub> emissions referred to in the second paragraph of Article 1, the mission profile weights and payload values applicable in the reporting period when the changes referred to in point (c) of Article 14(1) take effect for all new heavy-duty vehicles shall be used and the CO<sub>2</sub> emissions in g/km of a heavy-duty vehicle *v* determined for a mission profile *mp* referred to in point 2.1 of Annex I shall be adjusted as follows:

$$CO_{2v,mp} = CO_2(RP)_{v,mp} \times \left( \sum_r S_{r,sg} \times CO_{2r,mp} \right) / \left( \sum_r S_{r,sg} \times CO_2(RP)_{r,mp} \right)$$

where:

$\sum_r$  is the sum over all representative vehicles *r* for the vehicle sub-group *sg*;

*sg* is the vehicle sub-group to which the vehicle *v* belongs;

$S_{r,sg}$  is the statistical weight of the representative vehicle *r* in the vehicle sub-group *sg*;

$CO_2(RP)_{v,mp}$  is the specific CO<sub>2</sub> emissions of vehicle *v* in g/km, as determined on mission profile *mp* and based on the monitoring data of the reference period as reported in accordance with Regulation (EU) 2018/956;

$CO_2(RP)_{r,mp}$  is the specific CO<sub>2</sub> emissions of the representative vehicle *r* in g/km, as determined on mission profile *mp* in accordance with Regulation (EC) No 595/2009 and its implementing measures in the reference period when  $CO_2(RP)_{v,mp}$  was determined;

$CO_{2r,mp}$  is the specific CO<sub>2</sub> emissions of the representative vehicle *r*, as determined on mission profile *mp* in accordance with Regulation (EC) No 595/2009 and its implementing measures in the reporting period when the changes referred to in Article 14(2) of this Regulation take effect for all new heavy-duty vehicles.

The representative vehicle *r* shall be defined in accordance with the methodology referred to in Article 14(3) of this Regulation.

**REGULATION (EU) 2019/1243 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 20 June 2019**  
**adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to**  
**Articles 290 and 291 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 33, Article 43(2), Article 53(1), Article 62, Article 91, Article 100(2), Article 114, Article 153(2)(b), Article 168(4)(b), Article 172, Article 192(1), Article 207(2), Article 214(3), and Article 338(1) 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 <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

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 the 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 <sup>(4)</sup>.
- (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 <sup>(5)</sup> due to the stagnation of the inter-institutional negotiations.

<sup>(1)</sup> OJ C 288, 31.8.2017, p. 29.

<sup>(2)</sup> OJ C 164, 8.5.2018, p. 82.

<sup>(3)</sup> Position of the European Parliament of 17 April 2019 (not yet published in the Official Journal) and decision of the Council of 14 June 2019.

<sup>(4)</sup> 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).

<sup>(5)</sup> OJ C 80, 7.2.2015, p. 17.

- (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 <sup>(6)</sup>, 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 majority of empowerments in basic acts which provide for the use of the regulatory procedure with scrutiny fulfil the criteria in Article 290(1) of the Treaty on the Functioning of the European Union (TFEU) and should be adapted to that provision.
- (6) Other empowerments in basic acts which provide for the use of the regulatory procedure with scrutiny fulfil the criteria in Article 291(2) TFEU and should be adapted to that provision.
- (7) Where implementing powers are conferred on the Commission, those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(7)</sup>.
- (8) In a limited number of basic acts which currently provide for the use of the regulatory procedure with scrutiny the respective empowerments are no longer needed and should therefore be deleted.
- (9) Point 31 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making states that, on condition that the Commission provides objective justifications based on the substantive link between two or more empowerments contained in a single legislative act, and unless the legislative act provides otherwise, empowerments may be bundled. Consultations in the preparation of delegated acts also serve to indicate which empowerments are considered to be substantially linked. In such cases, any objection by the European Parliament or the Council will indicate clearly to which empowerment it specifically relates. In a limited number of basic acts listed in the Annex to this Regulation, a clear provision concerning adoption of separate delegated acts for different delegated powers has been included in the basic act.
- (10) 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.
- (11) Since the adaptations and amendments to be made concern procedures at Union level only, they do not, in the case of directives, need to be transposed by the Member States.
- (12) The acts concerned should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

The acts listed in the Annex are amended as set out therein.

<sup>(6)</sup> OJ L 123, 12.5.2016, p. 1.

<sup>(7)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

*Article 2*

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*

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

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

Done at Brussels, 20 June 2019.

*For the European Parliament*

*The President*

A. TAJANI

*For the Council*

*The President*

G. CIAMBA

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## ANNEX

## I. COMMUNICATION NETWORKS, CONTENT AND TECHNOLOGY

1. Regulation (EC) No 733/2002 of the European Parliament and of the Council of 22 April 2002 on the implementation of the .eu Top Level Domain <sup>(1)</sup>

In order to set out the conditions for the implementation of the .eu country code Top Level Domain (ccTLD) established by Regulation (EC) No 733/2002, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement that Regulation with the criteria and the procedure for the designation of the Registry, and with public policy rules concerning the implementation and functions of the .eu Top Level Domain (TLD) and the public policy principles on registration. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 733/2002 is amended as follows:

(1) in Article 3(1), point (a) of the first subparagraph is replaced by the following:

- (a) adopt delegated acts in accordance with Article 5a in order to supplement this Regulation by establishing the criteria and the procedure for the designation of the Registry.

Where, in the case of establishing the criteria and the procedure for the designation of the Registry, imperative grounds of urgency so require, the procedure provided for in Article 5b shall apply to delegated acts adopted pursuant to this Article.;

(2) Article 5 is amended as follows:

- (a) in paragraph 1, the first subparagraph is replaced by the following:

'After consulting the Registry, the Commission is empowered to adopt delegated acts in accordance with Article 5a in order to supplement this Regulation by setting out public policy rules on the implementation and function of the .eu TLD and public policy principles on registration.;

- (b) in paragraph 2, the third subparagraph is replaced by the following:

'Where a Member State or the Commission within 30 days of publication raises an objection to an item included in a notified list, the Commission is empowered to adopt delegated acts in accordance with Article 5a in order to remedy the situation by supplementing this Regulation.;

<sup>(1)</sup> OJ L 113, 30.4.2002, p. 1.

(3) the following Articles are inserted:

*Article 5a*

**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 3(1) and Article 5(1) and (2) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 3(1) and Article 5(1) and (2) 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 3(1) and Article 5(1) and (2) shall enter into force only if no objection has been expressed either by the European Parliament or 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.

*Article 5b*

**Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 5a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

(4) in Article 6, paragraphs 3 and 4 are deleted.

2. Decision No 626/2008/EC of the European Parliament and of the Council of 30 June 2008 on the selection and authorisation of systems providing mobile satellite services (MSS) <sup>(2)</sup>

In order to ensure uniform conditions for the implementation of Decision No 626/2008/EC, implementing powers should be conferred on the Commission concerning appropriate modalities for coordinated application of the rules on enforcement. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

Accordingly, Decision No 626/2008/EC is amended as follows:

(1) in Article 9, paragraph 3 is replaced by the following:

'3. The Commission may adopt, by means of implementing acts, measures defining any appropriate modalities for coordinated application of the rules on enforcement referred to in paragraph 2 of this Article, including rules for the coordinated suspension or withdrawal of authorisations for breaches of the common conditions provided for in Article 7(2). Those implementing acts shall be adopted in accordance with the procedure referred to in Article 10(3).';

(2) in Article 10, paragraph 4 is deleted.

## II. HUMANITARIAN AID AND CIVIL PROTECTION

Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid <sup>(3)</sup>

Since its adoption in 1996, no measures have ever had to be adopted by the Commission in accordance with the regulatory procedure with scrutiny in order to amend non-essential elements of Regulation (EC) No 1257/96. There does not seem to be any foreseeable need to do so in the future. The possibility of adopting implementing measures in accordance with the regulatory procedure with scrutiny should therefore be removed from Regulation (EC) No 1257/96, without there being a need to give any empowerment to the Commission.

Accordingly, Regulation (EC) No 1257/96 is amended as follows:

(1) in Article 15, paragraph 1 is deleted;

(2) in Article 17, paragraph 4 is deleted.

## III. EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION

1. Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16(1) of Directive 89/391/EEC) <sup>(4)</sup>

<sup>(2)</sup> OJ L 172, 2.7.2008, p. 15.

<sup>(3)</sup> OJ L 163, 2.7.1996, p. 1.

<sup>(4)</sup> OJ L 393, 30.12.1989, p. 1.



In order to take account of technical harmonisation and standardisation of the design, manufacture or construction of parts of workplaces, technical progress, changes in international regulations or specifications and knowledge with regard to the workplaces, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to make strictly technical amendments to the Annexes to Directive 89/654/EEC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

In accordance with the Council Decision of 22 July 2003 <sup>(5)</sup>, the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work.

Accordingly, Directive 89/654/EEC is amended as follows:

(1) Article 9 is replaced by the following:

*'Article 9*

#### **Amendments to the Annexes**

The Commission is empowered to adopt delegated acts in accordance with Article 9a to make strictly technical amendments to the Annexes, in order to take account of technical harmonisation and standardisation of the design, manufacture or construction of parts of workplaces, technical progress, changes in international regulations or specifications and knowledge with regard to workplaces.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 9b shall apply to delegated acts adopted pursuant to this Article.;

(2) the following Articles are inserted:

*'Article 9a*

#### **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 9 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 9 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.

<sup>(5)</sup> Council Decision of 22 July 2003 setting up an Advisory Committee on Safety and Health at Work (OJ C 218, 13.9.2003, p. 1).

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 9 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

#### *Article 9b*

#### **Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 9a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

2. Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive within the meaning of Article 16(1) of Directive 89/391/EEC) <sup>(6)</sup>

In order to take account of technical harmonisation and standardisation, technical progress, changes in international regulations or specifications and knowledge with regard to personal protective equipment, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to make strictly technical amendments to the Annexes to Directive 89/656/EEC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

In accordance with the Council Decision of 22 July 2003, the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work.

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<sup>(6)</sup> OJ L 393, 30.12.1989, p. 18.

Accordingly, Directive 89/656/EEC is amended as follows:

(1) Article 9 is replaced by the following:

*'Article 9*

**Amendments to the Annexes**

The Commission is empowered to adopt delegated acts in accordance with Article 9a to make strictly technical amendments to the Annexes, in order to take account of technical harmonisation and standardisation relating to personal protective equipment, technical progress, changes in international regulations or specifications and knowledge in the field of personal protective equipment.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 9b shall apply to delegated acts adopted pursuant to this Article.;

(2) the following Articles are inserted:

*'Article 9a*

**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 9 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 9 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 9 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

*Article 9b***Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 9a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

3. Council Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) <sup>(7)</sup>

In order to take account of technical progress, changes in international regulations or specifications and knowledge with regard to manual handling of loads where there is a risk particularly of back injury to workers, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to make strictly technical amendments to the Annexes to Directive 90/269/EEC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

In accordance with the Council Decision of 22 July 2003, the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work.

