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Contents

II *Non-legislative acts*

INTERNATIONAL AGREEMENTS

2014/948/EU:

- ★ **Council Decision of 15 December 2014 on the signing, on behalf of the European Union, and provisional application of the Protocol between the European Union and the Republic of Cape Verde setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde** 1
- Protocol Between the European Union and the Republic of Cape Verde setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde** 3

REGULATIONS

- ★ **Council Regulation (EU) No 1385/2014 of 15 December 2014 on the allocation of fishing opportunities under the Protocol between the European Union and the Republic of Cape Verde setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde** 31
- ★ **Commission Delegated Regulation (EU) No 1386/2014 of 19 August 2014 amending Annex III to Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences** 33
- ★ **Commission Delegated Regulation (EU) No 1387/2014 of 14 November 2014 amending Annex I to Council Regulation (EC) No 1528/2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements** 35

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.

★ Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union	37
★ Commission Implementing Regulation (EU) No 1389/2014 of 16 December 2014 approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications [Beaufort (PDO)]	64
★ Commission Implementing Regulation (EU) No 1390/2014 of 19 December 2014 amending the Annex to Regulation (EU) No 37/2010, as regards the substance 'eprinomectin' ⁽¹⁾	65
Commission Implementing Regulation (EU) No 1391/2014 of 23 December 2014 establishing the standard import values for determining the entry price of certain fruit and vegetables	68

DECISIONS

2014/949/EU, Euratom:

★ Decision of the European Parliament of 16 December 2014 electing the European Ombudsman	70
---	----

2014/950/EU:

★ Commission Implementing Decision of 19 December 2014 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (notified under document C(2014) 10135)	71
--	----

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

2014/951/EU:

★ Political and Security Committee Decision EUFOR RCA/6/2014 of 16 December 2014 on the appointment of the EU Force Commander for the European Union military operation in the Central African Republic (EUFOR RCA) and repealing Decision EUFOR RCA/1/2014	76
---	----

2014/952/EU:

★ Political and Security Committee Decision EUMM Georgia/1/2014 of 19 December 2014 on the appointment of the Head of the European Union Monitoring Mission in Georgia (EUMM Georgia)	78
---	----

⁽¹⁾ Text with EEA relevance

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 15 December 2014

on the signing, on behalf of the European Union, and provisional application of the Protocol between the European Union and the Republic of Cape Verde setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde

(2014/948/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43 in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 19 December 2006, by adopting Regulation (EC) No 2027/2006 ⁽¹⁾ the Council approved the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (the 'Agreement').
- (2) The Protocol agreed between the European Union and the Republic of Cape Verde setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the two parties ⁽²⁾ expired on 31 August 2014.
- (3) The Council authorised the Commission to negotiate with the Republic of Cape Verde a new protocol (the 'Protocol') granting Union vessels fishing opportunities in the fishing zone in which the Republic of Cape Verde exercises sovereignty or jurisdiction in fishing matters.
- (4) On completion of the negotiations, the Protocol was initialled on 28 August 2014.
- (5) To ensure that Union vessels can continue their fishing activities, the Protocol should be applied on a provisional basis from the date of its signature, in accordance with Article 15 thereof.
- (6) The Protocol should be signed and applied on a provisional basis, pending the completion of the procedures for its conclusion,

HAS ADOPTED THIS DECISION:

Article 1

The signature of the Protocol between the European Union and the Republic of Cape Verde setting out fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde is hereby authorised, subject to its conclusion.

⁽¹⁾ Council Regulation (EC) No 2027/2006 of 19 December 2006 on the conclusion of the Fisheries partnership agreement between the European Community and the Republic of Cape Verde (OJ L 414, 30.12.2006, p. 1).

⁽²⁾ OJ L 181, 9.7.2011, p. 2.

The text of the Protocol is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Protocol on behalf of the Union.

Article 3

The Protocol shall be applied provisionally, in accordance with Article 15 thereof, from the date of its signature, pending the completion of the procedures necessary for its conclusion.

Article 4

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

Done at Brussels, 15 December 2014.

For the Council
The President
M. MARTINA

PROTOCOL

Between the European Union and the Republic of Cape Verde setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde

Article 1

Period of application and fishing opportunities

1. For a period of four years from the date of provisional application of the Protocol, the fishing opportunities granted to European Union vessels pursuant to Article 5 of the Fisheries Partnership Agreement shall be as follows:

Highly migratory species listed in Annex 1 to the 1982 United Nations Convention on the Law of the Sea, within the limits set in Appendix 2 and with the exception of species which are protected or prohibited in the framework of the International Commission for the Conservation of Atlantic Tunas (ICCAT) or other international agreements:

- freezer tuna seiners: 28 vessels,
- pole-and-line tuna vessels: 13 vessels,
- surface longliners: 30 vessels.

2. Paragraph 1 shall apply subject to the provisions of Articles 4 and 5.

3. Pursuant to Article 6 of the Agreement, vessels flying the flag of a Member State of the Union (hereinafter 'Union vessels') may engage in fishing activities in the Exclusive Economic Zone (EEZ) of the Republic of Cape Verde only if they are in possession of a valid fishing licence issued by Cape Verde under this Protocol.

Article 2

Financial contribution — Methods of payment

1. The total value of the Protocol, for the period referred to in Article 1, is estimated at EUR 3 300 000.

2. The amount referred to in the first paragraph breaks down as follows:

— EUR 2 100 000 by way of the financial contribution referred to in Article 7 of the Agreement, allocated as follows:

(a) an annual amount as financial compensation for access to resources of EUR 275 000 per year for the first and second year and EUR 250 000 per year for the third and fourth year, equivalent to a reference tonnage of 5 000 tonnes per year;

(b) a specific amount to support the implementation of Cape Verde's sectoral fisheries policy of EUR 275 000 per year for the first and second year and EUR 250 000 per year for the third and fourth year;

— EUR 1 200 000, corresponding to the estimated fees payable by the vessel owners for fishing licences issued under Articles 5 and 6 of the Agreement according to the procedures set out in Chapter II, point 3, of the Annex.

3. Paragraph 1 shall apply subject to Articles 3, 4, 5, 7 and 8 of this Protocol and Articles 12 and 13 of the Agreement.

