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Contents

([1]) Text with EEA relevance.

EN

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

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

DECISIONS

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2023/1605

of 22 May 2023

supplementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council as regards the determination of end points in the manufacturing chain of certain organic fertilisers and soil improvers

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) ([1]), and in particular Article 5(2), third subparagraph, thereof,

Whereas:

(1) Regulation (EC) No 1069/2009 lays down public and animal health rules for derived products, in order to prevent and minimise risks to public and animal health arising from those products, and in particular to protect the safety of the food and feed chain. More specifically, it lays down rules as regards the safe treatment, and the processing or transformation of animal by-products into derived products, including rules for the placing on the market and use of organic fertilisers and soil improvers. In addition, Regulation (EC) No 1069/2009, as amended by Regulation (EU) 2019/1009 of the European Parliament and of the Council ([2]), provides that the Commission is empowered to adopt delegated acts to determine end points in the manufacturing chain, beyond which certain derived products are no longer subject to the requirements of Regulation (EC) No 1069/2009.

(2) Regulation (EU) 2019/1009 establishes rules for the making available on the market of EU fertilising products. That Regulation does not apply to derived products which are subject to the requirements of Regulation (EC) No 1069/2009 when made available on the market. Pursuant to Regulation (EU) 2019/1009, certain derived products may become, or be part of, an EU fertilising product provided that an end point in the manufacturing chain of the derived product is reached, thereby ensuring animal and public health safety. Those derived products, which have reached an end point in the manufacturing chain of certain organic fertilisers and soil improvers, will no longer be subject to the requirements of Regulation (EC) No 1069/2009 and will fall only within the scope of Regulation (EU) 2019/1009.

([1]) OJ L 300, 14.11.2009, p. 1.

([2]) Regulation (EU) 2019/1009 of the European Parliament and of the Council of 5 June 2019 laying down rules on the making available on the market of EU fertilising products and amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 and repealing Regulation (EC) No 2003/2003 (OJ L 170, 25.6.2019, p. 1).

(3) On 2 December 2021, the European Food Safety Authority (EFSA) published a Scientific Opinion 'Inactivation of indicator microorganisms and biological hazards by standard and/or alternative processing methods in Category 2 and 3 animal by-products and derived products to be used as organic fertilisers and/or soil improvers' ([3]) (EFSA Scientific Opinion of 2 December 2021). According to that Scientific Opinion, ash of Category 2 and 3 materials which fulfils the requirements set out in Annex III to Commission Regulation (EU) No 142/2011 ([4]), glycerine of Category 2 and 3 materials, and other Category 2 materials derived from the production of biodiesel in accordance with alternative methods for the production of biodiesels or renewable fuels set out in Annex IV to that Regulation, represent a low risk for public and animal health due to safe processing. An end point in the manufacturing chain of those derived products can be determined. Those derived products should reach the end point if they are used as component material in accordance with Regulation (EU) 2019/1009.

(4) Certain derived products are not included in the EFSA Scientific Opinion of 2 December 2021 since they have been recently assessed by other EFSA Scientific Opinions. Compost and biogas digestion residues subject to the standard transformation parameters were assessed in 2015 as safe in the EFSA Scientific Opinion of 13 November 2015 'Risk to public and/or animal health of the treatment of dead-in-shell chicks (Category 2 material) to be used as raw material for the production of biogas or compost with Category 3 approved method' ([5]). An EFSA Scientific Opinion on the revision of the quantitative risk assessment (QRA) of the BSE risk posed by processed animal proteins (PAP) ([6]) was adopted on 17 July 2018 for the purpose of the partial revision of the feed ban laid down in Regulation (EC) No 999/2001 of the European Parliament and of the Council ([7]). Processed manure was assessed by the EFSA Scientific Opinion of 27 April 2021 'Ability of different matrices to transmit African swine fever virus' ([8]) which includes an assessment of the animal health safety of the heat treatment for processed manure.

(5) Certain organic fertilisers and soil improvers require risk mitigation measures to reach an end point in the manufacturing chain to ensure compliance with the feed ban laid down in Regulation (EC) No 999/2001. Under Regulation (EU) No 142/2011, some of those organic fertilisers and soil improvers are required to be mixed with a component that excludes the subsequent use of the mixture for feeding purposes to prevent the introduction of certain transmissible spongiform encephalopathies through fertilisers into the feed chain for farmed animals. It is appropriate to introduce a combination of the existing risk mitigation measures laid down in Regulation (EU) No 142/2011, based on the packaging, labelling and composition.

(6) Derived products should be considered as having reached the end point only if they are manufactured in a fertiliser plant in the Union which is approved in accordance with Article 24(1), point (f), of Regulation (EC) No 1069/2009. An approved fertiliser plant is the last point in the manufacturing chain where derived products are subject to the requirements laid down in Regulation (EC) No 1069/2009 and the place where they become, after reaching an end point, only subject to those laid down in Regulation (EU) 2019/1009,

([3]) *EFSA Journal* 2021;19(12):6932.

([4]) Commission Regulation (EU) No 142/2011 of 25 February 2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive (OJ L 54, 26.2.2011, p. 1).

([5]) *EFSA Journal* 2015;13(11):4306.

([6]) https://efsa.onlinelibrary.wiley.com/doi/full/10.2903/j.efsa.2018.5314 (*EFSA Journal* 2018;16(7):5314).

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

([8]) *EFSA Journal* 2021;19(4): 6558.

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation determines end points in the manufacturing chain for organic fertilisers and soil improvers manufactured in the Union beyond which they are no longer subject to the requirements laid down in Regulation (EC) No 1069/2009, provided that they are used as component materials in EU fertilising products in accordance with Regulation (EU) 2019/1009.

Article 2

Definitions

For the purposes of this Regulation, the definitions laid down in Annex I to Regulation (EU) No 142/2011 apply.

The following definitions also apply:

1. 'EU fertilising product' means a fertilising product as defined in Article 2, point (2), of Regulation (EU) 2019/1009;

2. 'end point' means an end point in the manufacturing chain, beyond which a derived product is no longer subject to the requirements of Regulation (EC) No 1069/2009.

Article 3

End point for certain organic fertilisers and soil improvers

The following derived products, other than those imported into the Union, where they are manufactured in a fertiliser plant approved in accordance with Article 24(1), point (f), of Regulation (EC) No 1069/2009, shall be considered as having reached the end point as organic fertilisers and soil improvers:

(a) ash obtained from Category 2 and 3 materials which fulfils the general and specific requirements set out in Annex III to Regulation (EU) No 142/2011;

(b) residues resulting from the transformation of animal by-products in a biogas plant which fulfil the requirements set out in the following provisions of Annex V to Regulation (EU) No 142/2011:

   (i) Chapter I, Section 1, point 1, point 2(a), (b), (c) and (e), and points 3 and 4;

   (ii) Chapter II;

   (iii) Chapter III, Section 1, point 1, first and last paragraphs, and Section 3, point 1;

(c) compost, which fulfils the requirements, set out the following provisions of Annex V to Regulation (EU) No 142/2011:

   (i) Chapter I, Section 2, points 1, 3 and 4;

   (ii) Chapter II;

   (iii) Chapter III, Section 1, point 2, and Section 3, point 1;

(d) processed manure and processed frass which fulfil the requirements set out in Chapter I, Section 2, points (a), (b), (d) and (e), of Annex XI to Regulation (EU) No 142/2011.

Article 4

End point for certain organic fertilisers and soil improvers conditional upon risk mitigation measures

1. The following derived products, other than those imported into the Union, where they are manufactured in a fertiliser plant approved in accordance with Article 24(1), point (f), of Regulation (EC) No 1069/2009 shall be considered as having reached the end point as organic fertilisers and soil improvers if they are used in the EU fertilising product in not more than 5 % by volume:

(a) glycerine of Category 2 and 3 materials, and other Category 2 material resulting from biodiesel process and the production of renewable fuels which fulfil the requirements set out in Chapter IV, Section 3, point 2(b), (c) and (f), of Annex IV to Regulation (EU) No 142/2011;

(b) Category 3 materials other than glycerine, which fulfil the requirements set out in Chapter IV, Section 3, point 2(b), (c) and (f), of Annex IV to Regulation (EU) No 142/2011;

(c) processed animal protein of Category 3 materials which fulfils the specific requirements for processed animal protein set out in Chapter II, Section 1, point A, point B(1) and (2), point B(3)(a) and point C, of Annex X to Regulation (EU) No 142/2011;

(d) meat-and-bone meal of Category 2 materials processed with the standard processing method 1 set out in Chapter III, point A, of Annex IV and marked with glyceroltriheptanoate (GTH) as set out in Chapter V of Annex VIII to Regulation (EU) No 142/2011;

(e) blood products of Category 3 materials which fulfil the specific requirements for blood products set out in Chapter II, Section 2, of Annex X to Regulation (EU) No 142/2011;

(f) hydrolysed protein, including hydrolysed protein derived from residues coming from the leather or textile industry, which fulfils the specific requirements for hydrolysed protein set out in Chapter II, Section 5, point D, of Annex X to Regulation (EU) No 142/2011;

(g) dicalcium phosphate and tricalcium phosphate which fulfil the specific requirements set out in Chapter II, Section 6 or 7, of Annex X to Regulation (EU) No 142/2011, respectively;

(h) horns, horn products, hooves and hoof products which fulfil the specific requirements set out in Chapter XII of Annex XIII to Regulation (EU) No 142/2011.

2. The derived products referred to in paragraph 1 of this Article which are present in the EU fertilising product in more than 5 % by volume shall be considered as having reached the end point as organic fertilisers and soil improvers if they are packed in ready-to-sell packages for use by the end-user, labelled in accordance with labelling requirements for the EU fertilising products containing derived products laid down in Part I of Annex III to Regulation (EU) 2019/1009 and comply with the conditions laid down either in the following point (a) or in point (b):

(a) the packages weigh no more than 50 kg; or

(b) the packages weigh no more than 1 000 kg of which at least 10 % in volume is one of the following:

  (i) lime;

  (ii) mineral fertilisers; or

  (iii) derived products referred to in Article 3.

Article 5

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, 22 May 2023.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2023/1606

of 30 May 2023

amending Delegated Regulation (EU) 2019/33 as regards certain provisions on protected denominations of origin and protected geographical indications for wine and on the presentation of compulsory particulars for grapevine products and specific rules for the indication and designation of ingredients for grapevine products, and Delegated Regulation (EU) 2018/273 as regards the certification of imported wine products

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([1]), and in particular Article 89, Article 109(3), point (b) and Article 122 thereof,

Whereas:

(1) Regulation (EU) 2021/2117 of the European Parliament and of the Council ([2]) has amended Regulation (EU) No 1308/2013.

(2) In the context of that amendment, the provisions of Articles 6, 10, 12, 14, 15, 20 and 22 of Commission Delegated Regulation (EU) 2019/33 ([3]) have been inserted in Article 96(5) and (6), Article 97(2), Article 98(2), (3), (4) and (5), and Articles 105, 106 and 106a of Regulation (EU) No 1308/2013.