Accordingly, Directive 90/269/EEC is amended as follows:

- (1) Article 8 is replaced by the following:

*'Article 8***Amendments to the Annexes**

The Commission is empowered to adopt delegated acts in accordance with Article 8a to make strictly technical amendments to the Annexes, in order to take account of technical progress, changes in international regulations or specifications and knowledge in the field of the manual handling of loads.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 8b shall apply to delegated acts adopted pursuant to this Article.;

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<sup>(7)</sup> OJ L 156, 21.6.1990, p. 9.

(2) the following Articles are inserted:

*Article 8a*

#### **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 8 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 8 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 8 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

*Article 8b*

#### **Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 8a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

4. Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (fifth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) <sup>(8)</sup>

In order to take account of technical progress, changes in international regulations or specifications and knowledge with regard to display screen equipment, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to make strictly technical amendments to the Annex to Directive 90/270/EEC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

In accordance with the Council Decision of 22 July 2003, the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work.

Accordingly, Directive 90/270/EEC is amended as follows:

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

*'Article 10*

**Amendments to the Annex**

The Commission is empowered to adopt delegated acts in accordance with Article 10a to make strictly technical amendments to the Annex, in order to take account of technical progress, developments in international regulations or specifications and knowledge in the field of display screen equipment.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 10b shall apply to delegated acts adopted pursuant to this Article.;

- (2) the following Articles are inserted:

*'Article 10a*

**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 10 shall be conferred on the Commission for a period of five years from 26 July 2019. 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.

<sup>(8)</sup> OJ L 156, 21.6.1990, p. 14.

3. The delegation of power referred to in Article 10 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 10 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

#### Article 10b

##### Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 10a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

5. Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels <sup>(9)</sup>

In order to take account of technical progress or changes in international regulations or specifications and new findings with regard to medical treatment on board vessels, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to make strictly technical amendments to the Annexes to Directive 92/29/EEC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

In accordance with the Council Decision of 22 July 2003, the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work.

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<sup>(9)</sup> OJ L 113, 30.4.1992, p. 19.

Accordingly, Directive 92/29/EEC is amended as follows:

(1) Article 8 is replaced by the following:

*'Article 8*

**Amendments to the Annexes**

The Commission is empowered to adopt delegated acts in accordance with Article 8a to make strictly technical amendments to the Annexes, in order to take account of technical progress or changes in international regulations or specifications and new findings concerning medical treatment on board vessels.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 8b shall apply to delegated acts adopted pursuant to this Article.;

(2) the following Articles are inserted:

*'Article 8a*

**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 8 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 8 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 8 shall enter into force only if no objection has been expressed either by the European Parliament or 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.



*Article 8b***Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 8a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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(\*) OJ L 123, 12.5.2016, p. 1.'

6. Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) <sup>(10)</sup>

In order to take account of technical harmonisation and standardisation, technical progress, changes in international regulations or specifications and knowledge with regard to temporary or mobile construction sites, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to make strictly technical amendments to Annex IV to Directive 92/57/EEC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

In accordance with the Council Decision of 22 July 2003, the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work.

Accordingly, Directive 92/57/EEC is amended as follows:

- (1) Article 13 is replaced by the following:

*'Article 13***Amendments to Annex IV**

The Commission is empowered to adopt delegated acts in accordance with Article 13a to make strictly technical amendments to Annex IV, in order to take account of technical harmonisation and standardisation regarding temporary or mobile construction sites, as well as technical progress, changes in international regulations or specifications and knowledge in the field of temporary or mobile construction sites.

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<sup>(10)</sup> OJ L 245, 26.8.1992, p. 6.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 13b shall apply to delegated acts adopted pursuant to this Article.;

(2) the following Articles are inserted:

*'Article 13a*

#### **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 13 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 13 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 13 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

*Article 13b*

#### **Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 13a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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(\*) OJ L 123, 12.5.2016, p. 1.:

7. Council Directive 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) <sup>(1)</sup>

In order to take account of technical harmonisation and standardisation, technical progress, changes in international regulations or specifications and knowledge with regard to safety and health signs at work, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to make strictly technical amendments to the Annexes to Directive 92/58/EEC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

In accordance with the Council Decision of 22 July 2003, the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work.

Accordingly, Directive 92/58/EEC is amended as follows:

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

*'Article 9*

#### **Amendments to the Annexes**

The Commission is empowered to adopt delegated acts in accordance with Article 9a to make strictly technical amendments to the Annexes, in order to take account of technical harmonisation and standardisation concerning the design and manufacture of safety and/or health signs or devices at work, as well as technical progress, changes in international regulations or specifications and advances in knowledge in the field of safety and/or health signs or devices at work.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 9b shall apply to delegated acts adopted pursuant to this Article.;

- (2) the following Articles are inserted:

*'Article 9a*

#### **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 9 shall be conferred on the Commission for a period of five years from 26 July 2019. 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.

<sup>(1)</sup> OJ L 245, 26.8.1992, p. 23.

3. The delegation of power referred to in Article 9 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 9 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

#### Article 9b

##### Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 9a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

#### 8. Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work <sup>(12)</sup>

In order to achieve adequate protection of young people at work and to take account of technical progress, changes in international rules or specifications and advances in knowledge, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to make strictly technical amendments to the Annex to Directive 94/33/EC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

In accordance with the Council Decision of 22 July 2003, the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work.

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<sup>(12)</sup> OJ L 216, 20.8.1994, p. 12.

Accordingly, Directive 94/33/EC is amended as follows:

(1) Article 15 is replaced by the following:

*'Article 15*

**Amendments to the Annex**

The Commission is empowered to adopt delegated acts in accordance with Article 15a to make strictly technical amendments to the Annex, in the light of technical progress, changes in international rules or specifications and advances in knowledge concerning the protection of young people at work.:'

(2) the following Article is inserted:

*'Article 15a*

**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 15 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 15 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 15 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

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(\*) OJ L 123, 12.5.2016, p. 1.'

9. Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) <sup>(13)</sup>

In order to achieve adequate protection of workers from risks to their health and safety and to take account of technical harmonisation and standardisation, technical progress, changes in international standards or specifications and new findings concerning chemical agents, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to make strictly technical amendments to the Annexes to Directive 98/24/EC, and to supplement that Directive by establishing or revising indicative occupational exposure limit values. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 98/24/EC is amended as follows:

- (1) in Article 3(2), the second subparagraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in accordance with Article 12a in order to supplement this Directive by establishing or revising the indicative occupational exposure limit values referred to in the first subparagraph of this paragraph, taking into account the availability of measurement techniques.

Member States shall keep workers' and employers' organisations informed of indicative occupational exposure limit values set at Union level.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 12b shall apply to delegated acts adopted pursuant to this Article.;

- (2) in Article 12, paragraph 1 is replaced by the following:

'1. The Commission is empowered to adopt delegated acts in accordance with Article 12a to make strictly technical amendments to the Annexes, in order to take account of technical harmonisation and standardisation concerning chemical agents, as well as technical progress, changes in international standards or specifications and new findings with regard to chemical agents.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 12b shall apply to delegated acts adopted pursuant to this Article.;

- (3) the following Articles are inserted:

*'Article 12a*

**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.

<sup>(13)</sup> OJ L 131, 5.5.1998, p. 11.

2. The power to adopt delegated acts referred to in Article 3(2) and Article 12(1) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 3(2) and Article 12(1) 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 3(2) and Article 12(1) shall enter into force only if no objection has been expressed either by the European Parliament or 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.

#### Article 12b

##### **Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 12a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

10. Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) (sixteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) <sup>(14)</sup>

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<sup>(14)</sup> OJ L 177, 6.7.2002, p. 13.

In order to take account of technical harmonisation and standardisation with regard to the design, building, manufacture or construction of work equipment and workplaces, technical progress, changes in harmonised European standards or specifications and new findings concerning mechanical vibration, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to make strictly technical amendments to the Annex to Directive 2002/44/EC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

In accordance with the Council Decision of 22 July 2003, the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work.

Accordingly, Directive 2002/44/EC is amended as follows:

(1) Article 11 is replaced by the following:

*'Article 11*

#### **Amendments to the Annex**

The Commission is empowered to adopt delegated acts in accordance with Article 11a to make strictly technical amendments to the Annex, in order to take account of technical harmonisation and standardisation with regard to the design, building, manufacture or construction of work equipment and workplaces, technical progress, changes in harmonised European standards or specifications and new findings concerning mechanical vibration.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 11b shall apply to delegated acts adopted pursuant to this Article.;

(2) the following Articles are inserted:

*'Article 11a*

#### **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 11 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 11 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 11 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

#### Article 11b

##### Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 11a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

(3) Article 12 is deleted.

11. Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) (Seventeenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) <sup>(15)</sup>

In order to take account of technical harmonisation and standardisation with regard to the design, building, manufacture or construction of work equipment and workplaces, technical progress, changes in harmonised European standards or specifications and new findings concerning noise, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to make strictly technical amendments to Directive 2003/10/EC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

In accordance with the Council Decision of 22 July 2003, the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work.

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<sup>(15)</sup> OJ L 42, 15.2.2003, p. 38.

Accordingly, Directive 2003/10/EC is amended as follows:

(1) Article 12 is replaced by the following:

*'Article 12*

**Amendments to the Directive**

The Commission is empowered to adopt delegated acts in accordance with Article 12a to make strictly technical amendments to this Directive in order to take account of technical harmonisation and standardisation with regard to the design, building, manufacture or construction of work equipment and workplaces, technical progress, changes in harmonised European standards or specifications and new findings concerning noise.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 12b shall apply to delegated acts adopted pursuant to this Article.;

(2) the following Articles are inserted:

*'Article 12a*

**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 12 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 12 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 12 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

*Article 12b***Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 12a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

(3) Article 13 is deleted.

12. Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) <sup>(16)</sup>

In order to take account of technical progress, changes in international regulations or specifications and new findings with regard to carcinogens or mutagens, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to make strictly technical amendments to Annex II to Directive 2004/37/EC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

In accordance with the Council Decision of 22 July 2003, the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work.

Accordingly, Directive 2004/37/EC is amended as follows:

- (1) Article 17 is replaced by the following:

*'Article 17***Amendment of Annex II**

The Commission is empowered to adopt delegated acts in accordance with Article 17a to make strictly technical amendments to Annex II, in order to take account of technical progress, changes in international regulations or specifications and new findings with regard to carcinogens or mutagens.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 17b shall apply to delegated acts adopted pursuant to this Article.;

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<sup>(16)</sup> OJ L 158, 30.4.2004, p. 50.

(2) the following Articles are inserted:

*Article 17a*

#### **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 17 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 17 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 17 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

*Article 17b*

#### **Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 17a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

13. Directive 2006/25/EC of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) (19th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) <sup>(17)</sup>

In order to take account of technical harmonisation and standardisation with regard to the design, building, manufacture or construction of work equipment or workplaces, technical progress, changes in harmonised European standards or international specifications and new scientific findings concerning occupational exposure to optical radiation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to make strictly technical amendments to the Annexes to Directive 2006/25/EC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

In accordance with the Council Decision of 22 July 2003, the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work.