4. If the overall quantity of catches by Union vessels in Cape Verdean waters exceeds the reference tonnage laid down in paragraph 2(a), the amount of the financial contribution laid down in paragraph 2(a) shall be increased, for each additional tonne caught, by EUR 55 the first two years and by EUR 50 the remaining two years. However, the total annual amount paid by the Union shall not be more than twice the amount indicated in paragraph 2(a). Where the quantities caught by Union vessels exceed the quantities corresponding to twice the total annual amount, the amount due for the quantity exceeding that limit shall be paid the following year.

5. Payment of the financial contribution laid down in paragraph 2(a) and (b) shall be made no later than 90 days after the date of provisional application of the Protocol the first year and no later than the anniversary date of the Protocol the following years.

6. The Cape Verdean authorities shall have full discretion regarding the use to which the financial contribution referred to in paragraph 2(a) is put.

7. The financial contribution shall be paid into a single Public Treasury account opened with a financial institution specified by the Cape Verdean authorities.

Article 3

Promotion of responsible and sustainable fishing in Cape Verdean waters

1. No later than three months after the entry into force of this Protocol, the Parties shall agree, within the Joint Committee provided for in Article 9 of the Agreement, on a multiannual sectoral programme and detailed implementing rules, in particular:

- (a) annual and multiannual guidelines for using the financial contribution referred to in Article 2(2)(b);
- (b) the objectives, both annual and multiannual, to be achieved with a view to introducing, over time, responsible and sustainable fishing, taking account of the priorities expressed by Cape Verde in its national fisheries policy and other policies relating to or having an impact on the introduction of responsible and sustainable fishing;
- (c) criteria and procedures for evaluating the results obtained each year.

2. All proposed amendments to the multiannual sectoral programme require approval by the Joint Committee.

3. Each year, the Cape Verdean authorities may decide to allocate an additional amount over and above the share of the financial contribution referred to in Article 2(2)(b) with a view to implementing the multiannual programme. This allocation shall be communicated to the Union no later than two months before the anniversary date of this Protocol.

4. Each year, the parties shall carry out, within the Joint Committee, an evaluation of the progress made in implementing the multiannual sectoral programme. Where this evaluation indicates that the objectives financed directly by the share of the financial contribution referred to in Article 2(2)(b) have not been satisfactorily achieved, the Union reserves the right to reduce that share of the financial contribution with a view to adjusting the amount allocated to implementing the programme in line with the results.

Article 4

Scientific cooperation on responsible fishing

1. The parties hereby undertake to promote responsible fishing in Cape Verdean waters on the basis of the principle of non-discrimination between the various fleets fishing in those waters. All technical conservation measures which must be met in order for a fishing licence to be issued, as specified in Appendix 2 of the Annex, shall apply to all foreign industrial fleets operating in the Cape Verdean fishing zone under technical conditions similar to those applicable to the Union fleets.

2. During the period covered by this Protocol, the Union and the authorities of Cape Verde shall monitor the evolution of captures, the fishing effort and the state of fishery resources in the Cape Verdean fishing zone with regard to all species covered by this Protocol. In particular, the parties agree to improve data collection and analysis, with a view to drawing up a national action plan for the conservation and management of sharks in the Cape Verdean EEZ.

3. The parties shall comply with the recommendations and resolutions of the ICCAT regarding the responsible management of fisheries.

4. In accordance with Article 4 of the Agreement and on the basis of ICCAT recommendations and resolutions and the best available scientific advice, the parties shall consult each other within the Joint Committee set up under Article 9 of the Agreement before adopting, by mutual agreement and if necessary after a scientific meeting, any measures aimed at the sustainable management of fishery resources affecting the activities of Union vessels.

5. Cape Verde undertakes to make public any agreement authorising vessels flying a foreign flag to fish in waters under Cape Verdean jurisdiction, whilst taking into account any sensitive information such as the financial conditions.

6. Given that pelagic sharks may be among the species caught by the Union fleet in connection with tuna fisheries, and in view of the vulnerability of these species as expressed in ICCAT scientific opinions, any catches of the species in question by longline vessels engaged in fishing under this Protocol require particular attention in line with the precautionary principle. The parties shall cooperate with a view to improving the availability and monitoring of scientific data relating to the species caught.

To this end, the parties shall set up a mechanism for strict monitoring of this fishery in order to ensure sustainable exploitation of the resource. The monitoring mechanism shall, in particular, be based on a quarterly exchange of data on shark catches. If in the course of a year these catches exceed 30 % of the reference tonnage referred to in Article 2(2)(a), reinforced monitoring based on a monthly exchange of data and consultation between the parties shall be set up. If in the course of a year such catches exceed 40 % of the reference tonnage referred to above, the Joint Committee shall, where appropriate, adopt further management measures setting a more adequate framework for the longliner fleet's activities.

Furthermore, the parties agree to take account of a study carried out by the Union with the participation of Cape Verdean scientific institutes, aimed at:

- analysing the condition of sharks and the impact of fishing on local ecosystems;
- providing data on the migratory patterns of shark species;
- identifying biologically and ecologically vulnerable zones in Cape Verde and the tropical Atlantic.

The Joint Committee may decide to adjust the monitoring mechanism referred to above to take account of the results of this study.

Article 5

Review of fishing opportunities and technical measures by mutual agreement within the Joint Committee

1. The Joint Committee may review the fishing opportunities referred to in Article 1 and adjust them by mutual agreement insofar as ICCAT recommendations and resolutions confirm that the adjustment guarantees the sustainable management of the fishery resources covered by this Protocol. In this case, the financial contribution referred to in Article 2(2)(a) shall be adjusted proportionately and pro rata temporis and the necessary amendments shall be made to this Protocol and to its Annex.
2. The Joint Committee may, where necessary, examine and adapt by mutual agreement the provisions governing the pursuit of fishing activities and the rules for implementing this Protocol and the Annexes thereto.

Article 6

Landing incentives and promoting cooperation between economic operators

1. The parties shall cooperate with a view to improving landing options in Cape Verdean ports.
2. Financial landing incentives as specified in the Annex shall be put into place.
3. The parties shall endeavour to create conditions favourable to the promotion of relations between their enterprises in the technical, economic and commercial spheres, by encouraging the establishment of an environment favourable to the development of business and investment.