(3) In particular, Article 15 of Delegated Regulation (EU) 2019/33 is no longer useful since it sets out a specific procedure for approval of Union amendments to a product specification – allowing their approvals without vote of the Committee in case no opposition is lodged against that amendment following the publication in the *Official Journal of the European Union* – which has now become the standard procedure for registration of a protected designation of origin or protected geographical indication under Article 99 of Regulation (EU) No 1308/2013, but also for approval of Union amendments to product specifications by virtue of Article 105(3), first subparagraph, of Regulation (EU) No 1308/2013.

(4) For the sake of clarity and ease of use for the operators, Articles 6, 10, 12, 14, 15, 20 and 22 of Delegated Regulation (EU) 2019/33 should be deleted and references to those Articles changed.

(5) Following the addition of a new paragraph 3 in Article 97 of Regulation (EU) No 1308/2013 by Regulation (EU) 2021/2117, the existing paragraph 3 of that Article became paragraph 4. Following the addition of new points, points (a)(iii) and (b)(iii) of Article 93(1) of Regulation (EU) No 1308/2013 became points (a)(iv) and (b)(iv) of that Article respectively. References in Article 5(1), (2) and (3) of Delegated Regulation (EU) 2019/33 to points (a)(iii) and (b)(iii) of Article 93(1) of Regulation (EU) No 1308/2013 and references in point (c)(iii) of Article 11(1) and in point (b) of the second subparagraph of Article 13(1) of Delegated Regulation (EU) 2019/33 to Article 97(3) of Regulation (EU) No 1308/2013 should be adjusted accordingly.

([1]) OJ L 347, 20.12.2013, p. 671.

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

([3]) Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation (OJ L 9, 11.1.2019, p. 2).

(6) Annex III, Section B, point 3, second paragraph of Commission Delegated Regulation (EU) 2019/934 ([4]) provides that as concerns liqueur wines bearing the protected designation of origin 'Condado de Huelva', 'Málaga' and 'Jerez-Xérès-Sherry', the must of raisined grapes to which neutral alcohol of vine origin has been added to prevent fermentation, obtained from the Pedro Ximénez vine variety, may come from the 'Montilla-Moriles' region. However, Article 5(3) of Delegated Regulation (EU) 2019/33 states currently that this derogation only applies to liqueur wines with the protected designation of origin 'Málaga' and 'Jerez-Xérès-Sherry'. To ensure consistency with the provisions of Delegated Regulation (EU) 2019/934 and with the specifications of the liqueur wines bearing the protected designation of origin 'Condado de Huelva', it is necessary to amend Article 5(3) of Delegated Regulation (EU) 2019/33 and clarify that the derogation concerning the provenance of the must of raisined grapes to which neutral alcohol of vine origin has been added to prevent fermentation applies also to liqueur wines with the protected designation of origin 'Condado de Huelva'.

(7) For all grapevine products that have undergone a de-alcoholisation treatment and have an actual alcoholic strength by volume of less than 10 %, Regulation (EU) 2021/2117 introduced the date of minimum durability as a compulsory particular in Article 119(1) of Regulation (EU) No 1308/2013. However, in accordance with the requirements of Regulation (EU) No 1169/2011 of the European Parliament and of the Council ([5]) that are applicable to all foodstuffs, it is appropriate to establish that the date of minimum durability, whenever displayed on the container, does not need to appear in the same field of vision as required for other compulsory particulars referred to in Article 119 of Regulation (EU) No 1308/2013.

(8) Regulation (EU) 2021/2117 also added the list of ingredients and the nutrition declaration pursuant to Article 9(1), points (b) and (l), respectively, of Regulation (EU) No 1169/2011, to the list of compulsory particulars set out in Article 119(1) of Regulation (EU) No 1308/2013. Regulation (EU) 2021/2117, by amending Article 122 of Regulation (EU) No 1308/2013, also empowered the Commission to adopt specific rules concerning the indication and designation of ingredients for the application of the new requirement laid down in Article 119(1), point (i), of Regulation (EU) No 1308/2013. It is therefore appropriate to provide for the rules necessary to take into account the specific characteristics of grapevine products and the specific processes and timing of their production, while providing consumers with comprehensive and accurate information. These rules should apply when the list of ingredients is provided on the wine label, but also when the list of ingredients is provided by electronic means identified on the package or on a label attached thereto, in accordance with Article 119(5) of Regulation (EU) No 1308/2013.

(9) Article 119(5), point (c), of Regulation (EU) No 1308/2013, read in conjunction with Article 9, paragraph 1, point (c), of Regulation (EU) No 1169/2011, lays down that, where the list of ingredients is provided by electronic means, the indication of the substances causing allergies or intolerances is to appear directly on the package or on a label attached thereto. For reasons of consistency with the requirements of Regulation (EU) No 1169/2011, which already apply for wine, it is appropriate that the derogation provided for in Article 40(2) of Delegated Regulation (EU) 2019/33 allowing to indicate those substances outside the same field of vision continues to apply in those cases. However, where the list of ingredients is presented on the package or on a label attached thereto, it shall appear in the same field of vision on the container and the allergenic substances must also be indicated in this list, in accordance with Article 21(1), point (a), of Regulation (EU) No 1169/2011.

([4]) Commission Delegated Regulation (EU) 2019/934 of 12 March 2019 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files (OJ L 149, 7.6.2019, p. 1).

([5]) Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).

(10) Since grapevine products are always produced from grapes, it is appropriate to allow the use of a single term to indicate the basic raw material in the list of ingredients irrespective of whether the winemaker has used fresh grapes or grape must. In fact, the consistent use of the term 'grapes' in the list of ingredients for grapevine products allows a harmonised, comprehensible, and clear information for consumers.

(11) The substances authorised under Union law for different oenological purposes such as enrichment and sweetening, including sucrose, concentrated grape must, and rectified concentrated grape must are ingredients and are therefore part of the list of ingredients. In order to facilitate the understanding of consumers and the management by winemakers of the listing of substances based on grape must, it is appropriate to allow using the term 'concentrated grape must' to designate both concentrated grape must and rectified concentrated grape must.

(12) In addition to the indication of grapes, sweetening and enrichment substances, and possibly tirage liqueur and expedition liqueur, the list of ingredients should be completed with an indication of the additives used in the production of grapevine products, as well as the processing aids that may cause allergies or intolerances. It is appropriate to specify that the full list of these oenological compounds that may be in the list of ingredients are those referred to in Annex I, Part A, Table 2, of Delegated Regulation (EU) 2019/934, which also contains the terms to designate them and the E numbers that can be alternatively used to present them as ingredients.

(13) Wine is a product that remains biochemically active, and its intrinsic characteristics can vary widely all along its life, even within the same lot. The grapes used to produce one single wine are different, due to factors such as fruit maturity, harvesting conditions, or the local soils and weather. External conditions during vinification and ageing before bottling, in barrels or other special containers, also influence the final product. Additives are used at various stages of production, from the first fermentation to the bottling; for certain oenological functions, the most suitable additives may differ due to the interaction between the wine characteristics and the external factors, and the frequent need to blend different wines. The decision to use certain additives is often taken on the spot by the responsible oenologists based on an *ad hoc* analysis conducted at different moments of the production to ensure the integrity of wine (e.g. on acidity, freshness) and its stability. Such decision is very often taken late in the process, when labels are already printed. In addition, last minute flexibility is often required to meet the needs of the wine market, depending on the final destination and buyers of the wine. This is, in particular, the case for additives falling under the categories 'acidity regulators' and 'stabilising agents'. In line with the above, in order to allow for the flexibility required for oenological, labelling and commercial purposes, while ensuring the necessary provision of sufficient information to consumers, and taking into account the limited amount of authorised oenological compounds, which are strictly regulated by Delegated Regulation (EU) 2019/934, it is appropriate to allow operators to present, in the list of ingredients, the 'acidity regulators' and 'stabilising agents' by means of no more than three alternative ingredients, where they are similar or mutually substitutable in their function, under the condition that at least one of those additives be present in the final product.

(14) Article 41 of Delegated Regulation (EU) 2019/33 provides for the terms that shall be used for labelling certain substances or products causing allergies or intolerances, as referred to in Article 21 of Regulation (EU) No 1169/2011, concerning sulphites/sulfites, eggs and egg-based products and milk and milk-based products. Those terms should continue to be used, also within the list of ingredients when it is presented on the package or on a label, for consistency reasons and taking into account that consumers are familiar therewith.

(15) Certain additives used as packaging gases (carbon dioxide, argon and nitrogen) have as main objective the displacing of oxygen during the bottling of grapevine products, but they do not become part of the product that is consumed. Moreover, it is also a specificity of the wine market that these gases are sometimes decided on an *ad hoc* basis at the time of bottling after labels have been produced, depending on commercial factors such as the destination market, the means of transport or the needs of buyers. Therefore, it appears appropriate to allow operators to replace the listing of packaging gases with a specific particular that describes their function by using the statement 'Bottled in a protective atmosphere' or 'Bottling may happen in a protective atmosphere'.

(16) Certain oenological practices for the production of sparkling wines consist in the addition of a 'tirage liqueur' to the cuvée, to provoke the secondary fermentation, and the addition of an 'expedition liqueur' to confer those wines their specific organoleptic properties. All possible constituents of both the tirage liqueur and the expedition liqueur are regulated in Annex II to Delegated Regulation (EU) 2019/934, and consist of sucrose, grape must, concentrated grape must and/or wine, but these are not used for sweetening or enrichment. Given their very specific oenological functions, the simple indication of the individual components of the tirage liqueur and the expedition liqueur together with the other ingredients may be misleading for the consumers, unless they are grouped under the relevant specific terms. Therefore, it should be allowed to display the terms 'tirage liqueur' and 'expedition liqueur' in the list of ingredients, either alone or accompanied by a list of their actual constituents.

(17) Certain provisions of Delegated Regulation (EU) 2019/33 specific to the United Kingdom, such as Article 45(3) or Article 51, fourth paragraph, have become obsolete since that country is no longer a Member State of the Union. Therefore, those provisions should be deleted.

(18) In accordance with Article 57(1), point (a), of Delegated Regulation (EU) 2019/33, the foil sheathing the fastening of the sparkling wine bottle is generally reserved as a compulsory distinctive feature of sparkling wines, quality sparkling wines and aromatic quality sparkling wines. The use of the foils should therefore continue to be reserved as a distinctive feature for these wines, with the exceptions defined in Article 57(2) of that Delegated Regulation. However, producers and bottlers should be allowed to refrain from using foil for operational reasons such as cost savings, waste avoidance or improvement of marketing, provided that it is ensured that there is no safety risk for the product by unintentional opening or manipulation of the fastening.

(19) Annex III, Part B, of Delegated Regulation (EU) 2019/33, defining the conditions of use of the terms referred to in Article 52(1) of that Delegated Regulation to be used for other products than those listed in Part A, should be amended to clarify further the conditions of use of those terms.

(20) The list of ingredients and the nutrition declaration, as compulsory particulars, become an integral part of the 'description of the product' in the accompanying documents referred to in Article 10, in accordance with the requirements for the use of accompanying documents, concerning the description of the product, as set-up in Annex V, section A, of Commission Delegated Regulation (EU) 2018/273 ([6]), from the date of entry into force of the relevant provisions, and shall apply to both wine transported in bulk and to labelled packaged wine products. Conversely, in order to ensure that wine imported into the Union is labelled in accordance with Union rules, the requirements for the VI-1 document and VI-2 extracts set out in Annex VII to that Delegated Regulation should be amended to ensure that the list of ingredients is an integral part of the description of the imported product.