Accordingly, Directive 2006/25/EC is amended as follows:

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

*'Article 10*

**Amendment of the Annexes**

The Commission is empowered to adopt delegated acts in accordance with Article 10a to make strictly technical amendments to the Annexes, in order to take account of technical harmonisation and standardisation with regard to the design, building, manufacture or construction of work equipment or workplaces, technical progress, changes in harmonised European standards or international specifications and new scientific findings concerning occupational exposure to optical radiation. Those amendments shall not result in a modification of the exposure limit values set out in the Annexes.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 10b shall apply to delegated acts adopted pursuant to this Article.;

- (2) the following Articles are inserted:

*'Article 10a*

**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 10 shall be conferred on the Commission for a period of five years from 26 July 2019. 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.

<sup>(17)</sup> OJ L 114, 27.4.2006, p. 38.

3. The delegation of power referred to in Article 10 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 10 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

#### Article 10b

##### Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 10a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

(3) Article 11 is deleted.

14. Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work <sup>(18)</sup>

In order to take account of technical progress, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annex I to Directive 2009/148/EC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

In accordance with the Council Decision of 22 July 2003, the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work.

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<sup>(18)</sup> OJ L 330, 16.12.2009, p. 28.

Accordingly, Directive 2009/148/EC is amended as follows:

(1) Article 9 is deleted;

(2) in Article 18, paragraph 2 is replaced by the following:

'2. An assessment of each worker's state of health must be available prior to the beginning of exposure to dust arising from asbestos or materials containing asbestos at the place of work.

That assessment shall include a specific examination of the chest. Annex I gives practical recommendations to which the Member States may refer for the clinical surveillance of workers. The Commission is empowered to adopt delegated acts in accordance with Article 18a amending Annex I, to adapt it to technical progress.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 18b shall apply to delegated acts adopted pursuant to this Article.

A new assessment must be available at least once every three years for as long as exposure continues.

An individual health record shall be established in accordance with national laws and/or practices for each worker referred to in the first subparagraph.;

(3) the following Articles are inserted:

*'Article 18a*

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 18(2) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 18(2) 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 18(2) shall enter into force only if no objection has been expressed either by the European Parliament or 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.

#### *Article 18b*

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 18a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

#### IV. ENERGY

Regulation (EC) No 1222/2009 of the European Parliament and of the Council of 25 November 2009 on the labelling of tyres with respect to fuel efficiency and other essential parameters<sup>(19)</sup>

In order to make the necessary technical adaptations to Regulation (EC) No 1222/2009 the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend the Annexes to that Regulation to adapt them to technical progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 1222/2009 is amended as follows:

(1) Article 11 is replaced by the following:

#### *'Article 11*

#### **Amendments and adaptations to technical progress**

The Commission is empowered to adopt delegated acts in accordance with Article 12a amending this Regulation in respect of the following:

(a) introduction of information requirements with respect to wet grip grading of C2 and C3 tyres, provided that suitable harmonised testing methods are available;

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<sup>(19)</sup> OJ L 342, 22.12.2009, p. 46.



(b) adaptation, where relevant, of grip grading to the technical specificities of tyres primarily designed to perform better in ice and/or snow conditions than a normal tyre with regard to their ability to initiate, maintain, or stop vehicle motion;

(c) adaptation of Annexes I to V to technical progress.;

(2) the following Article is inserted:

*'Article 12a*

**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 11 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 11 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 11 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.

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

(3) Article 13 is deleted.

## V. ENVIRONMENT

1. European Parliament and Council Directive 94/63/EC of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations <sup>(20)</sup>

In order to ensure that the specifications for bottom loading equipment laid down in Directive 94/63/EC are revised where appropriate and to adapt the Annexes to technical progress, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend the Annexes to that Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 94/63/EC is amended as follows:

- (1) in Article 4(1), the sixth subparagraph is replaced by the following:

'All terminals with loading facilities for road tankers shall be equipped with at least one gantry which meets the specifications for bottom loading equipment laid down in Annex IV. The Commission shall re-examine those specifications at regular intervals and is empowered to adopt delegated acts in accordance with Article 7a amending Annex IV in the light of the result of that re-examination.'

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

*Article 7*

**Adaptation to technical progress**

The Commission is empowered to adopt delegated acts in accordance with Article 7a amending the Annexes to adapt them to technical progress, with the exception of the limit values laid down in point 2 of Annex II;

- (3) the following Article is inserted:

*Article 7a*

**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 4(1) and Article 7 shall be conferred on the Commission for a period of five years from 26 July 2019. 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.

<sup>(20)</sup> OJ L 365, 31.12.1994, p. 24.

3. The delegation of power referred to in Article 4(1) and Article 7 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 4(1) and Article 7 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

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

(4) Article 8 is deleted.

2. Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise <sup>(21)</sup>

In order to adapt Directive 2002/49/EC to technical and scientific progress, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend the Annexes to that Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 2002/49/EC is amended as follows:

(1) Article 6 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. The Commission is empowered to adopt delegated acts in accordance with Article 12a amending Annex II in order to establish common assessment methods for the determination of Lden and Lnight.’;

(b) in paragraph 3, the following second subparagraph is added:

‘The Commission is empowered to adopt delegated acts in accordance with Article 12a amending Annex III in order to establish common assessment methods for the determination of harmful effects.’;

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<sup>(21)</sup> OJ L 189, 18.7.2002, p. 12.

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

*'Article 12*

**Adaptation to technical and scientific progress**

The Commission is empowered to adopt delegated acts in accordance with Article 12a amending point 3 of Annex I and Annexes II and III to adapt them to technical and scientific progress.;

- (3) the following Article is inserted:

*'Article 12a*

**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 6(2) and (3) and Article 12 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 6(2) and (3) and Article 12 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 6(2) and (3) and Article 12 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

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

- (4) in Article 13, paragraph 3 is deleted;

- (5) in Annex III, the second sentence of the introductory wording is replaced by the following:

'The dose-effect relations introduced by future revisions of this Annex will concern in particular:'.

3. Directive 2004/42/EC of the European Parliament and of the Council of 21 April 2004 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products and amending Directive 1999/13/EC <sup>(22)</sup>

In order to ensure the use of up-to-date analytical methods for determining compliance with volatile organic compounds content limit values, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annex III to Directive 2004/42/EC to adapt it to technical progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 2004/42/EC is amended as follows:

- (1) Article 11 is replaced by the following:

*'Article 11*

**Adaptation to technical progress**

The Commission is empowered to adopt delegated acts in accordance with Article 11a amending Annex III to adapt it to technical progress.;

- (2) the following Article is inserted:

*'Article 11a*

**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 11 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 11 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.

<sup>(22)</sup> OJ L 143, 30.4.2004, p. 87.

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 11 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

(3) in Article 12, paragraph 3 is deleted.

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

4. Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC <sup>(23)</sup>

In order to adapt Regulation (EC) No 166/2006 to technical progress and to the evolution of international law, and to ensure better reporting, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annexes II and III to that Regulation to adapt them to scientific or technical progress or as a result of the adoption by the Meeting of the Parties to the Protocol of any amendment of the Annexes to the UNECE Protocol on Pollutant Release and Transfer Registers, as well as to supplement that Regulation by initiating reporting on releases of relevant pollutants from one or more diffuse sources. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 166/2006 is amended as follows:

(1) in Article 8, paragraph 3 is replaced by the following:

'3. Where it determines that no data on the releases from diffuse sources exist, the Commission is empowered to adopt delegated acts in accordance with Article 18a in order to supplement this Regulation by initiating reporting on releases of relevant pollutants from one or more diffuse sources using, where appropriate, internationally approved methodologies.;

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<sup>(23)</sup> OJ L 33, 4.2.2006, p. 1.

(2) Article 18 is replaced by the following:

*Article 18*

**Amendments to the Annexes**

The Commission is empowered to adopt delegated acts in accordance with Article 18a to amend Annexes II and III for the following purposes:

- (a) to adapt them to scientific or technical progress;
- (b) to adapt them as a result of the adoption by the Meeting of the Parties to the Protocol of any amendment to the Annexes to the Protocol.;

(3) the following Article is inserted:

*Article 18a*

**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 8(3) and Article 18 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 8(3) and Article 18 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 8(3) and Article 18 shall enter into force only if no objection has been expressed either by the European Parliament or 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.;

(4) in Article 19, paragraph 3 is deleted.

5. 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 <sup>(24)</sup>

In order to ensure that Regulation (EC) No 1272/2008 is regularly updated, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission:

- to amend Annex VI to that Regulation to harmonise the classification and labelling of substances,
- to amend Annex VIII to further harmonise the information relating to emergency health response and preventative measures,
- to amend certain provisions of that Regulation and Annexes I to VIII to that Regulation in order to adapt them to technical and scientific progress.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 1272/2008 is amended as follows:

(1) in Article 37, paragraph 5 is replaced by the following:

'5. The Commission shall without undue delay adopt delegated acts in accordance with Article 53a, where it finds that the harmonisation of the classification and labelling of the substance concerned is appropriate, to amend Annex VI by inclusion of that substance together with the relevant classification and labelling elements in Table 3.1 of Part 3 of Annex VI and, where appropriate, the specific concentration limits or M-factors.

<sup>(24)</sup> OJ L 353, 31.12.2008, p. 1.



A corresponding entry shall be included in Table 3.2 of Part 3 of Annex VI subject to the same conditions, until 31 May 2015.

Where, in the case of harmonisation of classification and labelling of substances, imperative grounds of urgency so require, the procedure provided for in Article 53b shall apply to delegated acts adopted pursuant to this paragraph.;

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

'4. The Commission is empowered to adopt delegated acts in accordance with Article 53a amending Annex VIII to further harmonise the information relating to emergency health response and preventative measures, following consultation with relevant stakeholders such as the European Association of Poison Centres and Clinical Toxicologists (EAPCCT).;'

(3) in Article 53, paragraph 1 is replaced by the following:

'1. The Commission is empowered to adopt delegated acts in accordance with Article 53a amending Article 6(5), Article 11(3), Articles 12 and 14, point (b) of Article 18(3), Article 23, Articles 25 to 29, the second and third subparagraphs of Article 35(2) and Annexes I to VIII in order to adapt them to technical and scientific progress, taking due account of the further development of the GHS, in particular any UN amendments relating to the use of information on similar mixtures, and considering the developments in internationally recognised chemical programmes and of the data from accident databases.'

Where imperative grounds of urgency so require, the procedure provided for in Article 53b shall apply to delegated acts adopted pursuant to this paragraph.;

(4) the following Articles are inserted:

*'Article 53a*

**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 37(5), Article 45(4) and Article 53(1) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 Articles 37(5), Article 45(4) and Article 53(1) 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 37(5), Article 45(4) and Article 53(1) 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.

#### *Article 53b*

##### **Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 53a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

#### *Article 53c*

##### **Separate delegated acts for different delegated powers**

The Commission shall adopt a separate delegated act in respect of each power delegated to it pursuant to this Regulation.

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

(5) in Article 54, paragraphs 3 and 4 are deleted.

6. Directive 2009/126/EC of the European Parliament and of the Council of 21 October 2009 on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations <sup>(25)</sup>

In order to ensure consistency with relevant standards drawn up by the European Committee for Standardisation (CEN), the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend certain provisions of Directive 2009/126/EC in order to adapt them to technical progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

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<sup>(25)</sup> OJ L 285, 31.10.2009, p. 36.