Article 7

Suspension of the Protocol's implementation

1. The implementation of this Protocol may be suspended at the initiative of one of the parties if one or more of the following conditions apply:
 - (a) unusual circumstances, as defined in Article 7(3)(a) of the Agreement, prevent fishing activities in the Cape Verdean EEZ;
 - (b) significant changes in the formulation or implementation of the fisheries policy of either one of the parties affecting the provisions of this Protocol;
 - (c) activation of the consultation mechanisms laid down in Article 96 of the Cotonou Agreement owing to violation of one of the essential and fundamental elements of human rights and democratic principles set out in Article 9 of that Agreement;

- (d) non-payment by the Union of the financial contribution provided for in Article 2(2)(a), for reasons other than those provided for in Article 8 of this Protocol;
- (e) a serious and unresolved dispute between the parties on the application or interpretation of this Protocol.

2. Where the application of the Protocol is suspended for reasons other than those given in paragraph 1(c), the party concerned shall be required to notify its intention in writing at least three months before the date on which suspension is due to take effect. Suspension of the Protocol for the reasons given in paragraph 1(c) shall apply immediately after the suspension decision has been taken.

3. In the event of suspension, the parties shall continue to consult with a view to finding an amicable settlement to their dispute. Where such settlement is reached, application of the Protocol shall resume and the amount of the financial contribution shall be reduced proportionately and pro rata temporis according to the period during which application of the Protocol was suspended.

Article 8

Suspension and review of the payment of the financial contribution

1. The financial contribution, as referred to in Article 2(2)(a) and (b), may be reviewed or suspended if one or more of the following conditions apply:

- (a) unusual circumstances, other than natural phenomena, prevent fishing activities in the Cape Verdean EEZ;
- (b) significant changes in the formulation or implementation of the fisheries policy of either one of the parties affecting the provisions of this Protocol;
- (c) activation of the consultation mechanisms laid down in Article 96 of the Cotonou Agreement owing to violation of one of the essential and fundamental elements of human rights and democratic principles set out in Article 9 of that Agreement.

2. The Union may review or suspend, partially or totally, payment of the specific financial contribution provided for in Article 2(2)(b) in the event of failure to implement it or if the results obtained are inconsistent with the programming, following an evaluation carried out by the Joint Committee.

3. Payment of the financial contribution shall resume, after consultation and agreement between the parties, as soon as the situation prior to the events referred to in paragraph 1 of this Article has been re-established or if the results of the financial implementation referred to in paragraph 2 of this Article so warrant. Nevertheless, the specific financial contribution provided for in Article 2(2)(b) may not be paid out beyond a period of six months after the Protocol expires.

Article 9

Electronic communication

1. Cape Verde and the Union undertake to install as soon as possible the computer systems required for the electronic exchange of all the information and documents related to the implementation of the Agreement.

2. Once the systems provided for in paragraph 1 are operational, the electronic version of a document shall be considered to be the equivalent of a paper document in every respect.

3. Cape Verde and the Union shall inform each other of any malfunction of a computer system as soon as possible. The information and documents related to the implementation of the Agreement shall then be automatically replaced by their paper version as specified in the Annex.

Article 10

Satellite monitoring

Satellite monitoring of Union fishing vessels under this Protocol shall take place in accordance with the provisions set out in the Annex.

*Article 11***Confidentiality of data**

Cape Verde shall undertake that all nominative data relating to Union vessels and their fishing activities obtained within the framework of the Agreement will, at all times, be processed strictly in accordance with the principles of confidentiality and data protection. Such data shall be used exclusively for the purposes of implementing the Agreement.

*Article 12***Applicable provisions of national law**

1. The activities of Union fishing vessels operating in Cape Verdean waters under this Protocol shall be governed by the legislation in force in Cape Verde, in particular the provisions of the Cape Verdean fisheries resources management plan, unless the Agreement or this Protocol and its Annex and Appendices provide otherwise.
2. The Cape Verdean authorities shall inform the European Commission of any change or any new legislation relating to the fishing sector.

*Article 13***Duration**

This Protocol and the Annex hereto shall apply for a period of four years from the date of provisional application laid down in Article 15, unless notice of termination is given under Article 14.

*Article 14***Termination**

1. In the event of termination of this Protocol, the party concerned shall notify the other party in writing of its intention to terminate it at least six months before the date on which such termination would take effect.
2. Dispatch of the notification referred to in paragraph 1 shall give rise to consultations between the parties.

*Article 15***Provisional application**

This Protocol shall apply provisionally from the date of signature.

*Article 16***Entry into force**

This Protocol with its Annex shall enter into force on the date on which the parties notify each other that the procedures necessary for that purpose have been completed.

For the European Union

For the Republic of Cape Verde

ANNEX

CONDITIONS FOR THE PURSUIT OF FISHING ACTIVITIES BY UNION VESSELS IN THE CAPE VERDEAN FISHING ZONE

CHAPTER I

GENERAL PROVISIONS

1. Designation of the competent authority

For the purposes of this Annex and unless otherwise indicated, any reference to the Union or to Cape Verde as a competent authority shall mean:

- for the Union: the European Commission, where applicable via the Union delegation to Cape Verde;
- for Cape Verde: the Ministry responsible for fisheries.

2. Fishing zone

The coordinates of the Cape Verdean EEZ are set out in Appendix 1. Union vessels may carry out their fishing activities beyond the limits laid down for each category in Appendix 2.

Cape Verde shall inform the vessel owners of the coordinates of any zones closed to shipping and fishing when issuing the fishing licence. The Union shall also be informed.

3. Appointment of a local agent

Any Union vessel which plans to land or tranship in a Cape Verdean port must be represented by an agent resident in Cape Verde.

4. Bank account

Cape Verde shall notify the Union before the entry into force of this Protocol of the details of the bank account(s) into which the financial sums payable by Union vessels under the Agreement should be paid. The associated bank transfer costs shall be borne by the vessel owners.

CHAPTER II

FISHING LICENCES

1. Condition for obtaining a fishing licence — eligible vessels

Fishing licences under Article 6 of the Agreement shall be issued on condition that the vessel is listed in the Union register of fishing vessels and that all previous obligations of the vessel owner, the master, or the vessel itself arising out of fishing activities in Cape Verde under the Agreement have been met.