(21) Delegated Regulations (EU) 2019/33 and (EU) 2018/273 should therefore be amended accordingly.

(22) In accordance with Article 6, fifth subparagraph of Regulation (EU) 2021/2117, the obligation to list the ingredients and to indicate the date of minimum durability of partially de-alcoholised and de-alcoholised grapevine products with an actual alcoholic strength by volume of less than 10 % are to apply from 8 December 2023. Consequently, the amendments related to those obligations should apply from that same date,

([6]) Commission Delegated Regulation (EU) 2018/273 of 11 December 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, the vineyard register, accompanying documents and certification, the inward and outward register, compulsory declarations, notifications and publication of notified information, and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks and penalties, amending Commission Regulations (EC) No 555/2008, (EC) No 606/2009 and (EC) No 607/2009 and repealing Commission Regulation (EC) No 436/2009 and Commission Delegated Regulation (EU) 2015/560 (OJ L 58, 28.2.2018, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2019/33

Delegated Regulation (EU) 2019/33 is amended as follows:

(1) Article 5 is replaced by the following:

'*Article 5*

Derogations concerning production in the demarcated geographical area

1. By way of derogation from Article 93(1), points (a)(iv) and (b)(iv), of Regulation (EU) No 1308/2013, and on condition that the product specification so provides, a product which has a protected designation of origin or geographical indication may be made into wine in any of the following locations:

(a) in an area in the immediate proximity of the demarcated area in question;

(b) in an area located within the same administrative unit or within a neighbouring administrative unit, in conformity with national rules;

(c) in the case of a trans-border designation of origin or geographical indication, or where an agreement on control measures exists between two or more Member States or between one or more Member States and one or more third countries, in an area situated in the immediate proximity of the demarcated area in question.

2. By way of derogation from Article 93(1), point (a)(iv), of Regulation (EU) No 1308/2013, and on condition that the product specification so provides, a product may be made into sparkling wine or semi-sparkling wine bearing a protected designation of origin beyond the immediate proximity of the demarcated area in question if this practice was in use prior to 1 March 1986.

3. By way of derogation from Article 93(1), point (a)(iv), of Regulation (EU) No 1308/2013, with regard to liqueur wines with the protected designation of origin "Condado de Huelva", "Málaga" and "Jerez-Xérès-Sherry", the must of raisined grapes to which neutral alcohol of vine origin has been added to prevent fermentation, obtained from Pedro Ximénez vine variety, may come from the "Montilla-Moriles" region.';

(2) Article 6 is deleted;

(3) Article 10 is deleted;

(4) in Article 11(1), first subparagraph, point (c), point (iii) is replaced by the following:

'(iii) the registration of the proposed name would jeopardise the rights of a trade mark holder or of a user of a fully homonymous name or of a compound name, one term of which is identical to the name to be registered, or the existence of partially homonymous names or of other names similar to the name to be registered which refer to grapevine products which have been legally on the market for at least five years preceding the date of the publication provided for in Article 97(4) of Regulation (EU) No 1308/2013.';

(5) Article 12 is deleted;

(6) in Article 13(1), second subparagraph, point (b) is replaced by the following:

'(b) of partially homonymous names or of other names similar to the name to be registered which refer to grapevine products which have been legally on the market for at least five years preceding the date of the publication provided for in Article 97(4) of Regulation (EU) No 1308/2013.';

(7) Article 14 is deleted;

(8) Article 15 is deleted;

(9) in Article 17(1), the third subparagraph is replaced by the following:

'The application for a standard amendment shall provide a description of the standard amendments, provide a summary of the reasons for which the amendments are required and demonstrate that the proposed amendments qualify as standard in accordance with Article 105(2), third subparagraph, of Regulation (EU) No 1308/2013.';

(10) Article 20 is deleted;

(11) Article 22 is deleted;

(12) in Article 40, paragraph 2 is replaced by the following:

'2. By way of derogation from paragraph 1, the following compulsory particulars may appear outside the field of vision referred to in that paragraph:

(a) the substances or products causing allergies or intolerances referred to in Article 9(1), point (c), of Regulation (EU) No 1169/2011, where the list of ingredients is provided by electronic means;

(b) the indication of the importer;

(c) the lot number; and

(d) the date of minimum durability.';

(13) in Article 45, paragraph 3 is deleted;

(14) the following Article is inserted:

'*Article 48a*

List of ingredients

1. The term "grapes" may be used to replace the indication of the grapes and/or the grape must used as raw materials for the production of grapevine products.

2. The term "concentrated grape must" may be used to replace the indication of the concentrated grape must and/or the rectified concentrated grape must used for the production of grapevine products.

3. The oenological compounds categories, names and E numbers to be used in the list of ingredients are set out in Annex I, Part A, Table 2, of Delegated Regulation (EU) 2019/934.

4. Without prejudice to Article 41(1) of this Regulation, the terms to be used to indicate the oenological compounds causing allergies or intolerances in the list of ingredients, are laid down in column 1 of Table 2 of Part A of Annex I to Delegated Regulation (EU) 2019/934.

5. Additives under the categories "acidity regulators" and "stabilising agents" which are similar or mutually substitutable, may be indicated in the list of ingredients by using the expression "contains… and/or", followed by no more than three additives, where at least one of those is present in the final product.

6. The indication of additives falling under the category "packaging gases" in the list of ingredients may be replaced by the specific particular "Bottled in a protective atmosphere" or "Bottling may happen in a protective atmosphere".

7. The addition of tirage liqueur and expedition liqueur to grapevine products may be indicated by the specific particulars "tirage liqueur" and "expedition liqueur", alone or accompanied, in brackets, by a list of their constituents, as laid down in Annex II to Delegated Regulation (EU) 2019/934.';

(15) in Article 51, the fourth paragraph is deleted;

(16) in Article 57(1), the following third subparagraph is added:

'By way of derogation from the first subparagraph, point (a), producers of sparkling wine, quality sparkling wine and quality aromatic sparkling wine may decide not to sheath the fastening with a foil.';

(17) in Article 58, paragraph 1 is replaced by the following:

'1. Member States may render the use of the particulars and rules of presentation referred to in Articles 49, 50, 52, 53 and 55, and Article 57(1), third subparagraph, of this Regulation and Article 14 of Commission Implementing Regulation (EU) 2019/34 (*) compulsory, prohibited or limited for grapevine products bearing a protected designation of origin or geographical indication produced on their territory, by introducing conditions stricter than those laid down in this Chapter through the corresponding product specifications of those grapevine products.

(*) Commission Implementing Regulation (EU) 2019/34 of 17 October 2018 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, amendments to product specifications, the register of protected names, cancellation of protection and use of symbols, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards an appropriate system of checks (OJ L 9, 11.1.2019, p. 46).';

(18) in Annex III, Part B, the table is replaced by the following:

'Terms	Conditions of use
сухо, seco, suché, tør, trocken, kuiv, ξηρός, dry, sec, secco, asciutto, sausais, sausas, száraz, droog, wytrawne, seco, sec, suho, kuiva, torrt	If its sugar content does not exceed: — 4 grams per litre, or — 9 grams per litre, provided that the total acidity expressed as grams of tartaric acid per litre is not more than 2 grams below the residual sugar content.
полусухо, semiseco, polosuché, halvtør, halbtrocken, poolkuiv, ημίξηρος, medium dry, demi-sec, abboccato, pussausais, pusiau sausas, félszáraz, halfdroog, półwytrawne, meio seco, adamado, demisec, polsuho, puolikuiva, halvtorrt, polusuho	If its sugar content exceeds the maximum set at above but does not exceed: — 12 grams per litre, or — 18 grams per litre, provided that the total acidity expressed as grams of tartaric acid per litre is not more than 10 grams below the residual sugar content.
полусладко, semidulce, polosladké, halvsød, lieblich, poolmagus, ημίγλυκος, medium, medium sweet, moelleux, amabile, pussaldais, pusiau saldus, félédes, halfzoet, półsłodkie, meio doce, demidulce, polsladko, puolimakea, halvsött, poluslatko	If its sugar content exceeds the maximum set out in the second row of this table but does not exceed 45 grams per litre.
сладко, dulce, sladké, sød, süss, magus, γλυκός, sweet, doux, dolce, saldais, saldus, édes, ħelu, zoet, słodkie, doce, dulce, sladko, makea, sött, slatko.	If its sugar content is of at least 45 grams per litre.'

Article 2

Amendment to Delegated Regulation (EU) 2018/273

In Annex VII, Part III, point C, of Delegated Regulation (EU) 2018/273, the following indent is added to the content of Box 6: (Box 5 for VI-2): Description of the imported product:

'— List of ingredients.'.

Article 3

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*.

Article 1, points (12) and (14), and Article 2 shall apply from 8 December 2023.

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

Done at Brussels, 30 May 2023.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1607

of 30 May 2023

amending Implementing Regulation (EU) 2019/34 as regards the adjustment of certain legal references

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([1]), and in particular Article 110(2) thereof,

Whereas:

(1) Regulation (EU) 2021/2117 of the European Parliament and of the Council ([2]) amended Regulation (EU) No 1308/2013. Articles 96, 97, 98, 105 and 106 of Regulation (EU) No 1308/2013 were amended to include provisions taken from Articles 6, 10, 12, 14, 15 and 20 of Commission Delegated Regulation (EU) 2019/33 ([3]), which have then been deleted by Commission Delegated Regulation (EU) 2023/1606 ([4]). Furthermore, following the amendments of Article 97 of Regulation (EU) No 1308/2013 by Regulation (EU) 2021/2117, the provisions set out in paragraph 3 of that Article were moved to paragraph 4.

(2) For the sake of clarity and ease of use for the operators, the references in Commission Implementing Regulation (EU) 2019/34 ([5]) and in the Annexes thereto to Article 97(3) of Regulation (EU) No 1308/2013 and Article 12(1), (3) and (4), Article 14(1) and (2) and Article 20 of Delegated Regulation (EU) 2019/33 should be adjusted accordingly.

(3) Regulation (EU) 2021/2117 also amended Regulation (EU) No 1308/2013 as regards the content of the product specification and the grounds for cancellation. Detailed requirements for the description of the details bearing out the link in the product specification have been included in Article 94(2), point (g), of Regulation (EU) No 1308/2013. Additional grounds for cancellation have been included in Article 106 of Regulation (EU) No 1308/2013.

([1]) OJ L 347, 20.12.2013, p. 671.

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

([3]) Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation (OJ L 9, 11.1.2019, p. 2).

([4]) Commission Delegated Regulation (EU) 2023/1606 of 30 May 2023 amending Delegated Regulation (EU) 2019/33 as regards certain provisions on protected denominations of origin and protected geographical indications for wine and on the presentation of compulsory particulars for grapevine products and specific rules for the indication and designation of ingredients for grapevine products, and Delegated Regulation (EU) 2018/273 as regards the certification of imported wine products (see page 6 of this Official Journal).

