Commission Delegated Regulation (EU) 2020/1068 of 15 May 2020 amending Annexes I and V to Regulation (EU) No 649/2012 of the European Parliament and of the Council concerning the export and import of hazardous chemicals (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2020/1068

of 15 May 2020

amending Annexes I and V to Regulation (EU) No 649/2012 of the European Parliament and of the Council concerning the export and import of hazardous chemicals

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals[(1)], and in particular points (a) and (c) of Article 23(4) thereof,

Whereas:

(1) Regulation (EU) No 649/2012 implements the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade[(2)] ('the Rotterdam Convention').

(2) By Implementing Regulations (EU) 2019/677[(3)], (EU) 2019/989[(4)], (EU) 2019/1100[(5)], (EU) 2019/1090[(6)], (EU) 2018/1532[(7)], (EU) 2019/344[(8)], (EU) 2018/1043[(9)], (EU) 2018/1917[(10)], (EU) 2018/1019[(11)], (EU) 2018/309[(12)], (EU) 2018/1501[(13)] and (EU) 2018/1914[(14)], the Commission decided not to renew the approval of the substances chlorothalonil, chlorpropham, desmedipham, dimethoate, diquat, ethoprophos, fenamidone, flurtamone, oxasulfuron, propineb, pymetrozine and quinoxyfen, respectively, as active substances under Regulation (EC) No 1107/2009 of the European Parliament and of the Council[(15)], with the effect that those substances are banned from all uses in the category 'pesticide' due to the absence of any other use in that category. Therefore, those substances should be added to the lists of chemicals in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.

(3) By Implementing Regulation (EU) 2018/1500[(16)], the Commission decided not to renew the approval of the substance thiram as active substance under Regulation (EC) No 1107/2009, with the effect that that substance is banned from use in the subcategory 'pesticide in the group of plant protection products' as referred to in Regulation (EU) No 649/2012. Since thiram is only approved under Regulation (EU) No 528/2012 of the European Parliament and of the Council[(17)] for use in biocidal products for product-type 9, which fall in the subcategory 'other pesticide including biocides' as referred to in Regulation (EU) No 649/2012, virtually all use of that substance is prohibited at the

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/1068. (See end of Document for details)*

level of the category 'pesticide'. Therefore, thiram is considered severely restricted at the level of the category 'pesticide' and thus should be added to the lists of chemicals in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.

(4) By Implementing Regulation (EU) 2018/1865[(18)], the Commission decided not to renew the approval of the substance propiconazole as active substance under Regulation (EC) No 1107/2009, with the effect that that substance is banned from use in the subcategory 'pesticide in the group of plant protection products'. That ban does not amount to a severe restriction of the use of the substance at the level of the category 'pesticide', considering that propiconazole is approved for several uses in the subcategory 'other pesticide including biocides'. Propiconazole has been approved for use in biocidal products of product-types 7, 8 and 9 under Regulation (EU) No 528/2012. Therefore, propiconazole should be added to the list of chemicals in Part 1 of Annex I to Regulation (EU) No 649/2012.

(5) An application for renewal of the approval of clothianidin and thiamethoxam had been submitted, but the applicants withdrew that application after the adoption of the Implementing Regulations (EU) 2018/784[(19)] and (EU) 2018/785[(20)], by which the Commission decided to amend the conditions of approval of the active substances clothianidin and thiamethoxam, respectively, under Regulation (EC) No 1107/2009. Since those approvals of clothianidin and thiamethoxam expired, the use of those substances is banned in the subcategory 'pesticide in the group of plant protection products'. That ban amounts to a severe restriction of the use of the substances at the level of the category 'pesticide', since virtually all use of clothianidin and thiamethoxam is prohibited as clothianidin and thiamethoxam are only approved for use in biocidal products of product-type 18 under Regulation (EU) No 528/2012 in the subcategory 'other pesticide including biocides'. Therefore, clothianidin and thiamethoxam should be added to the lists of chemicals in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.