2. Application for a fishing licence

The Union shall submit to Cape Verde an application for a fishing licence in respect of each vessel wishing to fish under the Agreement at least 15 days before the start of the period of validity requested, using the form in Appendix 3. The application must be typed or legibly written in block capitals.

The following must be enclosed with each initial application for a fishing licence under the current Protocol, or an application submitted following a technical change to the vessel concerned:

- (i) proof of payment of the flat-rate fee for the period of validity of the fishing licence requested, and the flat-rate contribution for the observers referred to in Chapter X;
- (ii) the name and address of the vessel's local agent, where there is one;

- (iii) a recent colour photograph of the vessel, showing a lateral view and at least 15 cm × 10 cm in size;
- (iv) any other document specifically required under the Agreement.

As regards renewal of a fishing licence under the Protocol in force for a vessel the technical specifications of which have not been modified, the renewal application need only be accompanied by proof of payment of the fee and the flat-rate contribution towards the costs relating to the observer.

3. Fees and advance payments

- (a) The fees to be paid by the vessel owners are calculated as follows:
 - EUR 55 per tonne caught in the Cape Verdean fishing zone during the first two years of application;
 - EUR 65 per tonne caught in the Cape Verdean fishing zone during the last two years of application.
- (b) Fishing licences shall be issued once the following anticipated flat-rate fees have been paid to the competent Cape Verdean authorities:
 - For tuna seiners:
 - EUR 4 950 per year during the first two years of application, i.e. the equivalent of EUR 55 per tonne for 90 tonnes;
 - EUR 5 525 per year during the last two years of application, i.e. the equivalent of EUR 65 per tonne for 85 tonnes;
 - For pole-and-line vessels:
 - EUR 495 per year during the first two years of application, i.e. the equivalent of EUR 55 per tonne for 9 tonnes;
 - EUR 585 per year during the last two years of application, i.e. the equivalent of EUR 65 per tonne for 9 tonnes;
 - For surface longliners:
 - EUR 3 190 per year during the first two years of application, i.e. the equivalent of EUR 55 per tonne for 58 tonnes;
 - EUR 3 250 per year during the last two years of application, i.e. the equivalent of EUR 65 per tonne for 50 tonnes.
- (c) The anticipated flat-rate fee shall include all local and national taxes with the exception of port taxes, transhipment taxes and charges for the provision of services. For the first and the last year, the anticipated flat-rate fee and its equivalent in tonnes per vessel shall be calculated pro rata temporis based on the number of months covered by the licence.

4. Provisional list of vessels licensed to fish

Once it has received the fishing licence applications, Cape Verde shall draw up within three calendar days, for each category of vessel, the provisional list of applicant vessels. This list shall be sent without delay to the national body responsible for supervising fishing, and to the Union.

The Union shall forward the provisional list to the vessel owner or to their agent. If the Union offices are closed, Cape Verde may send the provisional list directly to the vessel owner or their agent with a copy to the Union.

5. Issue of fishing licences

A fishing licence for tuna and tuna-like species shall be issued by Cape Verde to the Union within 15 working days of receiving the full application file.

Where a fishing licence is renewed during the period in which this Protocol applies, the new fishing licence must contain a clear reference to the initial fishing licence.

The Union shall forward the fishing licence to the vessel owner or to their agent. If the Union offices are closed, Cape Verde may issue the fishing licence directly to the vessel owner or their agent with a copy to the Union.

6. List of vessels licensed to fish

Once the fishing licence is issued, Cape Verde shall draw up immediately for each category of vessel the final list of vessels which are licensed to fish in the Cape Verdean zone. This list shall be sent immediately to the national body responsible for monitoring fishing and to the Union and shall replace the provisional list referred to in point 4.

7. Period of validity of the fishing licence

Fishing licences shall be valid for one year and be renewable.

In order to establish the start of the period of validity, one year shall mean:

- (i) for the first year of application of the Protocol, the period between the date of its entry into force and 31 December of the same year;
- (ii) then, each complete calendar year;
- (iii) for the last year of application of the Protocol, the period between 1 January and the date of expiry of this Protocol.

8. Keeping the fishing licence on board

The fishing licence must be kept on board at all times.

However, vessels shall be permitted to fish as soon as they are included on the provisional list referred to in point 4. Vessels must keep the provisional list on board until their fishing licence is issued.

9. Transfer of a fishing licence

A fishing licence shall be issued for a given vessel and shall not be transferable.

However, where force majeure is proven, for example in the event of the loss or prolonged immobilisation of a vessel due to a serious technical failure, and at the request of the Union, the fishing licence shall be replaced by a new licence, issued for another similar vessel or a substitute vessel.

The transfer shall involve the fishing licence to be replaced being returned by the vessel owner or their agent in Cape Verde, and Cape Verde drawing up the replacement licence as soon as possible. The replacement licence shall be issued without further delay to the vessel owner or their agent when the licence to be replaced is returned. The replacement licence shall take effect on the day on which the licence to be replaced is returned.

Cape Verde shall update the list of vessels licensed to fish as soon as possible. The new list shall be sent without delay to the national body responsible for supervising fishing, and to the Union.

10. Support vessels

Cape Verde shall authorise fishing vessels to be assisted by support vessels, subject to adoption by Cape Verde of legislation regulating the activity of such vessels.

CHAPTER III

TECHNICAL CONSERVATION MEASURES

Technical measures applicable to vessels holding a fishing licence with respect to fishing zones, fishing gear and by-catch are laid down for each category of fishing in the technical sheets in Appendix 2.

The vessels shall comply with all the recommendations adopted by the ICCAT.

In line with ICCAT's recommendations, the parties shall endeavour to reduce the level of by-catches of turtles, seabirds and other non-target species. The Union vessels shall release any such by-catches in the interest of increasing the chance of survival of the species concerned.

CHAPTER IV

CATCH REPORTING ARRANGEMENTS

1. Fishing logbook

The master of a Union vessel fishing under the Agreement shall keep a fishing logbook, for which the model for each category of fishing is included in Appendix 4.

The fishing logbook shall be completed by the master for each day the vessel is present in the Cape Verdean fishing zone.