([5]) Commission Implementing Regulation (EU) 2019/34 of 17 October 2018 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, amendments to product specifications, the register of protected names, cancellation of protection and use of symbols, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards an appropriate system of checks (OJ L 9, 11.1.2019, p. 46).

(4) As a consequence, for the sake of clarity and legal certainty, the requirements for the description of the details bearing out the link in the product specification provided for in Article 5(2), first subparagraph, of Implementing Regulation (EU) 2019/34 should be deleted. Furthermore, Annex VII to that Implementing Regulation, setting out the form of the cancellation request, should be aligned to Article 106 of Regulation (EU) No 1308/2013 as regards the content of section 4, 'Grounds for cancellation'.

(5) Implementing Regulation (EU) 2019/34 should therefore be amended accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Implementing Regulation (EU) 2019/34

Implementing Regulation (EU) 2019/34 is amended as follows:

(1) Article 2 is replaced by the following:

'*Article 2*

Applications for protection from Member States

When forwarding an application for protection to the Commission in accordance with Article 96(5) of Regulation (EU) No 1308/2013, Member States shall include the declaration referred to therein and the electronic reference to the publication of the product specification referred to in Article 97(4) of that Regulation.';

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

'2. Where an application covers different categories of grapevine products, the details bearing out the link referred to in paragraph 1, point (i), shall be demonstrated for each of the grapevine products concerned.';

(3) in Article 8, paragraphs 2 and 3 are replaced by the following:

'2. The period of three months referred to in Article 98(2) of Regulation (EU) No 1308/2013 shall commence on the date on which the invitation to engage in consultations is delivered to the interested parties by electronic means.

3. The Commission shall be notified of the results of the consultations referred to in Article 98(4) and (5) of Regulation (EU) No 1308/2013 within one month from the end of the consultations in accordance with the form set out in Annex III to this Regulation.';

(4) Article 9 is amended as follows:

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

'1. An application for a Union amendment to a product specification, as referred to in Article 105 of Regulation (EU) No 1308/2013 and Article 16 of Delegated Regulation (EU) 2019/33 shall contain:';

(b) paragraph 3 is replaced by the following:

'3. The information to be published in accordance with Article 97(4) of Regulation (EU) No 1308/2013 shall contain the duly completed application as referred to in paragraphs 1 and 2 of this Article.';

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

'(b) a description of the approved temporary amendment together with the reasons supporting the temporary amendment referred to in Article 105(2), fourth subparagraph, of Regulation (EU) No 1308/2013;';

(6) Annexes II to VII are amended in accordance with the Annex to this Regulation.

Article 2

Entry into force

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

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

Done at Brussels, 30 May 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Annexes II to VII to Implementing Regulation (EU) 2019/34 are replaced by the following:

'ANNEX II

SUBSTANTIATED STATEMENT OF OBJECTION

[Mark the appropriate box with an "X":] ☐ PDO ☐ PGI

1. **Name of product**

   [as published in the Official Journal]

   …

2. **Official reference**

   [as published in the Official Journal]

   Reference number: …

   Date of publication in the Official Journal: …

3. **Name of the objector (Person, body, Member State or Third Country)**

   …

4. **Contact details**

   Contact person: Title (Mr, Ms…): … Name: …

   Group/organisation/individual: …

   or national authority:

   Department: …

   Address:

   …

   Telephone + …

   Email address:…

5. **Legitimate interest (not required for national authorities)**

   [*Provide a statement explaining the legitimate interest of the objector. National authorities are exempt from this requirement.*]

6. **Reasons for the objection**

   ☐ The application for protection, amendment or cancellation is incompatible with the rules on designations of origin and geographical indications because it would conflict with Articles 92 to 95, 105 or 106 of Regulation (EU) No 1308/2013 and with the provisions adopted pursuant thereto.

   ☐ The application for protection or amendment is incompatible with the rules on designations of origin and geographical indications because the registration of the name proposed would be in conflict with Articles 100 or 101 of Regulation (EU) No 1308/2013.

   ☐ The application for protection or amendment is incompatible with the rules on designations of origin and geographical indications because the registration of the name proposed would jeopardise the rights of a trade mark holder or of a user of a fully homonymous name or of a compound name one term of which is identical to the name to be registered, or the existence of partially homonymous names or of other names similar to the name to be registered which refer to grapevine products which have been legally on the market for at least five years preceding the date of the publication provided for in Article 97(4) of Regulation (EU) No 1308/2013.

7. **Details of the objection**

[*Provide duly substantiated reasons and justification, details of the facts, evidence and comments in support of the objection. Provide the necessary documents in case of an objection based on the existence of an earlier trademark of reputation and renown (Article 8(1) of Implementing Regulation (EU) 2019/34.*]

8. **List of the supporting documents**

[*Provide the list of the documents sent to support the objection.*]

9. **Dated and signed**

[Name]

[Department/Organisation]

[Address]

[Telephone: +]

[Email address:]

ANNEX III

NOTIFICATION OF END OF CONSULTATIONS FOLLOWING THE OBJECTION PROCEDURE

[Mark the appropriate box with an "X":] □ PDO □ PGI

1. **Name of product**

   [as published in the Official Journal]

2. **Official reference [as published in the Official Journal]**

   Reference number:

   Date of publication in the Official Journal:

3. **Name of the objector (Person, body, Member State or Third Country)**

   …

4. **Result of consultations**

4.1. **Agreement was reached with the following opponent(s):**

   [annex copies of letters showing agreement and all the factors that enabled the agreement (Article 98(4) of Regulation (EU) No 1308/2013.]

4.2. **Agreement was not reached with the following opponent(s):**

   [annex the information referred to in Article 98(5) of Regulation (EU) No 1308/2013.]

5. **Product Specification and single document**

5.1. **The product specification has been amended:**

   … Yes* … No

   *If "Yes", annex a description of the amendments and the amended product specification

5.2. **The single document has been amended:**

   … Yes** … No

   ** If "Yes", annex a copy of the updated document

6. **Dated and signed**

   [Name]

   [Department/Organisation]

   [Address]

   [Telephone: +]

   [Email address:]

ANNEX IV

APPLICATION FOR A UNION AMENDMENT TO THE PRODUCT SPECIFICATION

[Registered name] "…"

EU No: [for EU use only]

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

1. **Applicant and legitimate interest**

   [*Provide name, address, telephone and email address of the applicant proposing the amendment. Provide also a statement setting out the legitimate interest of the applicant.*]

2. **Third country to which the demarcated area belongs**

   …

3. **Heading in the product specification affected by the amendment(s)**

   ☐ Name of product

   ☐ Category of the grapevine product

   ☐ Link

   ☐ Marketing restrictions

4. **Type of amendment(s)**

   [*Provide a statement explaining why the amendment(s) fall under the definition of "Union amendment" as provided for in Article 105(2) of Regulation (EU) No 1308/2013.*]

5. **Amendment(s)**

   [*Provide an exhaustive description of and the specific reasons for each amendment. The application for an amendment must be complete and comprehensive. The information given in this section must be exhaustive as provided for in Article 16(1) of Delegated Regulation (EU) 2019/33.*]

6. **Annexes**

   6.1. The consolidated and duly completed single document, as modified

   6.2. The consolidated version of the product specification as published, or the reference to the publication of the product specification

ANNEX V

COMMUNICATING THE APPROVAL OF A STANDARD AMENDMENT

[Registered name] "…"

EU No: [for EU use only]

[Mark the appropriate box with an "X":] ☐ PDO ☐ PGI

1. **Sender**

   Single producer or group of producers having a legitimate interest or authorities of the third country to which the demarcated area belongs (see Article 3 of Implementing Regulation (EU) 2019/34).

2. **Description of the approved amendment(s)**

   [*Provide a description of and the reasons for the standard amendment(s) and a statement explaining why the amendment(s) fall under the definition of standard amendment as provided for in Article 105(2), third subparagraph, of Regulation (EU) No 1308/2013.*]

3. **Third country to which the demarcated area belongs**

   …

4. **Annexes**

   4.1. The application of the approved standard amendment

   4.2. The decision approving the standard amendment

   4.3. The proof that the amendment is applicable in the third country

   4.4. The consolidated single document, as modified, where relevant

   4.5. A copy the consolidated version of the product specification as published or the reference to the publication of the product specification

ANNEX VI

COMMUNICATING THE APPROVAL OF A TEMPORARY AMENDMENT

[Registered name] "…"

EU No: [for EU use only]

[Select one, "X":] ☐ PDO ☐ PGI

1. **Sender**

Single producer or group of producers having a legitimate interest or authorities of the third country to which the demarcated area belongs (see Article 3 of Implementing Regulation (EU) 2019/34).

2. **Description of the approved amendment(s)**

[*Provide a description of and the specific reasons for the temporary amendment(s) including the reference of the formal recognition of the natural disaster or adverse weather conditions by the competent authorities or of the imposition of obligatory sanitary and phytosanitary measures. Provide also a statement explaining why the amendment(s) fall under the definition of "temporary amendment" as provided for in Article 105(2), fourth subparagraph, of Regulation (EU) No 1308/2013.*]

3. **Third country to which the demarcated area belongs**

…

4. **Annexes**

4.1. The application of the approved temporary amendment

4.2. The decision approving the temporary amendment

4.3. The proof that the amendment is applicable in the third country

ANNEX VII

CANCELLATION REQUEST

[Registered name:] "…"

EU No: [for EU use only]

[Mark the appropriate box with an "X":] ☐ PGI ☐ PDO

1. **Registered name proposed to be cancelled**

…

2. **Member State or Third Country to which the demarcated area belongs**

…

3. **Person, body, Member State or Third Country making the cancellation request**

[*Provide name, address, telephone and email address of the natural or legal person or of the producers requesting the cancellation (for requests concerning third countries names provide also name and address of the authorities or certification bodies verifying compliance with the provision of the product specification). Provide also a statement explaining the legitimate interest of the natural or legal person requesting the cancellation (not required for national authorities with legal personality).*]

4. **Grounds for cancellation**

☐ Where compliance with the corresponding product specification is no longer guaranteed (Article 106, first paragraph, point (a), of Regulation (EU) No 1308/2013).

☐ Where no product has been placed on the market bearing the designation of origin or geographical indication for at least seven consecutive years (Article 106, first paragraph, point (b), of Regulation (EU) No 1308/2013).

☐ Where an applicant satisfying the conditions laid down in Article 95 of Regulation (EU) No 1308/2013 declares that it no longer wishes to maintain the protection of a designation of origin or a geographical indication (Article 106, first paragraph, point (c), of Regulation (EU) No 1308/2013).

5. **Details of the cancellation request**

[*Provide duly substantiated reasons and justification for the cancellation request, details of the facts evidence and comments in support of the cancellation. Where relevant, provide the supporting documentation.*]

6. **List of supporting documentation**

[*Provide the list of the documentation sent to support the cancellation request.*]

7. **Dated and signed**

[Name]

[Department/Organisation]

[Address]

[Telephone: +]

[Email address:]'.

COMMISSION DELEGATED REGULATION (EU) 2023/1608

of 30 May 2023

amending Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the Council as regards the listing of perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants ([1]), and in particular Article 15(1) thereof,

Whereas:

(1) Regulation (EU) 2019/1021 implements the commitments of the Union under the 2001 Stockholm Convention on Persistent Organic Pollutants ([2]) ('the Convention') and under the Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants ([3]) ('the Protocol').