Accordingly, Directive 2009/126/EC is amended as follows:

(1) Article 8 is replaced by the following:

*'Article 8*

**Technical adaptations**

The Commission is empowered to adopt delegated acts in accordance with Article 8a amending Articles 4 and 5 to adapt them to technical progress where necessary to ensure consistency with any relevant standard drawn up by the European Committee for Standardisation (CEN).

The delegation of power referred to in the first paragraph shall not apply to the petrol vapour capture efficiency and vapour/petrol ratio specified in Article 4 and the time periods specified in Article 5.;

(2) the following Article is inserted:

*'Article 8a*

**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 8 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 8 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 8 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

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

(3) Article 9 is deleted.

VI. EUROSTAT

1. Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains <sup>(26)</sup>

In order to adapt Regulation (EC) No 1893/2006 to technological and economic developments and to align NACE Rev. 2 with other economic and social classifications, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annex I to that Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 1893/2006 is amended as follows:

(1) Article 6 is amended as follows:

(a) the title is replaced by the following:

'Delegated and implementing acts';

(b) paragraph 2 is replaced by the following:

'2. The Commission is empowered to adopt delegated acts in accordance with Article 6a amending Annex I to take account of technological or economic developments or to align it with other economic and social classifications.';

(2) the following Article is inserted:

'Article 6a

**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 6(2) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 6(2) 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.

<sup>(26)</sup> OJ L 393, 30.12.2006, p. 1.

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 6(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three 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 three months at the initiative of the European Parliament or of the Council.

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

(3) in Article 7, paragraph 3 is deleted.

2. Regulation (EC) No 451/2008 of the European Parliament and of the Council of 23 April 2008 establishing a new statistical classification of products by activity (CPA) and repealing Council Regulation (EEC) No 3696/93 <sup>(27)</sup>

In order to adapt Regulation (EC) No 451/2008 to technological or economic developments and align it with other economic and social classifications, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend the Annex to that Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 451/2008 is amended as follows:

(1) Article 6 is amended as follows:

(a) the title is replaced by the following:

'Delegated and implementing acts';

(b) paragraph 2 is replaced by the following:

'2. The Commission is empowered to adopt delegated acts in accordance with Article 6a amending the Annex to take account of technological or economic developments or to align it with other economic and social classifications.

When exercising that power, the Commission shall ensure that the delegated acts do not impose a significant additional burden or cost on the Member States or on the respondents.;

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<sup>(27)</sup> OJ L 145, 4.6.2008, p. 65.

(2) the following Article is inserted:

*Article 6a*

**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 6(2) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 6(2) 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 6(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three 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 three months at the initiative of the European Parliament or of the Council.

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

(3) in Article 7, paragraph 3 is deleted.

VII. INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMES

1. Council Directive 76/211/EEC of 20 January 1976 on the approximation of the laws of the Member States relating to the making-up by weight or by volume of certain prepackaged products <sup>(28)</sup>

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<sup>(28)</sup> OJ L 46, 21.2.1976, p. 1.

In order to adapt Directive 76/211/EEC to technical progress, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annexes I and II to that Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 76/211/EEC is amended as follows:

(1) Article 6 is replaced by the following:

*'Article 6*

The Commission is empowered to adopt delegated acts in accordance with Article 6a amending Annexes I and II to adapt them to technical progress.;

(2) the following Article is inserted:

*'Article 6a*

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 6 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 6 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 6 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three 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.

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

2. Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors <sup>(29)</sup>

In order to adapt Directive 2000/14/EC to technical progress, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annex III to that Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 2000/14/EC is amended as follows:

(1) in Article 18, paragraph 2 is deleted;

(2) Article 18a is replaced by the following:

*'Article 18a*

#### **Amendments to Annex III**

The Commission is empowered to adopt delegated acts in accordance with Article 18b amending Annex III to adapt it to technical progress. Those delegated acts shall not have any direct impact on the measured sound power level of equipment listed in Article 12, in particular through the inclusion of references to relevant European standards.;

(3) the following Article is inserted:

*'Article 18b*

#### **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 18a shall be conferred on the Commission for a period of five years from 26 July 2019. 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 18a 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 (\*).

<sup>(29)</sup> OJ L 162, 3.7.2000, p. 1.



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 18a shall enter into force only if no objection has been expressed either by the European Parliament or 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.

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

(4) in Article 19, point (b) is deleted.

3. Directive 2004/9/EC of the European Parliament and of the Council of 11 February 2004 on the inspection and verification of good laboratory practice (GLP) <sup>(30)</sup>

In order to adopt the necessary technical adaptation to Directive 2004/9/EC, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission:

- to amend that Directive in order to resolve disagreements in relation to GLP compliance,
- to amend the endorsement formula in that Directive,
- to amend Annex I to that Directive to take account of technical progress.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 2004/9/EC is amended as follows:

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

'3. The Commission is empowered to adopt delegated acts in accordance with Article 6a amending this Directive in order to resolve the matters referred to in paragraph 1. Amendments to Annex I shall not change its nature of providing guidance for compliance monitoring procedures for GLP and for the conduct of test facility inspections and study audits.;

(2) the following Article is inserted:

*Article 6a*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

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<sup>(30)</sup> OJ L 50, 20.2.2004, p. 28.

2. The power to adopt delegated acts referred to in Article 6(3) and Article 8(2) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 6(3) and Article 8(2) 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 6(3) and Article 8(2) 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.

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

(3) in Article 7, paragraph 3 is deleted;

(4) in Article 8, paragraph 2 is replaced by the following:

'2. The Commission is empowered to adopt delegated acts in accordance with Article 6a amending:

(a) the formula in Article 2(2);

(b) Annex I, to take account of technical progress.'

4. Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC <sup>(31)</sup>

In order to take into account new developments, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend the indicative list of safety components in Annex V to Directive 2006/42/EC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

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<sup>(31)</sup> OJ L 157, 9.6.2006, p. 24.

In order to ensure uniform conditions for the implementation of Directive 2006/42/EC, implementing powers should be conferred on the Commission concerning necessary measures to deal with potentially hazardous machinery. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

Accordingly, Directive 2006/42/EC is amended as follows:

(1) in the second paragraph of Article 2, the second subparagraph of point (c) is replaced by the following:

'An indicative list of safety components is set out in Annex V.;

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

'1. The Commission is empowered to adopt delegated acts in accordance with Article 21a amending Annex V to update the indicative list of safety components.;

(3) in Article 9(3), the second and third subparagraphs are replaced by the following:

'Taking due account of the results of that consultation, the Commission shall adopt the necessary measures by implementing acts. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 22(3).;

(4) the following Article is inserted:

*'Article 21a*

**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 8(1) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 8(1) 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 8(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three 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.

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

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

‘3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the Council (\*) shall apply.

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

5. Directive 2009/34/EC of the European Parliament and of the Council of 23 April 2009 relating to common provisions for both measuring instruments and methods of metrological control <sup>(32)</sup>

In order to ensure that the necessary technical adaptations are made to Directive 2009/34/EC, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend the Annexes to that Directive to adapt them to technical progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

As far as the empowerment in Article 5(3) is concerned, which provides that Member States which have granted limited EC pattern approval are to apply for adjustment to technical progress of Annexes I and II, such limited EC pattern approvals no longer exist. The empowerment in Article 5(3) should therefore be deleted.

Accordingly, Directive 2009/34/EC is amended as follows:

(1) in Article 5, paragraph 3 is deleted;

(2) Article 16 is replaced by the following:

*Article 16*

The Commission is empowered to adopt delegated acts in accordance with Article 16a amending Annexes I and II to adapt them to technical progress.’;

(3) the following Article is inserted:

*Article 16a*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

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<sup>(32)</sup> OJ L 106, 28.4.2009, p. 7.

2. The power to adopt delegated acts referred to in Article 16 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 16 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 16 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three 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.

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

(4) Article 17 is deleted.

6. Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community<sup>(33)</sup>

In order to ensure that the list of defence-related products set out in the Annex to Directive 2009/43/EC strictly corresponds to the Common Military List of the European Union, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend that Annex and to amend that Directive as regards the circumstances in which Member States may exempt transfers of defence-related products from the obligation of prior authorisation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

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<sup>(33)</sup> OJ L 146, 10.6.2009, p. 1.

Accordingly, Directive 2009/43/EC is amended as follows:

(1) in Article 4, paragraph 3 is replaced by the following:

'3. The Commission is empowered to adopt delegated acts in accordance with Article 13a, at the request of a Member State or on its own initiative, amending paragraph 2, in order to include cases where:

- (a) the transfer takes place under conditions which do not affect public policy or public security;
- (b) the obligation of prior authorisation has become incompatible with international commitments of the Member States subsequent to the adoption of this Directive;
- (c) it is necessary for intergovernmental cooperation, as referred to in Article 1(4).';

(2) Article 13 is replaced by the following:

*'Article 13*

#### **Amendment of the Annex**

The Commission is empowered to adopt delegated acts in accordance with Article 13a amending the list of defence-related products set out in the Annex, so that it strictly corresponds to the Common Military List of the European Union.

Where imperative grounds of urgency so require, the procedure provided for in Article 13b shall apply to delegated acts adopted pursuant to this Article.;

(3) the following Articles are inserted:

*'Article 13a*

#### **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 4(3) and Article 13 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 4(3) and Article 13 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 4(3) and Article 13 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three 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.

#### *Article 13b*

#### **Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 13a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

(4) Article 14 is deleted.

7. Regulation (EC) No 79/2009 of the European Parliament and of the Council of 14 January 2009 on type-approval of hydrogen-powered motor vehicles, and amending Directive 2007/46/EC <sup>(34)</sup>

In order to adapt Regulation (EC) No 79/2009 to technical progress as regards the safety of hydrogen-powered vehicles, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement that Regulation with technical requirements for such vehicles as well as with administrative provisions, templates for administrative documents and models for markings. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 79/2009 is amended as follows:

(1) Article 12 is replaced by the following:

#### *'Article 12*

#### **Delegated powers**

The Commission is empowered to adopt delegated acts in accordance with Article 12a in order to supplement this Regulation in the light of technical progress by establishing:

(a) detailed rules for the test procedures set out in Annexes II to V;

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<sup>(34)</sup> OJ L 35, 4.2.2009, p. 32.

- (b) detailed rules concerning the requirements for the installation of hydrogen components and systems set out in Annex VI;
  - (c) detailed rules concerning the requirements for the safe and reliable functioning of hydrogen components and systems set out in Article 5;
  - (d) specifications for requirements relating to any of the following:
    - (i) the use of pure hydrogen or a mixture of hydrogen and natural gas/biomethane;
    - (ii) new forms of hydrogen storage or usage;
    - (iii) the impact protection of vehicles with regard to the integrity of hydrogen components and systems;
    - (iv) integrated system safety requirements, covering at least the detection of leakage and requirements relating to purge gas;
    - (v) electrical isolation and electric safety;
  - (e) administrative provisions for the EC type-approval of vehicles, with regard to hydrogen propulsion, and hydrogen components and systems;
  - (f) rules on the information to be provided by manufacturers for the purposes of the type-approval and inspection referred to in Article 4(4) and (5);
  - (g) detailed rules for the labelling or other means of clear and rapid identification of hydrogen-powered vehicles referred to in point 16 of Annex VI; and
  - (h) other measures necessary for the application of this Regulation.;
- (2) the following Article is inserted:

*Article 12a*

**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 12 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 12 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 12 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three 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 13 is deleted.

8. Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC <sup>(35)</sup>

In order to adapt Directive 2009/81/EC to rapid technical, economic and regulatory developments, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend the threshold amounts for contracts in order to align them to those laid down in Directive 2014/25/EU of the European Parliament and of the Council <sup>(36)</sup>, to amend the references to the Common Procurement Vocabulary (CPV nomenclature) and to amend certain reference numbers in the CPV nomenclature and the procedures for reference in notices to certain headings in the CPV nomenclature. As the technical details and characteristics of the devices for electronic receipt should be kept up to date with technological developments, it is also necessary to empower the Commission to amend the technical details and characteristics of devices for electronic receipt. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 2009/81/EC is amended as follows:

(1) the following Articles are inserted:

*'Article 66a*

**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.

<sup>(35)</sup> OJ L 216, 20.8.2009, p. 76.

<sup>(36)</sup> 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).

2. The power to adopt delegated acts referred to in Article 68(1) and Article 69(2) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 68(1) and Article 69(2) 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 68(1) and Article 69(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three 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.

#### *Article 66b*

##### **Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 66a(6). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or by the Council.

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

(2) in Article 67, paragraphs 3 and 4 are deleted.

(3) Article 68(1) is amended as follows:

(a) the second subparagraph is replaced by the following:

‘The Commission is empowered to adopt delegated acts in accordance with Article 66a amending the thresholds as provided for in the first subparagraph.’;

(b) the following subparagraph is added:

‘Where it is necessary to revise the thresholds as provided for in the first subparagraph, and time constraints prevent the use of the procedure set in Article 66a and therefore imperative grounds of urgency so require, the procedure provided for in Article 66b shall apply to delegated acts adopted pursuant to this paragraph.’;

(4) in Article 69, paragraph 2 is replaced by the following:

‘2. The Commission is empowered to adopt delegated acts in accordance with Article 66a amending:

(a) the reference numbers in the CPV nomenclature set out in Annexes I and II, insofar as this does not change the material scope of this Directive, and the procedures for reference in the notices to particular headings in the CPV nomenclature within the categories of services listed in those Annexes;

(b) the technical details and characteristics of the devices for electronic receipt referred to in points (a), (f) and (g) of Annex VIII.’.

#### VIII. JUSTICE AND CONSUMERS

1. Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) <sup>(37)</sup>

In order to take account of technical progress, changes in international regulations or specifications and new findings, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to make strictly technical amendments to Annex I to Directive 92/85/EEC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

In accordance with the Council Decision of 22 July 2003, the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work.

Accordingly, Directive 92/85/EEC is amended as follows:

(1) Article 13 is replaced by the following:

*Article 13*

#### **Amendments to Annex I**

The Commission is empowered to adopt delegated acts in accordance with Article 13a to make strictly technical amendments to Annex I, in order to take account of technical progress, changes in international regulations or specifications and new findings.

<sup>(37)</sup> OJL 348, 28.11.1992, p. 1.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 13b shall apply to delegated acts adopted pursuant to this Article.;

(2) the following are inserted:

*'Article 13a*

#### **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 13 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 13 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 13 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

*Article 13b*

#### **Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 13a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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(\*) OJ L 123, 12.5.2016, p. 1.:

2. Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC <sup>(38)</sup>

In order to update Directive 2008/48/EC, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend that Directive to add additional assumptions for the calculation of the annual percentage rate of charge or to modify the existing assumptions. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 2008/48/EC is amended as follows:

- (1) in Article 19, paragraph 5 is replaced by the following:

'5. Where necessary, the additional assumptions set out in Annex I may be used in calculating the annual percentage rate of charge.

If the assumptions set out in this Article and in Part II of Annex I do not suffice to calculate the annual percentage rate of charge in a uniform manner or are no longer adapted to the commercial situations in the market, the Commission is empowered to adopt delegated acts in accordance with Article 24a amending this Article and Part II of Annex I to add the necessary additional assumptions for the calculation of the annual percentage rate of charge or to modify the existing ones.;

- (2) the following Article is inserted:

*'Article 24a*

**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 19(5) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 19(5) 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 (\*).

<sup>(38)</sup> OJ L 133, 22.5.2008, p. 66.

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 19(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three 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.

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

(3) Article 25 is deleted.

#### IX. MOBILITY AND TRANSPORT

1. Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road <sup>(39)</sup>

In order to adapt Directive 95/50/EC to scientific and technical progress, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend the Annexes to that Directive, in particular to take account of amendments to Directive 2008/68/EC of the European Parliament and of the Council <sup>(40)</sup>. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 95/50/EC is amended as follows:

(1) Article 9a is replaced by the following:

*'Article 9a*

The Commission is empowered to adopt delegated acts in accordance with Article 9aa amending the Annexes in order to adapt them to scientific and technical progress in the fields covered by this Directive, in particular to take account of amendments to Directive 2008/68/EC of the European Parliament and of the Council (\*).

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(\*) Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (OJ L 260, 30.9.2008, p. 13).;

(2) the following Article is inserted:

*'Article 9aa*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

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<sup>(39)</sup> OJ L 249, 17.10.1995, p. 35.

<sup>(40)</sup> Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (OJ L 260, 30.9.2008, p. 13).

2. The power to adopt delegated acts referred to in Article 9a shall be conferred on the Commission for a period of five years from 26 July 2019. 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 9a 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 9a 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.

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

(3) Article 9b is deleted.

2. Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC <sup>(41)</sup>

In order to adapt Directive 2002/59/EC to the evolution of Union and international law and to the experience gained in its implementation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend:

- the references to Union and International Maritime Organisation (IMO) instruments in that Directive, in order to bring them into line with provisions of Union or international law,
- certain definitions in that Directive, in order to bring them into line with other provisions of Union or international law,
- Annexes I, III and IV to that Directive in the light of technical progress and experience gained with that Directive.

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<sup>(41)</sup> OJ L 208, 5.8.2002, p. 10.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 2002/59/EC is amended as follows:

(1) Article 27 is replaced by the following:

*'Article 27*

#### **Amendments**

1. Within the scope of this Directive as defined in Article 2, the Commission is empowered to adopt delegated acts in accordance with Article 27a amending references to Union and IMO instruments in this Directive and the definitions in Article 3 and the Annexes in order to bring them into line with provisions of Union or international law which have been adopted or amended or which have entered into force.

2. Within the scope of this Directive as defined in Article 2, the Commission is empowered to adopt delegated acts in accordance with Article 27a amending Annexes I, III and IV in the light of technical progress and experience gained with this Directive.'

(2) the following Article is inserted:

*'Article 27a*

#### **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 27 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 27 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 27 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.

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

(3) Article 28 is deleted.

3. Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships<sup>(42)</sup>

In order to update the list of Union acts referring to the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) in Regulation (EC) No 2099/2002, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend that Regulation to include a reference to the Union acts conferring powers on the COSS that have entered into force. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 2099/2002 is amended as follows:

(1) in Article 3, paragraph 3 is deleted;

(2) Article 7 is replaced by the following:

*'Article 7*

**Powers of COSS and amendments**

COSS shall exercise the powers conferred on it by virtue of the Union maritime legislation in force.

The Commission is empowered to adopt delegated acts in accordance with Article 7a amending point 2 of Article 2 in order to include a reference to the Union acts conferring powers on COSS that have entered into force following the adoption of this Regulation.;

(3) the following Article is inserted:

*'Article 7a*

**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.

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<sup>(42)</sup> OJ L 324, 29.11.2002, p. 1.

2. The power to adopt delegated acts referred to in Article 7 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 7 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 7 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.

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

4. Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships <sup>(43)</sup>

In order to adapt Directive 2003/25/EC to technical progress, to developments at international level and to experience gained in its implementation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend the Annexes to that Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 2003/25/EC is amended as follows:

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

*Article 10*

**Amendment of Annexes**

The Commission is empowered to adopt delegated acts in accordance with Article 10a amending the Annexes in order to take account of developments at international level, in particular in the IMO, and to improve the effectiveness of this Directive in the light of experience and technical progress.;

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<sup>(43)</sup> OJ L 123, 17.5.2003, p. 22.

(2) the following Article is inserted:

*'Article 10a*

**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 10 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 10 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 10 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.

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

(3) Article 11 is deleted.

5. Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC <sup>(44)</sup>

In order to adapt Directive 2003/59/EC to scientific and technical progress, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annexes I and II to that Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

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<sup>(44)</sup> OJ L 226, 10.9.2003, p. 4.

Accordingly, Directive 2003/59/EC is amended as follows:

(1) Article 11 is replaced by the following:

*'Article 11*

**Adaptation to scientific and technical progress**

The Commission is empowered to adopt delegated acts in accordance with Article 11a amending Annexes I and II in order to adapt them to scientific and technical progress.;

(2) the following Article is inserted:

*'Article 11a*

**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 11 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 11 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 11 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.

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

(3) Article 12 is deleted.

6. Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators <sup>(45)</sup>

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<sup>(45)</sup> OJ L 138, 30.4.2004, p. 1.

In order to adapt Regulation (EC) No 785/2004 to the evolution of international law, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend certain values in that Regulation in the light of amendments to international agreements. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 785/2004 is amended as follows:

(1) in Article 6, paragraph 5 is replaced by the following:

'5. The Commission is empowered to adopt delegated acts in accordance with Article 8a amending the values referred to in paragraphs 1, 2 and 3 of this Article where amendments to the relevant international agreements make this necessary.;

(2) in Article 7, paragraph 2 is replaced by the following:

'2. The Commission is empowered to adopt delegated acts in accordance with Article 8a amending the values referred to in paragraph 1 of this Article where amendments to the relevant international agreements make this necessary.;

(3) the following Article is inserted:

*'Article 8a*

**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 6(5) and Article 7(2) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 6(5) and Article 7(2) 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 6(5) and Article 7(2) shall enter into force only if no objection has been expressed either by the European Parliament or 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.

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

(4) in Article 9, paragraph 3 is deleted.

7. Regulation (EC) No 789/2004 of the European Parliament and of the Council of 21 April 2004 on the transfer of cargo and passenger ships between registers within the Community and repealing Council Regulation (EEC) No 613/91 <sup>(46)</sup>

In order to adapt Regulation (EC) No 789/2004 to developments at international level, in particular in the International Maritime Organisation, and to improve the effectiveness of that Regulation in the light of experience and technical progress, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend certain definitions in that Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 789/2004 is amended as follows:

(1) in Article 7, paragraph 3 is deleted;

(2) in Article 9, paragraph 1 is replaced by the following:

'1. Within the scope of this Regulation as defined in Article 3, the Commission is empowered to adopt delegated acts in accordance with Article 9a amending the definitions in Article 2 in order to take account of developments at international level, in particular in the IMO, and to improve the effectiveness of this Regulation in the light of experience and technical progress.;

(3) the following Article is inserted:

*'Article 9a*

**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.

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<sup>(46)</sup> OJ L 138, 30.4.2004, p. 19.