Each day the master shall record in the fishing logbook the quantity of each species, identified by its FAO alpha 3 code, caught and kept on board, expressed in kilograms of live weight or, where necessary, the number of individual fish. For each main species, the master shall also include the bad catch.

Where applicable, the master shall also record each day in the fishing logbook the quantities of each species thrown back into the sea, expressed in kilograms of live weight or, where necessary, the number of individual fish.

The fishing logbook shall be filled in legibly, in block capitals, and signed by the master.

The master shall be responsible for the accuracy of the data recorded in the fishing logbook.

2. Catch reporting

The master shall declare the vessel's catch by submitting to Cape Verde its fishing logbooks for the period of its presence in the Cape Verdean fishing zone.

The fishing logbooks shall be transmitted in one of the following ways:

- (i) when passing through a Cape Verdean port, the original of each fishing logbook shall be submitted to the local representative of Cape Verde, who shall confirm receipt thereof in writing;
- (ii) when leaving the Cape Verdean fishing zone without first passing through a Cape Verdean port, the original of each fishing logbook shall be sent within a period of 14 days after arrival in any other port, and in any case within a period of 30 days after leaving the Cape Verdean zone:
 - (a) by letter sent to Cape Verde;
 - (b) by fax, to the number given by Cape Verde; or
 - (c) by e-mail.

As soon as Cape Verde is able to receive catch declarations by e-mail, the master shall send the fishing logbooks to Cape Verde at the e-mail address given by Cape Verde. Cape Verde shall confirm receipt thereof immediately by return e-mail.

For tuna-fishing vessels and surface longliners, the master shall also send a copy of all the fishing logbooks to one of the following scientific institutes:

- (i) Institut de recherche pour le développement (IRD);
- (ii) Instituto Español de Oceanografía (IEO);
- (iii) Instituto Português do Mar e da Atmosfera (IPMA); or
- (iv) Instituto Nacional de Desenvolvimento das Pescas (INDP).

The return of the vessel into the Cape Verdean zone within the period of validity of its fishing licence shall give rise to further catch reporting.

Where the provisions concerning catch reporting are not complied with, Cape Verde may suspend the fishing licence of the vessel concerned until the missing catch report is obtained and penalise the vessel owner in accordance with the relevant provisions under the national legislation in force. If the offence is repeated, Cape Verde may refuse to renew the fishing licence. Cape Verde shall inform the Union immediately of any penalty applied in this context.

3. Transition to an electronic system

The parties agree to establish an electronic logbook and a system for electronic reporting of catch data (ERS) in accordance with the guidelines laid down in Appendix 6. The parties shall establish together the details of how this system is to be implemented, with the aim of making it operational from 1 September 2015.

4. Final statement of fees for tuna-fishing vessels and surface longliners

Until the electronic system provided for under point 3 is in place, the Member States shall inform the European Commission, by no later than 15 June each year of the tonnages caught during the past year, as confirmed by the scientific institutes referred to in point 2. For each tuna-fishing vessel and surface longliner, the Union shall draw up, on the basis of its catch reporting, a final statement of the fees owed by the vessel in respect of its annual season for the previous calendar year. The Union shall send this final statement to Cape Verde and to the vessel owner via the Member States before 31 July of the year in progress.

From the date the electronic system provided for under point 3 becomes operational, the Union shall draw up for each pole-and-line tuna vessel, tuna seiner and surface longliner, on the basis of the logbooks archived at the Fisheries Monitoring Center (FMC) of the flag State, a final statement of the fees owed by the vessel in respect of its annual season for the previous calendar year. The Union shall send this final statement to Cape Verde and to the vessel owner before 31 March of the year in progress.

In both cases Cape Verde may, within 30 days of the day it was sent, contest the final statement on the basis of documentary proof. In the case of disagreement, the parties shall consult each other in the Joint Committee. If Cape Verde does not object within 30 days, the final statement shall be considered to be adopted.

Where the final statement exceeds the anticipated flat-rate fee paid to obtain the fishing licence, the vessel owner shall pay the outstanding balance to Cape Verde by 30 September of the year in progress. Where the final statement is less than the anticipated flat-rate fee, the remaining amount may not be reclaimed by the vessel owner.

CHAPTER V

LANDINGS AND TRANSHIPMENTS

1. Notification

The master of a Union vessel wishing to land in a Cape Verdean port, or to tranship catch from the Cape Verdean zone, must notify Cape Verde, at least 24 hours before the landing or transhipment, of the following:

- (a) the name of the fishing vessel which is to land or tranship;
- (b) the port of landing or transhipment;
- (c) the date and time scheduled for the landing or transhipment;
- (d) the quantity (expressed in kilograms of live weight or, if necessary, the number of individual fish) of each species to be landed or transhipped (identified by its FAO alpha 3 code);
- (e) in the case of transhipment, the name of the receiving vessel;
- (f) the health certificate of the receiving vessel.

Any transhipment operation must be carried out in the waters of a Cape Verdean port authorised for this purpose. Transhipment at sea is prohibited.

Non-compliance with these provisions shall lead to imposition of the relevant penalties provided for under Cape Verdean legislation.

2. Landing incentives

In order to contribute to the development of Cape Verde's fishing industry and enhance the economic and social impact of the Agreement, in particular in the area of fish processing and adding value to fishery products, the parties shall consult each other with a view to drawing up a strategy aimed at increasing the rate of landings by the Union fleet.

Owners of vessels fishing for tuna shall endeavour to land part of their catches from Cape Verdean waters. The landed catch may be sold to local enterprises at a price set by negotiation between the operators.

The implementation of the strategy aimed at increasing the rate of landings and the good working order of the port and processing infrastructure shall be subject to regular monitoring by the Joint Committee, following consultation of the operators concerned.

Where Union vessels holding a fishing licence under this Protocol land tuna catches in a Cape Verdean port, they shall be granted a reduction in the fee of EUR 10 per tonne landed. An additional reduction of EUR 10 per tonne shall be granted where fishery products are sold to a Cape Verdean processing factory. This mechanism shall apply for up to a maximum of 50 % of the final catch statement.

Proof of the landing and/or sale shall be sent to the Directorate-General for Fisheries. Once these documents have been approved, the vessel owners concerned will be informed by the Union of the amounts to be refunded to them. The amounts shall be deducted from the fees due for future licence applications.