(2) Annex A to the Convention contains a list of chemicals. Each Party to the Convention is required to prohibit the chemicals on the list and/or take the legal and administrative measures necessary to eliminate their production, use, import and export.

(3) The Conference of the Parties to the Convention has, pursuant to Article 8(9) of the Convention, decided in its tenth meeting from 6 to 17 June 2022 to amend Annex A to the Convention in order to include perfluorohexane sulfonic acid ('PFHxS'), its salts and PFHxS-related compounds in that Annex without any specific exemption.

(4) Part A of Annex I to Regulation (EU) 2019/1021, which contains a list of the substances listed in the Convention and in the Protocol as well as substances listed only in the Convention, should therefore also be amended to include PFHxS, its salts and PFHxS-related compounds.

(5) In order to reinforce the application and enforcement in the Union of Article 3 of Regulation (EU) 2019/1021, a limit value should be set for PFHxS, its salts and PFHxS-related compounds occurring as an unintentional trace contaminant in substances, mixtures and articles. That limit value should be set at 0,025 mg/kg for PFHxS including its salts, and at 1 mg/kg for the individual PFHxS-related compounds or a combination of those compounds. For the use in firefighting foams where those limit values cannot currently be met, higher concentration limits should be established, subject to review by the Commission within 3 years after entry into force with a view to lowering the limits.

(6) Regulation (EU) 2019/1021 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) 2019/1021 is amended in accordance with the Annex to this Regulation.

Article 2

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

([1]) OJ L 169, 25.6.2019, p. 45.
([2]) OJ L 209, 31.7.2006, p. 3.
([3]) OJ L 81, 19.3.2004, p. 37.

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

Done at Brussels, 30 May 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

In Part A of Annex I to Regulation (EU) 2019/1021, the following entry is added:

Substance	CAS No	EC No	Specific exemption on intermediate use or other specification
'Perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds "Perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds" means the following: (i) perfluorohexane sulfonic acid, including any of its branched isomers; (ii) its salts; (iii) PFHxS-related compounds which, for the purposes of the Convention, are any substance that contains the chemical moiety $C_6F_{13}S$- as one of its structural elements and that degrades to PFHxS.	355-46-4 and others	206-587-1 and others	1. For the purposes of this entry, Article 4(1), point (b), shall apply to concentrations of PFHxS or any of its salts equal to or below 0,025 mg/kg (0,0000025 % by weight) where they are present in substances, mixtures or articles. 2. For the purposes of this entry, Article 4(1), point (b), shall apply to the sum of concentrations of all PFHxS-related compounds equal to or below 1 mg/kg (0,0001 % by weight) where they are present in substances, mixtures or articles. 3. For the purposes of this entry, Article 4(1), point (b), shall apply to concentrations of PFHxS, its salts and PFHxS-related compounds equal to or below 0,1 mg/kg (0,00001 % by weight) where it is present in concentrated firefighting foam mixtures that are to be used or are used in the production of other firefighting foam mixtures. This exemption shall be reviewed and assessed by the Commission no later than 28 August 2026.'

COMMISSION DELEGATED REGULATION (EU) 2023/1609

of 1 June 2023

correcting Delegated Regulation (EU) 2017/118 establishing fisheries conservation measures for the protection of the marine environment in the North Sea

THE EUROPEAN COMMISSION,

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

Having regard to 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 ([1]) and in particular Article 11(2) thereof,

Whereas:

(1) Commission Delegated Regulation (EU) 2017/118 ([2]) establishes conservation measures for the protection of the marine environment in certain areas of the North Sea. This Regulation was last amended by Commission Delegated Regulation (EU) 2023/340 ([3]).

(2) On 22 February 2023, Germany informed the Commission of an error in Delegated Regulation (EU) 2023/340. It concerns a sentence contained in the joint recommendation that was not transposed into Delegated Regulation (EU) 2023/340, namely the fact that fisheries conservation measures in the central and eastern areas of the Sylter Aussenriff [areas 1(10)] are to take effect on 1 May 2023.

(3) On 28 February 2023, Germany informed the Commission of additional technical errors in the Annex to the Delegated Regulation (EU) 2023/340, as regards the designation of the Dutch Exclusive Economic Zone and the geographical coordinates of the seaward separation line between the German and Dutch Exclusive Economic Zones.

(4) Therefore, Article 3(1) and Annexes I and VI to Delegated Regulation (EU) 2017/118, should be corrected accordingly.

(5) As the corrections provided in this act have a direct impact on the fishing activities in the areas subject to fisheries conservation measures, this Regulation should enter into force immediately upon publication,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2017/118 is corrected as follows:

(1) in Article 3(1), letter (d) is added:

'(d) in areas 1(10), fisheries conservation measures shall take effect on 1 May 2023.';

(2) Annexes I and VI are corrected as set out in the Annex to this Regulation.

([1]) OJ L 354, 28.12.2013, p. 22.

([2]) Commission Delegated Regulation (EU) 2017/118 of 5 September 2016 establishing fisheries conservation measures for the protection of the marine environment in the North Sea (OJ L 19, 25.1.2017, p. 10).

([3]) Commission Delegated Regulation (EU) 2023/340 of 8 December 2022 amending Delegated Regulation (EU) 2017/118 as regards conservation measures in Sylter Aussenriff, Borkum-Riffgrund, Doggerbank and Östliche Deutsche Bucht, and in Klaverbank, Friese Front and Centrale Oestergronden (OJ L 48, 16.2.2023, p. 18).

Article 2

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

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

Done at Brussels, 1 June 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Annexes I and VI to Delegated Regulation (EU) 2017/118 are corrected as follows:

(1) in Annex I, point c) in area 1(11) is replaced by the following:

'c) seaward separation line between the German and Dutch Exclusive Economic Zones from 53,724495° N 6,345843° E to 54,016833° N 6,095963° E.';

(2) in Annex VI, point c) in areas 4(3), Management zone A in Borkum-Riffgrund is replaced by the following:

'c) seaward separation line between the German and Dutch Exclusive Economic Zones from 53,724495° N 6,345843° E to 54,016833° N 6,095963° E.';

(3) in Annex VI, point c) in areas 4(3), Management zone B in Doggerbank is replaced by the following:

'c) seaward separation line between the German and Dutch Exclusive Economic Zones from 55,365081° N 4,260850° E to 55,645558° N 3,637590° E;'.

DECISIONS

DECISION (EU) 2023/1610 OF THE EUROPEAN CENTRAL BANK

of 28 July 2023

establishing the historical archives of the European Central Bank and amending Decision ECB/2004/2 *(ECB/2023/17)*

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

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

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Articles 12.3 and 14.3 thereof,

Having regard to Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community ([1]), and in particular Article 9(1) thereof,

Whereas:

(1) Regulation (EEC, Euratom) No 354/83 seeks to ensure that documents of historical or administrative value are preserved and made available to the public wherever possible. To that end, it lays down the obligation for each Union institution, including the European Central Bank (ECB), to establish its historical archives and open them to the public on the terms provided for by the Regulation after the expiry of a period of 30 years starting from the date of the creation of a document.

(2) In adopting this Decision, the ECB exercises its right to hold and manage its historical archives without depositing them at the European University Institute (EUI) and lays down the internal rules necessary for applying Regulation (EEC, Euratom) No 354/83. The objective of these internal rules is to operationalise the preservation and opening to the public of the ECB's historical archives whilst duly taking into account the ECB's institutional particularities.

(3) Article 1(2), point (a), of Regulation (EEC, Euratom) No 354/83 defines the term 'archives of the institutions of the European Communities'. In view of both the highly integrated structures in which the ECB operates, namely the European System of Central Banks (ESCB) and the Eurosystem, and the transfer of functions to the ECB from bodies that worked towards completing Economic and Monetary Union (EMU), the ECB's archives must be understood as having a broader scope than that defined in Article 1(2), point (a), of Regulation (EEC, Euratom) No 354/83. First, in accordance with the established case-law of the Court of Justice of the European Union, they encompass all documents of whatever type and in whatever medium which have originated in or been received by the ECB or the national central banks (NCBs) in connection with the performance of the tasks of the ESCB and the Eurosystem, irrespective of whether they are held by the ECB or the NCBs ([2]). Second, they encompass all documents of whatever type and whatever medium which originated in or were received by the Committee for the Study of Economic and Monetary Union (hereinafter the 'Delors Committee'), the Committee of Governors of the Central Banks of the Member States of the European Economic Community (hereinafter the 'COG'), the European Monetary Cooperation Fund (EMCF) and the European Monetary Institute (EMI), and are held by the ECB.

(4) The second sentence of Article 23.3 of Decision ECB/2004/2 of the European Central Bank ([3]) authorises the ECB's decision-making bodies to make accessible to the public documents belonging to the ECB archives before the expiry of the 30-year period. On 7 May 2019, the ECB's Governing Council decided to make accessible to the public documents that originated in or were received by the Delors Committee and were transferred from the Bank for International Settlements, which hosted most meetings of that Committee, to the ECB in 2005. On 23 January 2020, the ECB's Governing Council decided to make accessible to the public documents that originated in or were

([1]) OJ L 43, 15.2.1983, p. 1.
([2]) Judgment of the Court of Justice of 17 December 2020, *Commission* v *Slovenia*, C-316/19, EU:C:2020:1030.
([3]) Decision ECB/2004/2 of the European Central Bank of 19 February 2004 adopting the Rules of Procedure of the European Central Bank (OJ L 80, 18.3.2004, p. 33).

received by the COG, the EMCF and the EMI, and are held by the ECB. This Decision implements those Governing Council decisions and the documents concerned will be made available to the public following their declassification to 'ECB-PUBLIC', irrespective of the expiry of the 30-year period.

(5) Article 2 of Regulation (EEC, Euratom) No 354/83 recognises that exceptions may apply to the rule that documents of historical or administrative value be made available to the public wherever possible and refers in this context to Regulation (EC) No 1049/2001 of the European Parliament and of the Council [4]. As Regulation (EC) No 1049/2001 does not apply to the ECB, exceptions to the rule that documents of historical or administrative value be made available to the public follow from Decision ECB/2004/3 of the European Central Bank [5]. Article 4(6) of Decision ECB/2004/3 states that for documents covered by the exceptions relating to privacy or commercial interests, the exceptions may continue to apply after the maximum period of 30 years. For documents covered by other exceptions laid down in Article 4 of Decision ECB/2004/3, the exceptions may apply for a maximum period of 30 years unless specifically provided otherwise by the ECB's Governing Council.

(6) Given that documents belonging to the ECB archives and related to the performance of the tasks of the ESCB and the Eurosystem are also held by the NCBs, which may want to make such documents available to the public as part of their own historical archives or be requested to transfer them to a third party, such as a national historical archive, the internal rules necessary for applying Regulation (EEC, Euratom) No 354/83 also need to address the NCBs. As NCBs are an integral part of the ESCB and the Eurosystem, they neither qualify as Member States within the meaning of Article 6 of Regulation (EEC, Euratom) No 354/83 nor as third parties within the meaning of this Decision. It is appropriate that the ECB and the NCBs closely cooperate to ensure that the ECB historical archives are processed consistently and with the appropriate care throughout the ESCB and the Eurosystem.