2. The power to adopt delegated acts referred to in Article 9(1) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 9(1) 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 Articles 9(1) 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.

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

8. Directive 2005/44/EC of the European Parliament and of the Council of 7 September 2005 on harmonised river information services (RIS) on inland waterways in the Community <sup>(47)</sup>

In order to adapt Directive 2005/44/EC to technical progress and to take into account experience gained from its application, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annexes I and II to that Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

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<sup>(47)</sup> OJ L 255, 30.9.2005, p. 152.

Accordingly, Directive 2005/44/EC is amended as follows:

(1) Article 10 is replaced by the following:

*'Article 10*

**Amendments to Annexes I and II**

The Commission is empowered to adopt delegated acts in accordance with Article 10a amending Annexes I and II in the light of the experience gained from the application of this Directive and in order to adapt those Annexes to technical progress.;

(2) the following Article is inserted:

*'Article 10a*

**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 10 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 10 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 10 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.

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

(3) in Article 11, paragraph 4 is deleted.

9. Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security <sup>(48)</sup>

In order to update the technical measures necessary to ensure port security on a regular basis, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annexes I to IV to Directive 2005/65/EC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

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<sup>(48)</sup> OJ L 310, 25.11.2005, p. 28.



Accordingly, Directive 2005/65/EC is amended as follows:

(1) Article 14 is replaced by the following:

*'Article 14*

**Amendments to Annexes I to IV**

The Commission is empowered to adopt delegated acts in accordance with Article 14a amending Annexes I to IV in order to adapt them to the experience gained in their implementation without broadening the scope of this Directive.

Where, in the case of amendments required to adapt Annexes I to IV, imperative grounds of urgency so require, the procedure provided for in Article 14b shall apply to delegated acts adopted pursuant to this Article.;

(2) the following Articles are inserted:

*'Article 14a*

**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 14 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 14 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 14 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.

*Article 14b***Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 14a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

(3) Article 15 is deleted.

10. Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC <sup>(49)</sup>

In order to adapt Regulation (EC) No 2111/2005 to scientific and technical progress and to specify further the applicable procedures, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend the Annex to that Regulation and to supplement that Regulation with detailed rules in respect of certain procedures. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 2111/2005 is amended as follows:

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

'2. The common criteria for imposing an operating ban on an air carrier, which shall be based on the relevant safety standards, are set out in the Annex and are hereafter referred to as "common criteria".

The Commission is empowered to adopt delegated acts in accordance with Article 14a amending the Annex in order to modify the common criteria to take account of scientific and technical developments.;

(2) Article 8 is replaced by the following:

*'Article 8*

**Detailed rules**

The Commission is empowered to adopt delegated acts in accordance with Article 14a in order to supplement this Regulation by laying down detailed rules in respect of the procedures referred to in this Chapter taking due account of the need for decisions to be taken swiftly on updating the Community list.

<sup>(49)</sup> OJ L 344, 27.12.2005, p. 15.

Where, in the case of measures referred to in the first paragraph, imperative grounds of urgency so require, the procedure provided for in Article 14b shall apply to delegated acts adopted pursuant to this Article.;

(3) the following Articles are inserted:

*Article 14a*

#### **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 3(2) and Article 8 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 3(2) and Article 8 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 3(2) and Article 8 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of one month 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 one month at the initiative of the European Parliament or of the Council.

*Article 14b*

#### **Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 14a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

(4) in Article 15, paragraph 4 is deleted.

11. Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the implementation of the International Safety Management Code within the Community and repealing Council Regulation (EC) No 3051/95 <sup>(50)</sup>

In order to update the provisions concerning the implementation of the International Safety Management Code, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annex II to Regulation (EC) No 336/2006. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 336/2006 is amended as follows:

(1) in Article 11, paragraph 2 is replaced by the following:

'2. Within the scope of this Regulation as defined in Article 3, the Commission is empowered to adopt delegated acts in accordance with Article 11a amending Annex II in order to take account of developments at international level and in particular in the IMO, or to improve the effectiveness of this Regulation in the light of the experience gained in its implementation.;

(2) the following Article is inserted:

*'Article 11a*

**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 11(2) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 11(2) 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 (\*).

<sup>(50)</sup> OJ L 64, 4.3.2006, p. 1.

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 11(2) 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.

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

(3) in Article 12, paragraph 3 is deleted.

12. Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods <sup>(51)</sup>

In order to adapt Directive 2008/68/EC to technical and scientific progress, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend the Annexes to that Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 2008/68/EC is amended as follows:

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

'1. The Commission is empowered to adopt delegated acts in accordance with Article 8a amending the Annexes in order to take account of amendments to the ADR, RID and ADN, in particular those relating to scientific and technical progress, including the use of technologies for tracking and tracing.;

(2) the following Article is inserted:

*'Article 8a*

**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 8(1) shall be conferred on the Commission for a period of five years from 26 July 2019. 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.

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<sup>(51)</sup> OJ L 260, 30.9.2008, p. 13.

3. The delegation of power referred to in Article 8(1) 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 8(1) 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.

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

(3) in Article 9, paragraph 3 is deleted.

13. Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations <sup>(52)</sup>

In order to adapt Directive 2009/15/EC to the evolution of relevant international instruments and to modify the maximum amounts payable to compensate the injured parties, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend that Directive so as to:

- incorporate subsequent amendments to certain international conventions, protocols, codes and resolutions related thereto, which have entered into force,
- alter certain amounts specified therein.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 2009/15/EC is amended as follows:

(1) the following Article is inserted:

*'Article 5a*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

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<sup>(52)</sup> OJ L 131, 28.5.2009, p. 47.

2. The power to adopt delegated acts referred to in Article 7(1) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 7(1) 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 7(1) 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.

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

(2) in Article 6, paragraph 3 is deleted;

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

'1. The Commission is empowered to adopt delegated acts in accordance with Article 5a amending this Directive, without broadening its scope, in order to:

(a) incorporate, for the purposes of this Directive, subsequent amendments to the international conventions, protocols, codes and resolutions related thereto referred to in point (d) of Article 2, Article 3(1) and Article 5(2), which have entered into force;

(b) alter the amounts specified in point (b)(ii) and (iii) of Article 5(2).'

14. Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations <sup>(53)</sup>

In order to complete Regulation (EC) No 391/2009 and to adapt it to the evolution of international rules, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission:

— to amend the minimum criteria set out in Annex I to that Regulation taking into account, in particular, the relevant decisions of the IMO,

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<sup>(53)</sup> OJ L 131, 28.5.2009, p. 11.

- to supplement that Regulation with criteria for the measurement of the effectiveness of the rules and procedures as well as the performance of the recognised organisations as regards the safety of, and the prevention of pollution from, their classed ships, having particular regard to the data produced by the Paris Memorandum of Understanding on Port State Control or by other similar schemes,
- to supplement that Regulation with criteria for determining when such performance is to be considered an unacceptable threat to safety or the environment, which may take into account specific circumstances affecting smaller-sized or highly specialised organisations,
- to supplement that Regulation with detailed rules concerning fines and periodic penalty payments and the withdrawal of recognition of ship inspection and survey organisations.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 391/2009 is amended as follows:

(1) in Article 12, paragraph 4 is deleted;

(2) in Article 13, paragraph 1 is replaced by the following:

'1. The Commission is empowered to adopt delegated acts in accordance with Article 14a amending Annex I, without broadening its scope, in order to update the minimum criteria set out therein, taking into account, in particular, the relevant decisions of the IMO.;

(3) in Article 14, paragraphs 1 and 2 are replaced by the following:

'1. The Commission is empowered to adopt delegated acts in accordance with Article 14a in order to supplement this Regulation by establishing the following:

- (a) criteria to measure the effectiveness of the rules and procedures as well as the performance of the recognised organisations as regards the safety of, and the prevention of pollution from, their classed ships, having particular regard to the data produced by the Paris Memorandum of Understanding on Port State Control or by other similar schemes;
- (b) criteria to determine when such performance is to be considered an unacceptable threat to safety or the environment, which may take into account specific circumstances affecting smaller-sized or highly specialised organisations.

2. The Commission is empowered to adopt delegated acts in accordance with Article 14a in order to supplement this Regulation by establishing detailed rules on the imposition of fines and periodic penalty payments pursuant to Article 6, and, if necessary, regarding the withdrawal of recognition of ship inspection and survey organisations pursuant to Article 7.;



(4) the following Article is inserted:

*'Article 14a*

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 13(1) and Article 14(1) and (2) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 13(1) and Article 14(1) and (2) 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 13(1) and Article 14(1) and (2) 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.'

15. Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents<sup>(54)</sup>

In order to adapt Regulation (EC) No 392/2009 to other Union and international rules, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission:

- to amend Annex I to that Regulation so as to incorporate amendments to the provisions of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended by the Protocol of 2002,
- to amend the limits set out in Annex I to that Regulation for ships of Class B under Article 4 of Directive 2009/45/EC of the European Parliament and of the Council<sup>(55)</sup>,
- to amend Annex II to that Regulation so as to incorporate amendments to the provisions of the IMO Guidelines.

<sup>(54)</sup> OJ L 131, 28.5.2009, p. 24.

<sup>(55)</sup> Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (OJ L 163, 25.6.2009, p. 1).

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 392/2009 is amended as follows:

(1) Article 9 is replaced by the following:

*'Article 9*

#### **Amendment of the Annexes**

1. The Commission is empowered to adopt delegated acts in accordance with Article 9a amending Annex I to this Regulation in order to incorporate the amendments to the limits set out in Article 3(1), Article 4bis(1), Article 7(1) and Article 8 of the Athens Convention to take account of decisions taken pursuant to Article 23 of that Convention.

The Commission is empowered to adopt, by 31 December 2016, on the basis of a suitable impact assessment, delegated acts in accordance with Article 9a amending the limits set out in Annex I to this Regulation for ships of Class B under Article 4 of Directive 2009/45/EC of the European Parliament and of the Council (\*), taking into consideration the consequences for fares and the ability of the market to obtain affordable insurance coverage at the level required against the policy background of strengthening passengers' rights, as well as the seasonal nature of some of the traffic.

2. The Commission is empowered to adopt delegated acts in accordance with Article 9a amending Annex II in order to incorporate amendments to the provisions of the IMO Guidelines.

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(\*) Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (OJ L 163, 25.6.2009, p. 1).;

(2) the following Article is inserted:

*'Article 9a*

#### **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 9(1) and (2) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 9(1) and (2) 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 9(1) and (2) 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.

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

(3) Article 10 is deleted.

#### X. HEALTH AND FOOD SAFETY

1. Regulation (EC) No 141/2000 of the European Parliament and of the Council of 16 December 1999 on orphan medicinal products <sup>(56)</sup>

In order to achieve the objectives of Regulation (EC) No 141/2000, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement that Regulation with definitions of 'similar medicinal product' and 'clinical superiority'. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 141/2000 is amended as follows:

(1) in Article 8, paragraph 4 is replaced by the following:

'4. The Commission is empowered to adopt delegated acts in accordance with Article 10b in order to supplement this Regulation by adopting the definitions of "similar medicinal product" and "clinical superiority".';

(2) in Article 10a, paragraph 3 is deleted;

(3) the following Article is inserted:

*'Article 10b*

#### **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.

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<sup>(56)</sup> OJ L 18, 22.1.2000, p. 1.

