Commission Delegated Regulation (EU) 2019/1701 of 23 July 2019 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) 2019/1701

of 23 July 2019

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 (b) of Article 23(4) thereof,

Whereas:

(1) Regulation (EU) No 649/2012, which was adopted on 4 July 2012, implements the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade[(2)] ('the Rotterdam Convention'). It is a recast of Regulation (EC) No 689/2008 of the European Parliament and of the Council[(3)] and replaced that Regulation with effect from 1 March 2014. Regulation (EC) No 689/2008 was amended by Commission Regulation (EU) No 73/2013[(4)], which was adopted on 25 January 2013 but did not become applicable until 1 April 2013. The amendments set out in Regulation (EU) No 73/2013 were not duly reflected in Regulation (EU) No 649/2012. Therefore, in order to ensure legal clarity and consistency, it is necessary to formally reflect in the Annexes to Regulation (EU) No 649/2012 the amendments set out in Regulation (EU) No 73/2013.

(2) By Decision 2008/934/EC[(5)], the Commission decided not to include the substances acetochlor, asulam, chloropicrin and propargite as active substances in Annex I to Council Directive 91/414/EEC[(6)], with the effect that those substances are banned from pesticide use and thus should be added to the lists of chemicals in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012. However, the addition of acetochlor, asulam, chloropicrin and propargite to Annex I to Regulation (EU) No 649/2012 was suspended due to a new application for inclusion of those substances in Annex I to Directive 91/414/EEC submitted pursuant to Article 13 of Commission Regulation (EC) No 33/2008[(7)]. That new application resulted in the adoption of Implementing Regulations (EU) No 1372/2011[(8)], (EU) No 1045/2011[(9)], (EU) No 1381/2011[(10)] and (EU) No 943/2011[(11)], by which the Commission decided not to approve the substances

acetochlor, asulam, chloropicrin and propargite, respectively, as active substances under Regulation (EC) No 1107/2009 of the European Parliament and of the Council[12], with the effect that they remain banned from pesticide use. Therefore, the substances acetochlor, asulam, chloropicrin and propargite should be added to the lists of chemicals in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.

(3) By Decision 2008/934/EC, the Commission decided not to include the substance flufenoxuron as an active substance in Annex I to Directive 91/414/EEC and by Decision 2012/77/EU[13] it decided not to include that substance as an active substance in Annex I, IA or IB to Directive 98/8/EC of the European Parliament and of the Council[14] for product type 18. Flufenoxuron is therefore severely restricted for pesticide use and should be added to the lists of chemicals in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012. The addition of flufenoxuron to Annex I to Regulation (EU) No 649/2012 was, however, suspended due to a new application for inclusion of that substance in Annex I to Directive 91/414/EEC submitted pursuant to Article 13 of Regulation (EC) No 33/2008. That new application resulted in the adoption of Implementing Regulation (EU) No 942/2011[15], by which the Commission decided not to approve flufenoxuron as an active substance under Regulation (EC) No 1107/2009. Therefore, the substance flufenoxuron should be added to the lists of chemicals in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.

(4) By Decision 2012/257/EU[16], the Commission decided not to include the substance naled for product type 18 in Annex I, IA or IB to Directive 98/8/EC and by Decision 2005/788/EC[17], it decided not to include that substance in Annex I to Directive 91/414/EEC. Naled is therefore banned from pesticide use and should thus be added to the lists of chemicals in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.

(5) By Decisions 2009/65/EC[18], 2009/859/EC[19] and 2008/769/EC[20], the Commission decided not to include 2-naphthyloxyacetic acid, diphenylamine and propanil, respectively, as active substances in Annex I to Directive 91/414/EEC. Those substances are therefore banned from pesticide use and should thus be added to the lists of chemicals in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012. The addition of 2-naphthyloxyacetic acid, diphenylamine and propanil to Part 2 of Annex I to Regulation (EU) No 649/2012 was, however, suspended due to a new application for inclusion in Annex I to Directive 91/414/EEC submitted pursuant to Article 13 of Regulation (EC) No 33/2008. That new application resulted in the adoption of Implementing Regulations (EU) No 1127/2011[21], (EU) No 578/2012[22] and (EU) No 1078/2011[23], by which the Commission decided not to approve the substances 2# naphthyloxyacetic acid, diphenylamine and propanil, respectively, as active substances under Regulation (EC) No 1107/2009, with the effect that they remain banned from pesticide use. Therefore, the substances 2-naphthyloxyacetic acid, diphenylamine and propanil should be added to the list of chemicals in Part 2 of Annex I to Regulation (EU) No 649/2012.