(7) Documents belonging to the ECB archives may have been transferred to a third party, such as a national historical archive, by NCBs before the entry into force of this Decision. In such cases, it is appropriate that the NCBs ensure that those third parties may not make such documents available to the public before the expiry of the 30-year period. In addition, where the ECB holds the same documents as those transferred to such third parties, NCBs must ensure that those third parties only make such of those documents available to the public after 30 years as have been declassified to 'ECB-PUBLIC' by the ECB. National historical archives and other national public authorities are obliged, under the principle of sincere cooperation enshrined in Article 4(3) of the Treaty on European Union and Article 18 of the Protocol on the privileges and immunities of the European Union, to act in good faith so as to preclude the premature release of ECB archives documents or the release of classified documents.

(8) Pursuant to Regulation (EU) 2018/1725 of the European Parliament and of the Council [6], the ECB is required to provide information to data subjects on the processing of personal data concerning them and to respect their rights as data subjects. However, the ECB should balance such rights with the objectives of archiving in the public interest in accordance with data protection law.

(9) Article 16(5), point (b), and Article 19(3), point (d), of Regulation (EU) 2018/1725 provide for exceptions to, respectively, a data subject's right to information and right to erasure for processing data for archiving purposes in the public interest, insofar as those rights are likely to render impossible or seriously impair the achievement of the objectives of that processing. The right to information should in principle not apply in the particular context of the ECB historical archives, as the ECB would be required to make a disproportionate effort to provide information on processing once its historical archives have been made available to the public. Nonetheless, it is appropriate that

[4] Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

[5] Decision ECB/2004/3 of the European Central Bank of 4 March 2004 on public access to European Central Bank documents (OJ L 80, 18.3.2004, p. 42).

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

data subjects be informed about the possibility that their personal data may be made publicly available as part of the ECB historical archives at the same time as they are informed about the processing operations for which their personal data have been initially collected. Also, the right to erasure should in principle not apply in the particular context of the ECB historical archives, taking into account the size and in part physical nature of the ECB archives and the nature of archiving in the public interest, insofar as the erasure of personal data contained in the ECB archives would undermine the validity, integrity and authenticity of the ECB historical archives and is therefore likely to seriously impair the achievement of the objectives of archiving in the public interest.

(10) Article 25(4) of Regulation (EU) 2018/1725 allows the ECB the possibility to provide for derogations from the rights referred to in Articles 17, 18, 20, 21 and 23 of that Regulation, insofar as those rights are likely to render impossible or seriously impair the achievement of the purpose of archiving in the public interest and derogations are necessary for the fulfilment of such purpose. In adopting this Decision, the ECB provides for derogations from the rights referred to in Articles 17, 18, 20, 21 and 23 of Regulation (EU) 2018/1725 subject to organisational and technical safeguards required by Article 13 of that Regulation. Granting access to personal data if a data subject request does not provide specific information regarding the processing to which the request relates may involve a disproportionate effort or be practically impossible, given the size of the ECB historical archives. The rectification, erasure or restriction of processing of personal data would undermine the integrity and authenticity of the ECB historical archives and defeat the purpose of archiving in the public interest. However, in duly justified cases of inaccurate personal data, the ECB may decide to include a supplementary statement or annotation to the relevant document. Communicating any rectification, erasure or restriction of processing of personal data may involve a disproportionate effort or be practically impossible. As personal data form an integral and indispensable part of the ECB historical archives, granting the right to object to the processing of personal data contained in the ECB archives would render impossible the achievement of the purpose of archiving in the public interest.

(11) The ECB is not to make available to the public documents containing special categories of personal data referred to in Article 10 of Regulation (EU) 2018/1725, personal data relating to criminal convictions and offences referred to in Article 11 of Regulation (EU) 2018/1725 or personal data of a child below the age of 13 years. Given the large volume of documents and the improbability of documents containing sensitive personal data having administrative or historical value, making such documents available to the public would lead to a considerable delay and therefore seriously impair the archiving process. Recital 6 of Regulation (EU) 2018/1725 states that the Regulation should not apply to the processing of personal data of deceased persons. Since in most cases the ECB cannot establish whether the data subject is deceased, it is appropriate as an additional safeguard that the period for opening an ECB historical archives document containing such sensitive personal data under Articles 10 and 11 of Regulation (EU) 2018/1725 or data relating to the privacy and the integrity of the individual under Article 4 of Decision ECB/2004/3 is set to one hundred years after the creation of that document.

(12) The European Data Protection Supervisor was consulted in accordance with Article 41(2) of Regulation (EU) 2018/1725 and delivered an opinion on 5 October 2022. The ECB implemented the recommendations of the European Data Protection Supervisor.

(13) The second sentence of Article 23.3 of Decision ECB/2004/2 is amended to clarify that documents belonging to the ECB archives are only freely accessible after the expiry of the 30-year period in accordance with this Decision unless the decision-making bodies decide to shorten that period, such as in the case of the documents that originated in or were received by the Delors Committee, the COG, the EMCF and the EMI, and are held by the ECB, or prolong it, such as potentially in the case of individual proceedings of the meetings of the Governing Council, should a case-by-case assessment disprove the assumption that the independence of the decision-making process of the Governing Council is no longer threatened after 30 years,

HAS ADOPTED THIS DECISION:

Article 1

Subject matter

This Decision lays down the rules concerning the preservation and opening to the public of the ECB historical archives.

Article 2

Definitions

For the purposes of this Decision:

(1) 'ECB's predecessors' means the Committee for the Study of Economic and Monetary Union, the Committee of Governors of the Central Banks of the Member States of the European Economic Community, the European Monetary Cooperation Fund and the European Monetary Institute;

(2) 'ECB archives' means:

(a) all documents of whatever type and in whatever medium which have originated in or been received by the ECB or the NCBs in connection with the performance of the tasks of the ESCB and the Eurosystem, irrespective of whether they are held by the ECB or the NCBs; and

(b) all documents of whatever type and in whatever medium which have originated in or been received by the ECB's predecessors and are held by the ECB;

(3) 'ECB historical archives' means all documents of historical or administrative value that are part of the ECB archives and have been selected for permanent preservation;

(4) 'date of creation' means:

(a) in the case of digital documents that are created within the ECB's document management system, the date on which the document was last edited or on which the latest version was added;

(b) in the case of paper documents that are placed in a physical file, the date of the most recent substantive document in the file;

(c) in the case of paper documents that are in bound volume format, the year of the most recent substantive entry in the volume or of the most recent substantive comment or annotation, whichever is the later; and

(d) in the case of an image, such as an architectural drawing, photograph or moving image, the date of creation or the year of the last amendment to the image or drawing, whichever is the later;

(5) 'national central bank' or 'NCB' means a central bank of a Member State;

(6) 'third party' means any natural or legal person or any entity outside the ESCB;

(7) 'appraisal' means an ongoing sorting process of ECB archives to identify documents that should be preserved for historical archiving purposes;

(8) 'preservation' means the set of activities necessary to ensure continued access to, and to minimise the loss of information content in, documents selected to be part of the ECB historical archives;

(9) 'classified document' means an ECB historical archives document that has been assigned one of the four following security classifications under the ECB's confidentiality regime ([7]) that does not authorise its release to the public, namely: 'ECB-SECRET', 'ECB-CONFIDENTIAL', 'ECB-RESTRICTED' and 'ECB-UNRESTRICTED';

(10) 'declassified document' means an ECB historical archives document that has been assigned the security classification of 'ECB-PUBLIC' under the ECB's confidentiality regime;

([7]) The ECB's confidentiality regime is published on the ECB's website.

(11) 'personal data' means personal data within the meaning of Article 3, point (1) of Regulation (EU) 2018/1725;

(12) 'children's personal data' means personal data of children below the age of 13 years;

(13) 'sensitive personal data' means special categories of personal data referred to in Article 10 of Regulation (EU) 2018/1725, personal data relating to criminal convictions and offences referred to in Article 11 of Regulation (EU) 2018/1725 and children's personal data;

(14) 'controller' means controller within the meaning of Article 2, point (1), of Decision (EU) 2020/655 of the European Central Bank (ECB/2020/28) ([8]).

Article 3

Appraisal and preservation

1. The ECB shall carry out an appraisal to identify which ECB archives documents held by it shall be preserved and which documents have no administrative or historical value and shall be disposed of.

2. The policy objectives of the appraisal carried out by the ECB are to identify and preserve document classes that:

(a) provide evidence of the source of authority, foundation, organisation and functioning of the ECB and its predecessors, the ESCB, the Eurosystem, as well as any relevant Committees, Working Groups and Task Forces;

(b) provide evidence of the activities of the ECB and its predecessors, the ESCB, the Eurosystem, as well as any relevant Committees, Working Groups and Task Forces relating to key functions and significant programmes and issues;

(c) substantially contribute to the knowledge and understanding of the Member States whose currency is the euro and/or their institutions and their citizens; of the impact of the activities of the ECB and its predecessors and/or the ESCB and the Eurosystem on the external environment; and/or of the interaction of people and organisations with the Union institutions and bodies;

(d) substantially contribute to the knowledge and understanding of aspects of the ECB's and its predecessors' corporate culture.

3. Irrespective of the outcome of the appraisal referred to in paragraphs 1 and 2, the ECB shall hold ECB archives documents in compliance with the retention requirements set out in the ECB Filing and Retention Plan ([9]).

Article 4

Declassification

1. The ECB shall in good time and not later than the 25th year following the date of the creation of a classified document, examine categories of classified documents held by it in order to decide whether or not to declassify them to 'ECB-PUBLIC'. The ECB shall re-examine ECB historical archives documents, or categories of documents, held by it which have not been declassified to 'ECB-PUBLIC' following the first such examination at least every five years thereafter.

([8]) Decision (EU) 2020/655 of the European Central Bank of 5 May 2020 adopting implementing rules concerning data protection at the European Central Bank and repealing Decision ECB/2007/1 (ECB/2020/28) (OJ L 152, 15.5.2020, p. 13).

([9]) The latest version of the ECB Filing and Retention Plan was approved by the Executive Board at its meeting on 7 June 2022. It is regularly updated and published on the ECB's website.

2. In accordance with Article 2(3) of Regulation (EEC, Euratom) No 354/83, before deciding to declassify and make available to the public ECB historical archives documents which, if disclosed, could undermine the commercial interests of a natural or legal person, including intellectual property, the ECB shall publish a notice in the *Official Journal of the European Union* to inform the persons or undertakings concerned and invite them to submit observations within a period of no less than eight weeks as specified in the notice, with a view to assessing whether the documents shall or shall not be released.

Article 5

Opening declassified documents held by the ECB to the public

1. The ECB shall make available to the public declassified documents held by it if they originated in or were received by the ECB's predecessors.

2. The ECB shall make available to the public pursuant to paragraphs 3 and 4 declassified documents held by it, other than those referred to in paragraph 1, 30 years after the date of their creation.

3. The ECB shall make accessible online, wherever possible, declassified documents referred to in paragraph 2 via the ECB's online communications platforms.