2. The power to adopt delegated acts referred to in Article 8(4) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 8(4) 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 8(4) 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.

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

2. Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC <sup>(57)</sup>

In order to achieve the objectives of Directive 2001/18/EC, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend the Annexes to that Directive and to supplement that Directive with:

- derogatory criteria and information requirements for the notification for the placing on the market of certain types of genetically modified organisms (GMOs),
- minimum thresholds below which products where adventitious or technically unavoidable traces of authorised GMOs cannot be excluded do not have to be labelled as GMOs,
- lower thresholds than 0,9 %, below which the labelling requirements set out in the Directive do not apply to traces of GMOs in products intended for direct processing,
- specific labelling requirements for GMOs that are not placed on the market within the meaning of this Directive.

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<sup>(57)</sup> OJ L 106, 17.4.2001, p. 1.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 2001/18/EC is amended as follows:

(1) Article 16 is amended as follows:

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

'The Commission is empowered to adopt delegated acts in accordance with Article 29a in order to supplement this Directive by establishing the criteria and information requirements referred to in paragraph 1, as well as any appropriate requirements for a summary of the dossier, after consultation of the relevant Scientific Committee. The criteria and information requirements shall be such as to ensure a high level of safety of human health and the environment and shall be based on the available scientific evidence concerning such safety and on experience gained from the release of comparable GMOs.');

(b) paragraph 3 is replaced by the following:

'3. Before adopting delegated acts pursuant to paragraph 2, the Commission shall make the proposal available to the public. The public may make comments to the Commission within 60 days. The Commission shall forward any such comments, together with an analysis, to the experts referred to in Article 29a(4).';

(2) Article 21 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. For products where adventitious or technically unavoidable traces of authorised GMOs cannot be excluded, the Commission is empowered to adopt delegated acts in accordance with Article 29a in order to supplement this Directive by establishing minimum thresholds below which these products shall not have to be labelled in accordance with paragraph 1 of this Article. Threshold levels shall be established according to the product concerned.');

(b) in paragraph 3, the second subparagraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in accordance with Article 29a in order to supplement this Directive by establishing the thresholds referred to in the first subparagraph of this paragraph.');

(3) in Article 26, paragraph 2 is replaced by the following:

'2. The Commission is empowered to adopt delegated acts in accordance with Article 29a amending Annex IV by establishing specific labelling requirements referred to in paragraph 1, without duplicating or creating inconsistencies with labelling provisions laid down in existing Union legislation. In so doing, account should be taken, as appropriate, of labelling provisions established by Member States in accordance with Union legislation.'

(4) Article 27 is replaced by the following:

*'Article 27*

**Adaptation of the Annexes to technical progress**

The Commission is empowered to adopt delegated acts in accordance with Article 29a amending Sections C and D of Annex II, Annexes III to VI, and Section C of Annex VII, in order to adapt them to technical progress.'

(5) the following Article is inserted:

*'Article 29a*

**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 16(2), Article 21(2) and (3), Article 26(2) and Article 27 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 delegations of power referred to in Article 16(2), Article 21(2) and (3), Article 26(2) and Article 27 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 16(2), Article 21(2) and (3), Article 26(2) and Article 27 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.

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

(6) in Article 30, paragraph 3 is deleted.

3. Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use <sup>(58)</sup>

In order to achieve the objectives of Directive 2001/83/EC, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission:

- to amend that Directive in respect of one of the conditions that homeopathic medicinal products must satisfy in order to benefit from a special, simplified registration procedure if new scientific evidence so warrants,
- to amend that Directive in respect of the types of operations that are considered to constitute manufacture of active substances used as starting materials, to take account of scientific and technical progress,
- to amend Annex I to that Directive to take account of technical and scientific progress,
- to supplement that Directive by specifying the principles and guidelines of good manufacturing practices for medicinal products.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 2001/83/EC is amended as follows:

(1) in Article 14(1), the second subparagraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in accordance with Article 121a amending the third indent of the first subparagraph if new scientific evidence so warrants.;

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<sup>(58)</sup> OJ L 311, 28.11.2001, p. 67.

(2) in Article 46a, paragraph 2 is replaced by the following:

'2. The Commission is empowered to adopt delegated acts in accordance with Article 121a to amend paragraph 1 to take account of scientific and technical progress.;

(3) in Article 47, the first paragraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in accordance with Article 121a in order to supplement this Directive by specifying the principles and guidelines of good manufacturing practices for medicinal products referred to in Article 46(f).;

(4) Article 120 is replaced by the following:

*'Article 120*

The Commission is empowered to adopt delegated acts in accordance with Article 121a amending Annex I to take account of scientific and technical progress.;

(5) in Article 121, paragraph 2a is deleted;

(6) Article 121a is replaced by the following:

*'Article 121a*

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 14(1), Article 22b, Article 23b, Article 46a, Article 47, Article 52b, Article 54a and Article 120 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 14(1), Article 22b, Article 23b, Article 46a, Article 47, Article 52b, Article 54a and Article 120 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 14(1), Article 22b, Article 23b, Article 46a, Article 47, Article 52b, Article 54a and Article 120 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.

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

4. Directive 2002/32/EC of the European Parliament and of the Council of 7 May 2002 on undesirable substances in animal feed<sup>(59)</sup>

In order to achieve the objectives of Directive 2002/32/EC, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annexes I and II to that Directive to adapt them to technical progress and to supplement that Directive with acceptability criteria for detoxification processes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 2002/32/EC is amended as follows:

(1) in Article 7(2), the first and second subparagraphs are replaced by the following:

'2. An immediate decision shall be taken as to whether Annexes I and II should be amended. The Commission is empowered to adopt delegated acts in accordance with Article 10a amending those Annexes.

Where, in the case of those amendments, imperative grounds of urgency so require, the procedure provided for in Article 10b shall apply to delegated acts adopted pursuant to this Article.

The Member State may maintain the measures it has implemented as long as the Commission has not taken any decision.;

(2) Article 8 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The Commission is empowered to adopt delegated acts in accordance with Article 10a amending Annexes I and II to adapt them to the scientific and technical developments.

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<sup>(59)</sup> OJ L 140, 30.5.2002, p. 10.

Where, in the case of those amendments, imperative grounds of urgency so require, the procedure provided for in Article 10b shall apply to delegated acts adopted pursuant to this Article.;

(b) in paragraph 2, the second indent is replaced by the following

‘— is empowered to adopt delegated acts in accordance with Article 10a in order to supplement this Directive by defining acceptability criteria for detoxification processes as a complement to the criteria provided for products intended for animal feed which have undergone such processes.’;

(3) the following Articles are inserted:

*Article 10a*

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 7(2) and Article 8(1) and (2) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 7(2) and Article 8(1) and (2) 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 7(2) and Article 8(1) and (2) 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 from the 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.

*Article 10b*

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 10a(6). In such case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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

(4) in Article 11, paragraphs 3 and 4 are deleted.

5. Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety <sup>(60)</sup>

In order to achieve the objectives of Regulation (EC) No 178/2002, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend that Regulation as regards the number and names of the Scientific Panels, and to supplement that Regulation with the procedure to be applied by the Authority to the requests for a scientific opinion, with the criteria for inclusion of an institute on the list of competent organisations designated by the Member States, and with the arrangements for setting out harmonised quality requirements and the financial rules governing any financial support. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 178/2002 is amended as follows:

(1) in Article 28(4), the second subparagraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in accordance with Article 57a amending the first subparagraph as regards the number and names of the Scientific Panels, in the light of technical and scientific development, at the Authority's request.;

(2) Article 29(6) is replaced by the following:

'6. In order to apply this Article, the Commission after consulting the Authority shall adopt:

- (a) delegated acts in accordance with Article 57a in order to supplement this Regulation by establishing the procedure to be applied by the Authority to the requests for a scientific opinion;
- (b) implementing acts laying down the guidelines governing the scientific evaluation of substances, products or processes which are subject, under Union legislation, to a system of prior authorisation or entry on a positive list, in particular where Union legislation makes provision for, or authorises, a dossier to be presented for this purpose by the applicant. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 58(2).;

<sup>(60)</sup> OJ L 31, 1.2.2002, p. 1.

(3) in Article 36(3), the first subparagraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in accordance with Article 57a in order to supplement this Regulation by establishing the criteria for the inclusion of an institute on the list of competent organisations designated by the Member States, the arrangements for setting out harmonised quality requirements and the financial rules governing any financial support.:'

(4) in Chapter V, the title of Section 1 is replaced by the following:

'SECTION 1

**EXERCISE OF THE DELEGATION, COMMITTEE AND MEDIATION PROCEDURES';**

(5) the following Article is inserted after the title of Section 1:

'Article 57a

**Exercise of the delegation**

1. The power to adopt delegated acts is conferred upon the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 28(4), Article 29(6) and Article 36(3) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 28(4), Article 29(6) and Article 36(3) 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 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 28(4), Article 29(6) and Article 36(3) 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.

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

(6) in Article 58, paragraph 3 is deleted.

6. Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC <sup>(61)</sup>

In order to achieve the objectives of Regulation (EC) No 1830/2003, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement that Regulation by establishing a system for the development and assignment of unique identifiers to genetically modified organisms. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Inter-institutional 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.

Accordingly, Regulation (EC) No 1830/2003 is amended as follows:

- (1) Article 8 is replaced by the following:

*'Article 8*

#### **Unique identifiers**

The Commission is empowered to adopt delegated acts in accordance with Article 9a in order to supplement this Regulation by establishing and adapting a system for the development and assignment of unique identifiers to GMOs taking account of developments in international fora.;

- (2) the following Article is inserted:

*'Article 9a*

#### **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 8 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 8 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 (\*).

<sup>(61)</sup> OJ L 268, 18.10.2003, p. 24.

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 8 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.

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

(3) in Article 10, paragraph 2 is deleted;

(4) in Article 13, paragraph 2 is deleted.

7. Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition <sup>(62)</sup>

In order to achieve the objectives of Regulation (EC) No 1831/2003, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annexes I to IV to that Regulation in order to adapt them to technical progress and to supplement that Regulation with rules to allow for simplified provisions for the authorisation of additives which have been authorised for use in food. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 1831/2003 is amended as follows:

(1) in Article 3, paragraph 5 is replaced by the following:

'5. The Commission is empowered to adopt delegated acts in accordance with Article 21a amending Annex IV in order to adapt the general conditions set out therein to technological progress or scientific development.');

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

'3. The Commission is empowered to adopt delegated acts in accordance with Article 21a amending Annex I in order to adapt feed additive categories and functional groups as a result of technological progress or scientific development.');

(3) in Article 7(5), the third subparagraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in accordance with Article 21a in order to supplement this Regulation by establishing rules to allow for simplified provisions for the authorisation of additives which have been authorised for use in food.');

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<sup>(62)</sup> OJ L 268, 18.10.2003, p. 29.