CHAPTER VI

CHECKS

1. Entering and leaving the zone

Any entry into or departure from the Cape Verdean fishing zone of a Union vessel holding a fishing licence must be notified to Cape Verde within six hours of the entry or departure.

When notifying its entry or exit, the vessel shall mention in particular:

- (i) the date, time and point of passage scheduled;
- (ii) the quantity of each species held on board, identified by its FAO alpha 3 code and expressed in kilograms of live weight or, if necessary, the number of individual fish;
- (iii) the presentation of the products.

Notification shall be given preferably by e-mail or, failing that, by fax or radio, to an e-mail address, a telephone number or a frequency given by Cape Verde. Cape Verde shall immediately inform the vessels concerned and the Union of any change to the e-mail address, telephone number or transmission frequency.

Any vessel found to be fishing in the Cape Verdean zone without having previously notified its presence shall be considered to be an unlicensed fishing vessel.

2. Inspection at sea

Inspections at sea in the Cape Verdean zone of Union vessels holding a fishing licence shall be carried out by vessels and inspectors of Cape Verde who are clearly identified as being assigned to carry out fishing checks.

Before going on board, the Cape Verdean inspectors shall inform the Union vessel of their decision to carry out an inspection. The inspection shall be carried out by a maximum of two inspectors, who must provide proof of their identity and official position as an inspector before carrying out the inspection.

The Cape Verdean inspectors shall only stay on board the Union vessel for the time necessary to carry out tasks linked to the inspection. They shall carry out the inspection in a way which minimises the impact on the vessel, its fishing activity and cargo.

Cape Verde may authorise the Union to participate in the inspection at sea as an observer.

The master of the Union vessel shall allow the Cape Verdean inspectors to come on board and carry out their work.

At the end of each inspection, the Cape Verdean inspectors shall draw up an inspection report. The master of the Union vessel shall have the right to make comments in the inspection report. The inspection report shall be signed by the inspector drawing up the report and the master of the Union vessel.

The Cape Verdean inspectors shall give a copy of the inspection report to the master of the Union vessel before leaving the vessel. Cape Verde shall send a copy of the inspection report to the Union within a period of eight days after the inspection.

3. Inspection in port

Inspections in port of Union vessels landing or transshipping their catch from the Cape Verdean zone in the waters of a Cape Verdean port shall be carried out by Cape Verdean inspectors who are clearly identified as being assigned to carry out fishing checks.

The inspection shall be carried out by a maximum of two inspectors, who must provide proof of their identity and official position as an inspector before carrying out the inspection. The Cape Verdean inspectors shall only stay on board the Union vessel for the time necessary to carry out the tasks related to the inspection and shall conduct the inspection in such a way as to minimise the impact on the vessel, the landing or transshipment operation and the cargo.

Cape Verde may authorise the Union to participate in the inspection in port as an observer.

The master of the Union vessel shall allow the Cape Verdean inspectors to carry out their work.

At the end of each inspection, the Cape Verdean inspector shall draw up an inspection report. The master of the Union vessel shall have the right to make comments in the inspection report. The inspection report shall be signed by the inspector drawing up the report and the master of the Union vessel.

The Cape Verdean inspector shall give a copy of the inspection report to the master of the Union vessel at the end of the inspection. Cape Verde shall send a copy of the inspection report to the Union within a period of eight days after the inspection.

CHAPTER VII

SATELLITE MONITORING SYSTEM (VMS)

1. Vessel position messages — VMS system

Whilst they are in the Cape Verdean zone, Union vessels holding a fishing licence must be equipped with a satellite monitoring system (Vessel Monitoring System — VMS) to enable automatic and continuous communication of their position, at all times, to the FMC of their flag State.

Each position message must contain:

- (a) the vessel identification;
- (b) the most recent geographical position of the vessel (longitude, latitude), with a position error of less than 500 metres, and with a confidence interval of 99 %;
- (c) the date and time the position is recorded;
- (d) the speed and the course of the vessel; and
- (e) comply with the format set out in Appendix 5.

The first position recorded after entry into the Cape Verdean zone shall be identified by the code 'ENT'. All subsequent positions shall be identified by the code 'POS', with the exception of the first position recorded after departure from the Cape Verdean zone, which shall be identified by the code 'EXI'.

The FMC of the flag State shall ensure the automatic processing and, if necessary, the electronic transmission of the position messages. The position messages shall be recorded in a secure manner and kept for a period of three years.

2. Transmission by the vessel in the event of breakdown of the VMS

The master shall ensure at all times that the VMS of his vessel is fully operational and that the position messages are correctly transmitted to the FMC of the flag State.

In the event of breakdown, the VMS of the vessel shall be repaired or replaced within one month. After that period, the vessel shall no longer be permitted to fish in the Cape Verdean zone.

Vessels fishing in the Cape Verdean zone with a defective VMS must send their position messages by e-mail, radio or fax to the FMC of the flag State, at least every four hours, and must provide all the compulsory information.

3. Secure communication of the position messages to Cape Verde

The FMC of the flag State shall automatically send the position messages of the vessels concerned to the FMC of Cape Verde. The FMCs of the flag State and Cape Verde shall exchange their contact e-mail addresses and inform each other without delay of any change to these addresses.

The transmission of position messages between the FMCs of the flag State and Cape Verde shall be carried out electronically using a secure communication system.

The FMC of Cape Verde shall inform the FMC of the flag State and the Union of any interruption in the receiving of consecutive position messages from a vessel holding a fishing licence, where the vessel concerned has not notified its departure from the zone.

4. Malfunction of the communication system

Cape Verde shall ensure the compatibility of its electronic equipment with that of the FMC of the flag State and inform the Union immediately of any malfunction as regards the sending and receiving of position messages with a view to finding a technical solution as soon as possible. The Joint Committee shall deal with any possible dispute arising.

The master shall be considered responsible for any proven tampering with a vessel's VMS aimed at disturbing its operation or falsifying its position messages. Any infringement shall be subject to the penalties provided for by the Cape Verdean legislation in force.