4. Where it is not possible to make the declassified documents referred to in paragraph 2 available online pursuant to paragraph 3, the ECB shall make them available to applicants either at the ECB's premises or, where deemed suitable by the ECB, by releasing a digital copy of the requested documents, under the following conditions:

(a) an application to access a declassified document is made in any written form, including electronic form, in one of the official languages of the Union in a sufficiently precise manner to enable the ECB to identify the requested documents;

(b) documents are supplied in their latest version in the format (including electronic) and in the language(s) in which they were created.

If an application for access to a declassified document is not sufficiently precise for the purposes of point (a), the ECB shall ask the applicant to clarify it and shall assist the applicant in doing so.

Article 6

Documents concerning the performance of the tasks of the ESCB and the Eurosystem held by NCBs

1. NCBs shall carry out an appraisal to identify which ECB archives documents held by them shall be preserved and which documents have no historical or administrative value and shall be disposed of. They shall pursue the policy objectives set out in Article 3(2) in their appraisal and respect the retention requirements referred to in Article 3(3). Where an NCB and the ECB hold the same ECB archives documents, NCBs shall align their appraisal with the outcome of the appraisal carried out by the ECB under Article 3.

2. NCBs shall in good time, and not later than the 25th year following the date of the creation of a classified document, examine categories of classified documents held by them in order to decide whether or not to declassify them to a level that is equivalent to the 'ECB-PUBLIC' classification. Where an NCB and the ECB hold the same ECB archives documents, NCBs shall align their decision on declassification with the outcome of the decision on declassification taken by the ECB in compliance with Article 4(1). NCBs shall not make declassified documents available to the public or transfer them to a third party before the expiry of the 30-year period starting from the date of the creation of a document.

Article 7

ECB archives documents concerning the performance of the tasks of the ESCB and the Eurosystem held by third parties

Where an NCB has transferred ECB archives documents to a third party, that NCB shall ensure that:

(a) where the ECB holds the same documents as those transferred to that third party and that third party carries out an appraisal of those documents, the appraisal of that third party shall be aligned with the outcome of the appraisal carried out by the ECB under Article 3;

(b) where the ECB holds the same documents as those transferred to that third party and that third party examines the security classifications of those documents, a decision on declassification of that third party shall be aligned with the outcome of the decision on declassification taken by the ECB in compliance with Article 4(1); and

(c) the third party shall not make declassified documents available to the public before the expiry of the 30-year period starting from the date of the creation of the documents.

Article 8

Processing of personal data and obligations of controller

1. The ECB may derogate from the rights of data subjects pursuant to Article 25(4) Regulation (EU) 2018/1725, insofar as is necessary to fulfil archiving purposes in the public interest and to preserve the integrity of the ECB historical archives, including in particular from the following rights:

(a) the right of access ([10]), where the request of the data subject does not allow for the identification of specific ECB archives documents without involving disproportionate administrative effort and, in assessing the action to be taken on the request of the data subject and the administrative effort required, particular account shall be taken of the information provided by the data subject and the nature, scope, volume and size of the ECB archives documents potentially concerned;

(b) the right to rectification ([11]), where rectification renders it impossible to preserve the integrity and authenticity of ECB historical archives documents, without prejudice to the possibility of a supplementary statement or annotation to the document concerned, unless this proves impossible or involves disproportionate effort;

(c) the right to restriction of processing ([12]), where processing is necessary to preserve the integrity and authenticity of ECB historical archives documents and/or is in the public interest;

(d) the obligation to notify the rectification or erasure of personal data ([13]), insofar as this proves impossible or involves disproportionate effort;

(e) the right to object to the processing ([14]), where the personal data are contained in ECB historical archives documents as an integral and indispensable part of those documents.

2. The ECB shall implement appropriate safeguards to ensure compliance with Article 13 of Regulation (EU) 2018/1725. Such safeguards shall include technical and organisational measures, in particular, in order to ensure respect for the principle of data minimisation. The safeguards shall include:

(a) establishing procedures to protect personal data, such as systematically deleting and destroying files containing personal data in line with the ECB Filing and Retention Plan;

(b) establishing controlled procedures to enable access to documents where the existence of personal data cannot be ascertained;

([10]) Article 17 of Regulation (EU) 2018/1725.
([11]) Article 18 of Regulation (EU) 2018/1725.
([12]) Article 20 of Regulation (EU) 2018/1725.
([13]) Article 21 of Regulation (EU) 2018/1725.
([14]) Article 23 of Regulation (EU) 2018/1725.

(c) not releasing sensitive personal data; and

(d) pseudonymisation and anonymisation measures.

3. The controller is required to:

(a) inform data subjects about the fact that documents containing their personal data may be made available to the public as part of the ECB historical archives;

(b) consult the data protection officer prior to a decision to derogate from data subject rights in a particular case and document this consultation;

(c) record any derogations applied pursuant to paragraph 1 as well as the reasoning that justifies the derogation;

(d) make available any documents containing underlying factual and legal elements to the European Data Protection Supervisor upon request.

Article 9

Protection of sensitive personal data

The ECB shall not make available to the public ECB historical archives documents held by it containing sensitive personal data or data relating to the privacy and the integrity of the individual under Article 4 of Decision ECB/2004/3, including archival descriptions or authority records, before the expiry of a period of one hundred years starting from the date of creation of those documents.

Article 10

Reproduction of ECB historical archives

1. ECB historical archives, or any descriptive information concerning such archives, released via the ECB's online communications platforms and in accordance with this Decision shall not be reproduced or exploited for commercial purposes without the ECB's prior specific authorisation. The ECB may withhold such authorisation without stating its reasons for doing so.

2. This Decision shall be without prejudice to any rules on copyright which may limit a third party's right to reproduce or exploit any released documents.

Article 11

Annual publication of information on activities

The ECB shall annually publish information on its historical archiving activities via the ECB's online communications platforms.

Article 12

Coordination

The ECB shall establish an ECB historical archives coordination group with representatives from the ECB and the NCBs chaired by the ECB's Information Governance Division. It shall discuss the application of this Decision with the aim of ensuring that the ECB historical archives are processed consistently and with the appropriate care throughout the ESCB and the Eurosystem. For this purpose, it shall also assist the ECB's Information Governance Division in establishing a set of operational measures and procedures to be applied.

Article 13

Amendment to Decision ECB/2004/2

The second sentence of Article 23.3 of Decision ECB/2004/2 is replaced by the following:

'They shall be freely accessible after the expiry of a period of 30 years starting from their date of creation in accordance with the Decision (EU) 2023/1610 of the European Central Bank (ECB/2023/17) (*) unless the decision-making bodies decide to prolong or shorten that period.

_____

(*) Decision (EU) 2023/1610 of the European Central Bank of 28 July 2023 establishing the historical archives of the European Central Bank and amending Decision ECB/2004/2 (ECB/2023/17) (OJ L 198, 08.08.2023, p. 30).'.

Article 14

Entry into force

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

Done at Frankfurt am Main, 28 July 2023.

The President of the ECB
Christine LAGARDE

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2023 OF THE SPECIALISED COMMITTEE ON FISHERIES ESTABLISHED BY ARTICLE 8(1)(Q) OF THE TRADE AND COOPERATION AGREEMENT BETWEEN THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART,

of 24 July 2023

as regards the mechanism for voluntary in-year transfers of fishing opportunities [2023/1611]

THE SPECIALISED COMMITTEE ON FISHERIES,

Having regard to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part ('the Agreement') ([1]), and in particular Article 508(1)(m) thereof,

Whereas:

(1) Article 498(8) of the Agreement provides for the United Kingdom and the Union (each a 'Party', together 'the Parties') to set up a mechanism for voluntary in-year transfers of fishing opportunities between the Parties.

(2) Article 508 of the Agreement sets out, in a non-exhaustive manner, the functions and powers of the Specialised Committee on Fisheries.

(3) Article 508(1)(m) of the Agreement provides that the Specialised Committee on Fisheries may develop a mechanism for voluntary in-year transfers of fishing opportunities between the Parties, as referred to in Article 498(8). Article 508(2)(b) of the Agreement provides that the Specialised Committee on Fisheries may adopt measures, including decisions and recommendations in relation to the matters referred to in Article 508(1)(m) of the Agreement.

(4) As set out in the written records of fisheries consultations between the Parties for 2021 and 2022, the Parties operated an interim mechanism for voluntary in-year transfers of fishing opportunities for 2021 and 2022 respectively pending the establishment of the mechanism as referred to in Article 498(8).

(5) During the third meeting of the Specialised Committee on Fisheries on 27 April 2022, the Parties approved principles for the operation of the mechanism as referred to in Article 498(8).

(6) As set out in the written record of fisheries consultations between the Parties for 2023, the interim mechanism for 2021 and 2022 was extended to fishing opportunities for 2023 pending the establishment of the mechanism as referred to in Article 498(8).

(7) It is appropriate that the Specialised Committee on Fisheries decide on the details of the mechanism for voluntary in-year transfers of fishing opportunities as referred to in Article 498(8),

([1]) OJ L 149, 30.4.2021, p. 10.

HAS ADOPTED THIS DECISION:

Article 1

The mechanism for voluntary in-year transfers of fishing opportunities referred to in Article 498(8) of the Agreement is hereby established.

Article 2

The mechanism shall be based on the following principles:

1. It will be a mechanism for voluntary in-year transfers of fishing opportunities between the Parties.
2. The mechanism will operate annually through a series of regular individual rounds between the Parties between 1 April and 31 January of the succeeding year, usually with a 4-week gap between rounds. The Parties will agree a schedule for these rounds in advance, including dates by when the Parties, if both wish to propose transfers, will exchange lists of proposed transfers.
3. Individual exchange proposals will include the stock identifiers and tonnages that the Parties propose to transfer in each direction (to the UK and to a Member State of the Union).
4. Identical proposals that are included on both Parties' exchanged lists will be executed.
5. A review of the mechanism may be held periodically, via the Specialised Committee on Fisheries.

Article 3

The mechanism may be suspended or discontinued by either Party on reasonable notice to the other Party.

Article 4

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

Done at Brussels and London, 24 July 2023.

For the Specialised Committee on Fisheries

The Co-Chairs

Eva Maria CARBALLEIRA FERNANDEZ Mike DOWELL

RECOMMENDATION No 1/2023 OF THE SPECIALISED COMMITTEE ON FISHERIES ESTABLISHED BY ARTICLE 8(1)(Q) OF THE TRADE AND COOPERATION AGREEMENT BETWEEN THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART,

of 24 July 2023

as regards guidelines for notifications under Article 496(3) of the Agreement [2023/1612]

THE SPECIALISED COMMITTEE ON FISHERIES,

Having regard to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part ('the Agreement'), and in particular Article 508(2)(b) thereof,

Whereas:

(1) Article 496(1) of the Agreement provides that each Party shall decide on any measures applicable to its waters in pursuit of the objectives set out in Article 494(1) and (2), and having regard to the principles referred to in Article 494(3).

(2) Article 496(3) of the Agreement provides that the United Kingdom and the Union (each a 'Party', together 'the Parties') shall notify the other Party of new measures as referred to in Article 496(1) that are likely to affect the vessels of the other Party before those measures are applied, allowing sufficient time for the other Party to provide comments or seek clarification.