(6) The entry for dichlorvos in the lists of chemicals contained in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012 should be amended to reflect Commission Decision

2012/254/EU[(24)] not to include dichlorvos in Annex I, IA or IB to Directive 98/8/EC, which has the effect that dichlorvos is banned from pesticide use.

(7) By Implementing Regulations (EU) No 582/2012[(25)] and (EU) No 359/2012[(26)], the Commission approved the substances bifenthrin and metam, respectively, with the effect that those substances are no longer banned from pesticide use. Consequently, the substances bifenthrin and metam should be deleted from Part 1 of Annex I to Regulation (EU) No 649/2012.

(8) At its fifth meeting in June 2011, the Conference of the Parties to the Rotterdam Convention decided to include the substances alachlor, aldicarb and endosulfan in Annex III to that Convention, with the effect that those substances became subject to the Prior Informed Consent procedure under that Convention. They should therefore be removed from the list of chemicals in Part 2 of Annex I to Regulation (EU) No 649/2012 and added to the list of chemicals in Part 3 of that Annex.

(9) The substance cyanamide should be removed from Part 2 of Annex I to Regulation (EU) No 649/2012 since evidence was submitted that Commission Decision 2008/745/EC[(27)] not to include cyanamide in Annex I to Directive 91/414/EEC does not amount to a severe restriction of the use of the substance at the level of the category 'pesticide', considering that cyanamide has important uses in the subcategory 'other pesticide including biocides'. Cyanamide has been identified and notified for evaluation under Directive 98/8/EC. Biocidal products containing cyanamide may thus continue to be authorised by Member States in accordance with their national rules, until a decision under that Directive is taken.

(10) Following the decision taken under the Stockholm Convention on Persistent Organic Pollutants to list the substance endosulfan in Part 1 of Annex A to that Convention, that substance was included in Part A of Annex I to Regulation (EC) No 850/2004 of the European Parliament and of the Council[(28)]. Consequently, endosulfan should be added to Part 1 of Annex V to Regulation (EU) No 649/2012.

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

(12) As, in practice, the amendments laid down in this Regulation have already been implemented by the relevant authorities and economic operators on the assumption that Regulation (EU) No 649/2012 had been amended by Commission Regulation (EU) No 73/2013, they should apply retroactively from 1 March 2014, the date when Regulation (EU) No 649/2012 started to apply,

HAS ADOPTED THIS REGULATION:

Article 1

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

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

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

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/1701. (See end of Document for details)*

Article 2

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

It shall apply with effect from 1 March 2014.

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

Done at Brussels, 23 July 2019.

For the Commission

The President

Jean-Claude JUNCKER

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/1701. (See end of Document for details)*

ANNEX I

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

(1) Part 1 is amended as follows:

(a) the entries for alachlor and aldicarb are replaced by the following:

Chemical	**CAS No**	**Einecs No**	**CN code (***)**	**Subcategory (*)**	**Use limitation (**)**	**Countries for which no notification is required**
‘Alachlor (#)	15972-60-8	240-110-8	ex 2924 25 00	p(1)	b	
Aldicarb (#)	116-06-3	204-123-2	ex 2930 80 00	p(1)-p(2)	b-b’	

(b) the entry for dichlorvos is replaced by the following:

Chemical	**CAS No**	**Einecs No**	**CN code (***)**	**Subcategory (*)**	**Use limitation (**)**	**Countries for which no notification is required**
‘Dichlorvos (+)	62-73-7	200-547-7	ex 2919 90 00	p(1)-p(2)	b-b’	

(c) the entries for bifenthrin and metam are deleted;

(d) the following entries are inserted or added in alphabetical order:

Chemical	**CAS No**	**Einecs No**	**CN code (***)**	**Subcategory (*)**	**Use limitation (**)**	**Countries for which no notification is required**
‘Acetochlor (+)	34256-82-1	251-899-3	ex 2924 29 70	p(1)	b	
Asulam (+)	3337-71-1 2302-17-2	222-077-1 218-953-8	ex 2935 90 90	p(1)	b	
Chloropicrin (+)	76-06-2	200-930-9	ex 2904 91 00	p(1)	b	