5. Revision of the frequency of position messages

On the basis of documentary evidence proving an infringement, Cape Verde may ask the FMC of the flag State, copying in the Union, to reduce the interval for sending position messages from a vessel to every 30 minutes for a set period of investigation. This documentary evidence must be sent by Cape Verde to the FMC of the flag State and the Union. The FMC of the flag State shall immediately send position messages to Cape Verde at the new frequency.

At the end of the set investigation period, Cape Verde shall inform the FMC of the flag State and the Union of any follow-up which is required.

CHAPTER VIII

INFRINGEMENTS

1. Handling of infringements

Any infringement committed by a Union vessel holding a fishing licence under this Annex must be mentioned in an inspection report.

The signature of the inspection report by the master shall be without prejudice to the vessel owner's right of defence in respect of the alleged infringement.

2. Detention of a vessel — information meeting

Where the Cape Verdean legislation in force so provides with regard to the alleged infringement, the Union vessel concerned may be forced to cease its fishing activity and, where the vessel is at sea, to return to a Cape Verdean port.

Cape Verde shall notify the Union within one working day of any detention of a Union vessel holding a fishing licence. The notification must be sent together with elements justifying the detention.

Before taking any measure against the vessel, the master, the crew or the cargo, with the exception of measures aimed at protecting evidence, Cape Verde shall organise, at the request of the Union, within one working day of notification of the detention of the vessel, an information meeting to clarify the facts which have led to the vessel being detained and to explain what further action may be taken. A representative of the vessel's flag State may attend this information meeting.

3. Penalties for infringements — compromise procedure

The penalty for the alleged infringement shall be set by Cape Verde according to the provisions of the national legislation in force.

Where settling the infringement involves legal proceedings, provided that the infringement does not involve a criminal act, a compromise procedure shall be launched between Cape Verde and the Union before the legal proceedings are instigated with a view to determining the terms and level of the penalty. A representative of the vessel's flag State may participate in this compromise procedure. The compromise procedure shall finish at the latest three days after notification of the vessel's detention.

4. Legal proceedings — bank security

If the compromise procedure fails and the infringement is brought before the competent court, the owner of the vessel which committed the infringement shall deposit a bank security at a bank designated by Cape Verde, the amount of which, as set by Cape Verde, covers the costs linked to the detention of the vessel, the estimated fine and any compensation. The bank security may not be released until the legal proceedings have been concluded.

The bank security shall be released and returned to the vessel owner without delay after the judgment has been delivered:

- (a) in full, if no penalty has been imposed;
- (b) for the amount of the remaining balance, if the penalty is a fine which is lower than the amount of the bank security.

Cape Verde shall inform the Union of the outcome of the legal proceedings within eight days of the judgement being delivered.

5. Release of the vessel and the crew

The vessel and its crew shall be permitted to leave the port once the penalty has been paid in a compromise procedure, or once the bank security has been deposited.

CHAPTER IX

SIGNING-ON OF SEAMEN

1. Number of seamen to sign on

During their fishing season in the Cape Verdean zone, the Union vessels shall sign on Cape Verdean seamen, subject to the following limits:

- (a) the tuna seiner fleet shall sign on at least six seamen;
- (b) the pole-and-line tuna fleet shall sign on at least two seamen;
- (c) the surface longliner fleet shall sign on at least five seamen.

The owners of the Union vessels shall endeavour to sign on additional Cape Verdean seamen.

2. Free choice of seamen

Cape Verde shall hold a list of Cape Verdean seamen qualified to be signed on for Union vessels.

The vessel owner, or their agent, shall choose freely from the list of Cape Verdean seamen to be signed on and shall notify Cape Verde of their inclusion in the crew.

3. Seamen's contracts

The employment contract for Cape Verdean seamen shall be drawn up by the vessel owner or their agent and the seaman, represented by their union, if necessary. It shall be signed by the Cape Verdean maritime authority. It shall stipulate in particular the date and port of signing on.

The contract shall guarantee the seaman the social security cover applicable to him in Cape Verde. It shall include life assurance and sickness and accident insurance.

A copy of the contract shall be given to the signatories.

The basic working rights laid down in the declaration of the International Labour Organisation (ILO) shall be afforded to Cape Verdean seamen. This concerns in particular the freedom of association and effective recognition of the right to collective bargaining, and the elimination of discrimination in respect of employment and occupation.

4. Seamen's wages

The wages of the Cape Verdean seamen shall be paid by the vessel owner. They shall be set before the fishing licence is issued by mutual agreement between the vessel owner or their agent and Cape Verde.

The wages shall not be lower than those of crews on national vessels, nor the level determined by the ILO.

5. Seamen's obligations

The seaman shall report to the master of the vessel to which he has been appointed the day before the signing-on date stipulated in the contract. The master shall inform the seaman of the date and time of signing on. If the seaman withdraws or does not present himself at the date and time stipulated for his signing on, his contract will be considered to be null and void and the vessel owner will be automatically discharged from their obligation to sign him on. In this case the vessel owner shall not be liable to pay any financial penalty or compensation payment.

6. Failure to sign on Cape Verdean seamen

Owners of vessels which fail to sign on Cape Verdean seamen shall be required to pay, before 30 September of the year in progress, for each seaman above the number set at the start of this Chapter, a flat rate of EUR 20 for each day their vessels are present in the Cape Verdean zone.

CHAPTER X

CAPE VERDEAN OBSERVERS

1. Observation of fishing activities

Vessels holding a fishing licence shall be subject to a scheme for observing their fishing activities carried out under the Agreement.

This observation scheme shall conform to the provisions provided for in the recommendations adopted by the ICCAT.

2. Designated vessels and observers

Cape Verde shall designate the Union vessels which must allow an observer on board and the observer assigned to them at the latest 15 days before the scheduled boarding date.

When the fishing licence is issued, Cape Verde shall inform the Union and the vessel owner, or their agent, of the designated vessels and observers and the times at which the observer will be present on board each vessel. Cape Verde shall immediately inform the Union and the vessel owner or their agent of any change in the designated vessels and observers.

Cape Verde shall endeavour not to designate observers for vessels which already have an observer on board, or which are already formally obliged to allow an observer on board during the fishing season in question as part of their activities in fishing zones other than the Cape Verdean zone.

The observers shall not spend more time on board the vessel than is necessary to carry out their duties.