(3) At the Specialised Committee on Fisheries meeting of 27 October 2021, the Parties agreed to continue discussions on how the process of exchanging notifications could be improved, with a view to developing a notifications protocol. At the Specialised Committee on Fisheries meeting of 21 October 2022, the Parties noted the importance of agreeing a protocol for the exchange of notifications.

(4) Article 508(2)(b) of the Agreement provides that the Specialised Committee on Fisheries may adopt recommendations in relation to the matters referred to in Article 508(1) of the Agreement.

(5) Article 10 of the Agreement provides that recommendations have no binding force,

HAS ADOPTED THIS RECOMMENDATION:

1. The Specialised Committee on Fisheries recommends that the Parties, in normal circumstances, notify a new fisheries management measure under Article 496(3) allowing sufficient time for the other Party to provide comments or seek clarification, and not less than 45 calendar days before the measure comes into force. The Specialised Committee on Fisheries recommends that the Parties endeavour to respond to any requests for clarifications in a timely manner.

2. The Specialised Committee on Fisheries acknowledges that a Party may need to take emergency measures, covering, inter alia, measures relating to a serious threat to the conservation of marine biological resources or to the marine ecosystem under the jurisdiction of the Parties. In such exceptional circumstances, the Specialised Committee on Fisheries recommends that a Party notify the other party of an emergency measure as early as practicable. The Specialised Committee on Fisheries recommends that a Party may request a discussion via the Specialised Committee on Fisheries on the use of shorter notice periods on grounds of emergency measures, to ensure that this exception is used only when appropriate and remains exceptional.

3. The Specialised Committee on Fisheries recommends that a notification include and be structured in line with the following content:

(a) a unique reference number and a reference to Article 496(3) of the Agreement;

(b) the draft text of the proposed measure, or when unavailable, a full and detailed description of all provisions of the draft measure, including a reference to the legal vehicle to be used and the measures it would replace or amend, if any, with the draft text to be shared once available;

(c) a description of the objective of the measure and relevant ICES/FAO area codes when appropriate;

(d) a full and comprehensive summary and, when publicly available, a copy or a link to the best available scientific advice on which the measure is based;

(e) any impact assessments if carried out and if available at the time of the notification;

(f) any interpretative guidance issued, if available at the time of notification;

(g) the proposed date of entry into force, if available.

4. The Specialised Committee on Fisheries recommends that the Parties inform each other as soon as possible of the date of entry into force, if not known at the time of notification or has changed since time of notification.

5. The Specialised Committee on Fisheries recommends that each Party inform each other about the final version of the measure upon the text being made public.

6. The Specialised Committee on Fisheries acknowledges cases where the Parties implement fisheries management measures agreed to by both Parties under regional fisheries management organisations (RFMOs) or in written or agreed records of annual consultations on fisheries and recommends a simplified notification in such instances provided the measures do not go beyond the scope of the agreement in the RFMO or the written or agreed records, comprising the following content, and to be issued at least 30 calendar days before the measure enters into force:

(a) a unique reference number and a reference to Article 496(3) of the Agreement;

(b) a reference to the commitment in the RFMO or the written or agreed record, and a description of the commitment that is being implemented;

(c) a description of how the Party is implementing the measure, including a copy of or link to the legal vehicle, when available, and the date it is likely to come into force.

7. The Specialised Committee on Fisheries recommends that the Parties exchange periodically a forward look of foreseeable legislative changes or other measures over the next 6 to 12 months, that if adopted fall under the notification requirement of Article 496(3) of the Agreement.

8. The Specialised Committee on Fisheries acknowledges that certain measures will be the subject of public consultations or calls for evidence prior to implementation and recommends that each Party inform the other Party of such policy initiatives upon their publication to enable the other Party to request clarifications and provide comments at this stage, which is without prejudice to the notification requirements under Article 496(3). The Specialised Committee on Fisheries recommends that the Parties may agree to include discussions on such proposed measures on the Specialised Committee on Fisheries agenda, as appropriate.

9. The Specialised Committee on Fisheries recommends that notifications be exchanged via electronic measures and that the Parties communicate to each other a list of email addresses for inclusion in the formal transmission of notifications, and any changes thereof. The Specialised Committee on Fisheries recommends that the receiving Party contact the issuing Party to confirm receipt of notifications.

10. The Specialised Committee on Fisheries recommends that a review take place at the request of either Party if a Party considers that a review is needed to improve the operation of the exchange of notifications, with the aim of amending the guidelines in a mutually agreeable way or, if not possible, discontinuing them.

Done at Brussels and London, 24 July 2023.

For the Specialised Committee on Fisheries

The Co-Chairs

EVA Maria CARBALLEIRA FERNANDEZ Mike DOWELL

RECOMMENDATION No 2/2023 OF THE SPECIALISED COMMITTEE ON FISHERIES ESTABLISHED BY ARTICLE 8(1)(Q) OF THE TRADE AND COOPERATION AGREEMENT BETWEEN THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART,

of 24 July 2023

as regards the alignment of management areas for Lemon Sole, Witch, Turbot and Brill [2023/1613]

THE SPECIALISED COMMITTEE ON FISHERIES,

Having regard to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part ('the Agreement'), and in particular Article 504 thereof and Article 508(2)(d),

Whereas:

(1) Article 504(1) of the Agreement provides that the United Kingdom and the Union (each a 'Party', together 'the Parties') shall request advice from the International Council for the Exploration of the Sea ('ICES') on the alignment of the management areas and the assessment units used by ICES for the stocks marked with an asterisk in Annex 35.

(2) Those stocks are: (i) lemon sole and witch (North Sea), L/W/2AC4-C; (ii) plaice (English Channel), PLE/7DE; (iii) turbot and brill (North Sea), T/B/2AC4-C; and (iv) whiting (Celtic Sea), WHG/7X7A-C.

(3) Article 504(2) of the Agreement provides that within 6 months of receipt of the advice the Parties shall jointly review the advice and shall jointly consider adjustments to the management areas of the stocks concerned, with a view to agreeing consequential changes to the list of stocks and shares set out in Annex 35.

(4) The Parties noted the conclusion of such joint requests to ICES for the four stocks at the Specialised Committee on Fisheries meeting of 20 July 2022. Moreover, on 16 December 2022, ICES issued its advice for two of the four stocks: (i) lemon sole and witch (North Sea); and (ii) turbot and brill (North Sea).

(5) At present, lemon sole and witch, L/W/2AC4-C, and turbot and brill, T/B/2AC4-C, are both managed under a combined TAC whereas ICES provides advice on a species level, and the geographical scope of these management areas for lemon sole, witch and brill under the Agreement is narrower than the ICES advice areas:

— for lemon sole, the ICES advice area covers the North Sea (ICES area 4), the Skagerrak (ICES area 3a) and the Eastern Channel (ICES area 7d),

— for witch, the ICES advice area covers the North Sea (ICES area 4), the Skagerrak (ICES area 3a) and the Eastern Channel (ICES area 7d),

— for brill, the ICES advice area covers the North Sea (ICES area 4) and the English Channel (ICES area 7d and area 7e).

(6) In its advice of 16 December 2022, ICES advised that for all four stocks (lemon sole, witch, turbot and brill), management should be using a single-species TAC covering the stock distribution area.

(7) In its annual stock advice of 30 June 2022 for lemon sole, witch, turbot and brill, ICES similarly advised that management should be implemented at the species level in the entire stock distribution area. ICES advises that management of these species under a combined species TAC prevents effective control of the single-species exploitation rates and could lead to the overexploitation of either species.

(8) Article 508(2)(d) of the Agreement provides that the Specialised Committee on Fisheries may adopt recommendations in relation to cooperation on sustainable fisheries management under Heading Five (Fisheries) of the Agreement.

(9) The Parties recognise that it may be appropriate to have more than one TAC for each species in order to set sustainable fishing opportunities.

(10) The Parties further recognise the importance of responsible international fisheries management, including that TACs should take account of other coastal state catches.

(11) The Parties note the potential challenges for the management of these stocks that may arise from moving to single species TACs which follow the ICES advice area, including the application of the landing obligation, and recognise the potential role for inter-area flexibility between TACs for the same species and the use of quota exchanges for mitigating such risks,

HAS ADOPTED THIS RECOMMENDATION:

Article 1

The Specialised Committee on Fisheries recommends that the Parties, in future annual consultations under Article 498 of the Agreement, manage lemon sole and witch (North Sea), L/W/2AC4-C, and turbot and brill (North Sea), T/B/2AC4-C, at a single species level by setting out the maximum amount of each species that can be caught under each TAC.

Article 2

The Specialised Committee on Fisheries recommends, with a view to ensuring the full stock area is under TAC management, that the Parties in future annual consultations establish TACs pursuant to Article 498(3) of the Agreement as listed in Annex I to this recommendation.

The Specialised Committee on Fisheries recommends that the Parties' shares of the TACs for the stocks listed in Annex I to this recommendation be allocated between the Parties in accordance with the quota shares set out in Annex I to this recommendation. In line with responsible international fisheries management, the Specialised Committee on Fisheries recommends that the Parties account for third country catches when setting the TACs in line with Annex I.

Article 3

The Specialised Committee on Fisheries recommends that overall fishing opportunities for the stocks concerned are apportioned across the relevant TACs in line with Annex II to this recommendation, based on official landings for the period 2011-2020.

Article 4

Noting that the ICES catch advice applies to all ICES areas covered by the TACs referred to in Article 1 and 2 for lemon sole, witch and brill, the Specialised Committee on Fisheries recommends that geographic flexibility between Area 3a and Area 4 apply at a rate of 100 % in both directions and between Area 4 and Area 7d at a rate of 100 % in both directions.

Done at Brussels and London, 24 July 2023.

For the Specialised Committee on Fisheries

The Co-Chairs

EVA Maria CARBALLEIRA FERNANDEZ Mike DOWELL

ANNEX I

TACS AND RESPECTIVE UK AND EU TAC SHARES

No	Common Name	ICES Areas	TAC share (*) (%)	
			UK	EU
1	Lemon Sole (3a)	Union waters of 3a	0,00 %	100,00 %
2	Lemon Sole (Eastern Channel)	7d	18,77 %	81,23 %
3	Witch (3a)	Union waters of 3a	0,00 %	100,00 %
4	Witch (Eastern Channel)	7d	0,00 %	0,00 %
5	Brill (3a)	Union waters of 3a	0,00 %	100,00 %
6	Brill (English Channel)	7d and 7e	38,66 %	61,34 %

(*) The Specialised Committee on Fisheries recommends that the TAC figure to be apportioned between the UK and EU equates to the headline TAC minus third country catches. The Specialised Committee on Fisheries recommends that third country catches be set at 0,72 % of the total catch for lemon sole, 6,21 % for witch, 0,55 % for brill and 0,67 % for turbot. These are derived from historic landings data.

ANNEX II

PERCENTAGE APPORTIONMENT OF THE TOTAL AGREED TAC COVERING THE ICES BIOLOGICAL STOCK AREA TO THE NEW TAC AREAS

	3a	4	7d	7e
Lemon Sole	9,10 %	83,38 %	7,52 %	N/A
Witch	44,40 %	55,60 %	0,00 %	N/A
Brill	6,04 %	64,20 %	29,76 %	
Turbot	N/A	100,00 %	N/A	N/A

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