(6) By Implementing Regulation (EU) 2018/783[(21)], the Commission decided to amend the conditions of approval of the active substance imidacloprid under Regulation (EC) No 1107/2009, with the effect that the use of that substance is severely restricted in the subcategory 'pesticide in the group of plant protection products'. That severe restriction does not amount to a severe restriction of the use of the substance at the level of the category 'pesticide', considering that imidacloprid is approved for several uses in the subcategory 'other pesticide including biocides'. Imidacloprid has been approved for use in biocidal products of product-type 18 under Regulation (EU) No 528/2012. In addition, imidacloprid is used in veterinary medicinal products in accordance with Directive 2001/82/EC of the European Parliament and of the Council[(22)]. Therefore, imidacloprid should be added to the list of chemicals in Part 1 of Annex I to Regulation (EU) No 649/2012.

(7) By Implementing Regulation (EU) 2015/404[(23)], the Commission decided to extend the approval period of the active substance glufosinate under Regulation (EC) No 1107/2009, following an application for renewal of the approval of that active substance. Since that application has been withdrawn, glufosinate is no longer approved

as active substance under Regulation (EC) No 1107/2009, with the effect that that substance is banned from all uses in the category 'pesticide' due to the absence of any other use in that category. It should therefore be added to the lists of chemicals in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.

(8) At its ninth meeting in May 2019, the Conference of the Parties to the Rotterdam Convention decided to include the substances phorate and hexabromocyclododecane in Annex III to that Convention, with the effect that those substances became subject to the Prior Informed Consent procedure under that Convention. Phorate should therefore be added to the lists of chemicals in Parts 1 and 3 of Annex I to Regulation (EU) No 649/2012. Hexabromocyclododecane is already listed in Annex V to Regulation (EU) No 649/2012 and thus banned for export. Therefore, it should be added to the list of chemicals in Part 3 of Annex I to that Regulation.

(9) Regulation (EU) 2017/852 of the European Parliament and of the Council[24] prohibits the export of mercury, certain mixtures of metallic mercury with other substances, certain mercury compounds and certain mercury-added products. Those export bans should be reflected in Part 2 of Annex V to Regulation (EU) No 649/2012.

(10) Regulation (EU) No 649/2012 should therefore be amended accordingly.

(11) It is appropriate to provide for a reasonable period of time for interested parties to take the measures necessary to comply with this Regulation and for Member States to take the measures necessary for its implementation,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 649/2012 is amended as follows:

(a) Annex I is amended in accordance with Annex I to this Regulation;

(b) Annex V is amended in accordance with Annex II to this Regulation.

Article 2

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

It shall apply from 1 September 2020.

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

Done at Brussels, 15 May 2020.

For the Commission

The President

Ursula VON DER LEYEN

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/1068. (See end of Document for details)*

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ANNEX I

Annex I to Regulation (EU) No 649/2012 is amended as follows:

(1) in Part 1, in the table, the following entries are added:

Chemical	CAS No	Einecs No	CN code (***)	Subcategory (*)	Use limitation (**)	Countries for which no notification is required
'Chlorothalonil (+)	1897-45-6	217-588-1	ex 2926 90 70	p(1)	b	
Chlorpropham (+)	101-21-3	202-925-7	ex 2924 29 70	p(1)	b	
Clothianidin (+)	210880-92-5	n.a.	ex 2934 10 00	p(1)	b	
Desmedipham (+)	13684-56-5	237-198-5	ex 2924 29 70	p(1)	b	
Dimethoate (+)	60-51-5	200-480-3	ex 2930 90 98	p(1)	b	
Diquat, including diquat dibromide (+)	2764-72-9 85-00-7	220-433-0 201-579-4	ex 2933 99 80	p(1)	b	
Ethoprophos (+)	13194-48-4	236-152-1	ex 2930 90 98	p(1)	b	
Fenamidone (+)	161326-34-7	n.a.	ex 2933 29 90	p(1)	b	
Flurtamone (+)	96525-23-4	n.a.	ex 2932 19 00	p(1)	b	
Glufosinate, including glufosinate-ammonium (+)	51276-47-2 77182-82-2	257-102-5 278-636-6	ex 2931 39 90	p(1)	b	
Imidacloprid	138261-41-3	n.a.	ex 2933 39 99	p(1)	sr	
Oxasulfuron (+)	144651-06-9	n.a.	ex 2935 90 90	p(1)	b	