(4) in Article 16, paragraph 6 is replaced by the following:

'6. The Commission is empowered to adopt delegated acts in accordance with Article 21a amending Annex III to take technological progress and scientific development into account.;

(5) in Article 21, the fourth paragraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in accordance with Article 21a amending Annex II.;

(6) the following Article is inserted:

*'Article 21a*

**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 3(5), Article 6(3), Article 7(5), Article 16(6) and Article 21 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 3(5), Article 6(3), Article 7(5), Article 16(6) and Article 21 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 3(5), Article 6(3), Article 7(5), Article 16(6) and Article 21 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.

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

(7) in Article 22, paragraph 3 is deleted.

8. Regulation (EC) No 2065/2003 of the European Parliament and of the Council of 10 November 2003 on smoke flavourings used or intended for use in or on foods <sup>(63)</sup>

In order to achieve the objectives of Regulation (EC) No 2065/2003, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend the Annexes to that Regulation following a request to the Authority for scientific and/or technical assistance and to supplement that Regulation with quality criteria for validated analytical methods. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 2065/2003 is amended as follows:

- (1) in Article 17, paragraph 3 is replaced by the following:

'3. The Commission is empowered to adopt delegated acts in accordance with Article 18a in order to supplement this Regulation by establishing quality criteria for validated analytical methods referred to in point 4 of Annex II, including substances to be measured. Those delegated acts shall take into account available scientific evidence.;

- (2) in Article 18, paragraph 1 is replaced by the following:

'1. The Commission is empowered to adopt delegated acts in accordance with Article 18a amending the Annexes following a request to the Authority for scientific and/or technical assistance.;

- (3) the following Article is inserted:

*'Article 18a*

**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 17(3) and Article 18(1) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 17(3) and Article 18(1) 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 (\*).

<sup>(63)</sup> OJ L 309, 26.11.2003, p. 1.



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 17(3) and Article 18(1) 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.

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

(4) in Article 19, paragraph 3 is deleted.

9. Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin <sup>(64)</sup>

In order to achieve the objectives of Regulation (EC) No 853/2004, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annexes II and III to that Regulation and to supplement that Regulation in respect of the use of substances other than potable water to remove surface contamination from products of animal origin, in respect of amendments of the special guarantees relating to the placing of certain food of animal origin on the market in Sweden or Finland and in respect of derogations from Annexes II and III to that Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 853/2004 is amended as follows:

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

'2. Food business operators shall not use any substance other than potable water or, when Regulation (EC) No 852/2004 or this Regulation permits its use, clean water, to remove surface contamination from products of animal origin, unless use of the substance has been approved by the Commission. For that purpose the Commission is empowered to adopt delegated acts in accordance with Article 11a supplementing this Regulation. Food business operators shall also comply with any conditions for use that may be adopted under the same procedure. The use of an approved substance shall not affect the food business operator's duty to comply with the requirements of this Regulation.;

(2) in Article 8(3), point (a) is replaced by the following:

'(a) The Commission is empowered to adopt delegated acts in accordance with Article 11a amending paragraphs 1 and 2 of this Article in order to update the requirements set out in those paragraphs, taking into account changes in Member States' control programmes or the adoption of microbiological criteria in accordance with Regulation (EC) No 852/2004.;

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<sup>(64)</sup> OJ L 139, 30.4.2004, p. 55.

(3) Article 9 is deleted;

(4) in Article 10, paragraphs 1 and 2 are replaced by the following:

‘1. The Commission is empowered to adopt delegated acts in accordance with Article 11a amending Annexes II and III. The amendments shall have the aim of ensuring and facilitating the achievement of the objectives of this Regulation, taking into account the relevant risk factors, and shall be justified on the basis of:

- (a) the experience gained by food business operators and/or competent authorities, in particular on the implementation of HACCP-based systems pursuant to Article 5;
- (b) the experience gained by the Commission, in particular on the outcome of its audits;
- (c) technological developments and their practical consequences, and consumer expectations with regard to food composition;
- (d) scientific advice, particularly new risk assessments;
- (e) microbiological and temperature criteria for foodstuffs;
- (f) changes in patterns of consumption.

The amendments referred to in the first subparagraph shall concern:

- (a) the requirements on the identification marking of products of animal origin;
- (b) the objectives of HACCP-based procedures;
- (c) the requirements on the food chain information;
- (d) the specific hygiene requirements for the premises, including means of transport, where products of animal origin are produced, handled, processed, stored or distributed;
- (e) the specific hygiene requirements for the operations involving the production, handling, processing, storage, transport or distribution of products of animal origin;
- (f) the rules for the transport of meat while it is warm;

- (g) the health standards or checks, where there is scientific evidence indicating that they are necessary to protect public health;
- (h) the extension of Annex III, Section VII, Chapter IX, to live bivalve molluscs other than pectinidae;
- (i) the criteria for determining when epidemiological data indicate that a fishing ground does not present a health hazard with regard to the presence of parasites and, consequently, for determining when the competent authority may authorise food business operators not to freeze fishery products in accordance with Annex III, Section VIII, Chapter III, Part D;
- (j) the additional health standards for live bivalve molluscs in cooperation with the relevant Union Reference Laboratory, including:
  - (i) limit values and analysis methods for other marine biotoxins;
  - (ii) virus testing procedures and virological standards; and
  - (iii) sampling plans and the methods and analytical tolerances to be applied to check compliance with the health standards;

2. The Commission is empowered to adopt delegated acts in accordance with Article 11a in order to supplement this Regulation by granting derogations from Annex II and III, taking into account the relevant risk factors and provided that such derogations do not affect the achievement of the following objectives of this Regulation:

- (a) to facilitate the fulfilment, by small businesses, of the requirements laid down in the Annexes;
- (b) to enable the continued use of traditional methods at any of the stages of production, processing or distribution of food;
- (c) to accommodate the needs of food businesses situated in regions that are subject to special geographic constraints;
- (d) to facilitate the work of establishments producing raw material which is intended for the production of highly refined food products and which has undergone a treatment ensuring its safety.;

(5) Article 11 is amended as follows:

- (a) the introductory phrase is replaced by the following:

‘Without prejudice to the general application of Article 9 and Article 10(1), the Commission may lay down the following measures by means of implementing act. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 12(2).’;

- (b) points 1, 5, 6, 7 and 8 are deleted;

(6) the following Article is inserted:

*Article 11a*

**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 3(2), Article 8(3)(a) and Article 10(1) and (2) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 powers referred to in Article 3(2), Article 8(3)(a) and Article 10(1) and (2) 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 3(2), Article 8(3)(a) and Article 10(1) and (2) shall enter into force only if no objection has been expressed either by the European Parliament or 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 the Council.

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

(7) in Article 12, paragraph 3 is deleted.

10. Regulation (EC) No 183/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for feed hygiene <sup>(65)</sup>

In order to achieve the objectives of Regulation (EC) No 183/2005, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annexes I, II and III to that Regulation in order to adapt them to technical progress and to supplement that Regulation by defining the specific microbiological criteria and targets, by requiring approval of feed business establishments and by granting derogations from Annexes I, II and III to that Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 183/2005 is amended as follows:

- (1) in Article 5(3), the second subparagraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in accordance with Article 30a in order to supplement this Regulation by defining the criteria and targets referred to in points (a) and (b) of the first subparagraph.;

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

'(3) approval is required by a Delegated Regulation that the Commission is empowered to adopt in accordance with Article 30a in order to supplement this Regulation.;

- (3) in Article 27, the second paragraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in accordance with Article 30a to amend Annexes I, II and III.;

- (4) Article 28 is replaced by the following:

*Article 28*

**Derogations from Annexes I, II and III**

The Commission is empowered to adopt delegated acts in accordance with Article 30a in order to supplement this Regulation by granting derogations from Annexes I, II and III for particular reasons, provided that such derogations do not affect the achievement of the objectives of this Regulation.;

<sup>(65)</sup> OJ L 35, 8.2.2005, p. 1.

(5) the following Article is inserted:

*Article 30a*

**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 5(3), point (3) of Article 10, Article 27 and Article 28 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 5(3), point (3) of Article 10, Article 27 and Article 28 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 5(3), point (3) of Article 10, Article 27 and Article 28 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.

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

(6) in Article 31, paragraph 3 is deleted.

11. Regulation (EC) No 1394/2007 of the European Parliament and of the Council of 13 November 2007 on advanced therapy medicinal products and amending Directive 2001/83/EC and Regulation (EC) No 726/2004 <sup>(66)</sup>

In order to achieve the objectives of Regulation (EC) No 1394/2007, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend the Annexes to that Regulation to adapt them to technical and scientific progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 1394/2007 is amended as follows:

- (1) Article 24 is replaced by the following:

*'Article 24*

**Amendments to the Annexes**

The Commission is empowered to adopt delegated acts in accordance with Article 25a amending the Annexes to adapt them to technical and scientific progress, after consulting the Agency.;

- (2) the following Article is inserted:

*'Article 25a*

**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 24 shall be conferred on the Commission for a period of five years from 26 July 2019. 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 24 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 (\*).

<sup>(66)</sup> OJ L 324, 10.12.2007, p. 121.

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 24 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.

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

(3) in Article 26, paragraph 3 is deleted.

12. Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides <sup>(67)</sup>

In order to set a framework for Union action to achieve the sustainable use of pesticides, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend Annexes I to IV to Directive 2009/128/EC in order to take account of scientific and technical progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. 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.

Accordingly, Directive 2009/128/EC is amended as follows:

(1) in Article 5, paragraph 3 is replaced by the following:

'3. The Commission is empowered to adopt delegated acts in accordance with Article 20a amending Annex I in order to take account of scientific and technical progress.;

(2) in Article 8, paragraph 7 is replaced by the following:

'7. The Commission is empowered to adopt delegated acts in accordance with Article 20a amending Annex II in order to take account of scientific and technical progress.;

(3) in Article 14(4), the second subparagraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in accordance with Article 20a amending Annex III in order to take account of scientific and technical progress.;

(4) in Article 15(1), the second subparagraph is replaced by the following:

'The Commission shall be empowered to adopt delegated acts in accordance with Article 20a amending Annex IV in order to take account of scientific and technical progress.;

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<sup>(67)</sup> OJ L 309, 24.11.2009, p. 71.



(5) the following Article is inserted:

*'Article 20a*

**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 5(3), Article 8(7), Article 14(4) and Article 15(1) shall be conferred on the Commission for a period of five years from 26 July 2019. 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 5(3), Article 8(7), Article 14(4) and Article 15(1) 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 5(3), Article 8(7), Article 14(4) and Article 15(1) shall enter into force only if no objection has been expressed either by the European Parliament or 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.

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

(6) in Article 21, paragraph 2 is deleted.

## XI. TAXATION AND CUSTOMS UNION

Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade <sup>(68)</sup>

Under Article 15 of Decision No 70/2008/EC the Commission is empowered to extend certain time limits in accordance with Council Decision 1999/468/EC <sup>(69)</sup>. That empowerment has never been exercised and is no longer needed. Therefore, there is no need to give any empowerment to the Commission. Instead, the empowerment in Decision No 70/2008/EC should be revoked and Articles 15 and 16 of that Decision should be deleted.

Accordingly, in Decision No 70/2008/EC, Articles 15 and 16 are deleted.

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<sup>(68)</sup> OJ L 23, 26.1.2008, p. 21.

<sup>(69)</sup> 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).



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