3. Flat rate financial contribution

At the time the fee is paid, the vessel owner shall pay Cape Verde a flat rate sum of EUR 200 per year for each vessel.

4. Observer's salary

The salary and social contributions of the observer shall be borne by the Cape Verdean authorities.

5. Conditions on board

The conditions under which the observer is taken on board, in particular the duration of their presence, shall be defined by mutual agreement between the vessel owner or their agent and Cape Verde.

An observer shall be treated on board as an officer. However, the observer's accommodation must take account of the vessel's technical structure.

The vessel owner shall bear the costs of providing accommodation and food for the observer on board.

The master shall take all the measures within his area of responsibility that are required to ensure the observer's physical safety and general wellbeing.

The observer shall be provided with every facility needed to carry out their duties. He shall have access to means of communication and to documents relating to the fishing activities of the vessel, in particular the fishing logbook and navigation log, and the parts of the vessel directly linked to their duties.

6. Observer's obligations

Whilst on board the observer shall:

- (a) take all appropriate measures so as not to interrupt or hinder fishing operations;
- (b) respect on-board property and equipment;
- (c) respect the confidential nature of any document belonging to the vessel.

7. Observer's boarding and leaving the vessel

The observer shall be taken on board in a port chosen by the vessel owner.

The vessel owner or their agent shall inform Cape Verde, with a notice period of 10 days before the observer is taken on board, of the date and time and the port where the observer will be taken on board. Where the observer is taken on board in a foreign country, their travel costs to the port of boarding shall be borne by the vessel owner.

If the observer does not present himself for boarding within 12 hours of the date and time set, the vessel owner shall be automatically discharged from their obligation to allow the observer on board. The vessel shall be free to leave the port and start fishing operations.

Where the observer is not set ashore in a Cape Verdean port, the vessel owner shall bear the costs of repatriating the observer to Cape Verde as soon as possible.

8. Observer's duties

The observer shall carry out the following duties:

- (a) observe the fishing activities of the vessel;
- (b) verify the position of the vessel during fishing operations;
- (c) perform biological sampling in the context of a scientific programme;
- (d) note the fishing gear used;

- (e) verify the catch data for the Cape Verdean zone recorded in the logbook;
- (f) verify the percentages of by-catches and estimate the discarded catches;
- (g) send their observations by radio, fax or e-mail at least once a week while the vessel is fishing in the Cape Verdean zone, including the quantity of catches and by-catches on board.

9. Observer's report

Before leaving the vessel, the observer shall submit a report with his observations to the master of the vessel. The master shall have the right to make comments in the observer's report. The report shall be signed by the observer and the master. The master shall receive a copy of the observer's report.

The observer shall send his report to Cape Verde, which shall send a copy of it to the Union within eight days of setting the observer ashore.

CHAPTER XI

OPERATOR LIABILITY

1. The operator shall ensure that its vessels are seaworthy and contain adequate life safety equipment and survival gear for each passenger and member of the crew.
 2. The operator must have appropriate and complete insurance cover for their vessel, provided by a recognised international insurer.
 3. Where a Union vessel is involved in a marine accident or incident in Cape Verde that causes pollution or any other kind of environmental damage, the vessel and its operator shall immediately inform the Cape Verdean authorities. If the damage observed is caused by the vessel belonging to the operator, the latter shall assume their responsibility under the relevant national and international provisions and procedures.
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APPENDICES TO THE ANNEX

Appendix 1 — Cape Verdean EEZ

Appendix 2 — Technical conservation measures

Appendix 3 — Fishing licence application form

Appendix 4 — Fishing logbook

Appendix 5 — Sending of VMS messages to Cape Verde

Appendix 6 — Guidelines for managing and implementing the electronic reporting system for fishing activities (ERS)

Appendix 1

Cape Verdean EEZ

The Cape Verdean EEZ extends 200 nautical miles from the following baselines:

Point	Latitude north	Longitude west	Island
A.	14° 48' 43,17"	24° 43' 48,85"	I. Brava
C-P1 a Rainha	14° 49' 59,10"	24° 45' 33,11"	—
C-P1 a Faja	14° 51' 52,19"	24° 45' 09,19"	—
D-P1 Vermelharia	16° 29' 10,25"	24° 19' 55,87"	S. Nicolau
E.	16° 36' 37,32"	24° 36' 13,93"	Ilhéu Raso
F-P1 a da Peça	16° 54' 25,10"	25° 18' 11,00"	Santo Antão
F.	16° 54' 40,00"	25° 18' 32,00"	—
G-P1 a Camarin	16° 55' 32,98"	25° 19' 10,76"	—
H-P1 a Preta	17° 02' 28,66"	25° 21' 51,67"	—
I-P1 A Mangrade	17° 03' 21,06"	25° 21' 54,44"	—
J-P1 a Portinha	17° 05' 33,10"	25° 20' 29,91"	—
K-P1 a do Sol	17° 12' 25,21"	25° 05' 56,15"	—
L-P1 a Sinagoga	17° 10' 41,58"	25° 01' 38,24"	—
M-Pta Espechim	16° 40' 51,64"	24° 20' 38,79"	S. Nicolau
N-Pta Norte	16° 51' 21,13"	22° 55' 40,74"	Sal
O-Pta Casaca	16° 50' 01,69"	22° 53' 50,14"	—
P-Ilhéu Cascalho	16° 11' 31,04"	22° 40' 52,44"	Boa Vista
P1-Ilhéu Baluarte	16° 09' 05,00"	22° 39' 45,00"	—
Q-Pta Roque	16° 05' 09,83"	22° 40' 26,06"	—
R-Pta Flamengas	15° 10' 03,89"	23° 05' 47,90"	Maio
S.	15° 09' 02,21"	23° 06' 24,98"	Santiago
T.	14° 54' 10,78"	23° 29' 36,09"	—
U-D. Maria Pia	14° 53' 50,00"	23° 30' 54,50"	I. de Fogo
V-Pta Pesqueiro	14° 48' 52,32"	24° 22' 43,30"	I. Brava
X-Pta Nho Martinho	14° 48' 25,59	24° 42' 34,92"	—
Y = A	14° 48' 43,17"	24° 43' 48,85"	

Pursuant to the treaty signed on 17 February 1993 between the Republic of Cape Verde and the Republic of Senegal, the maritime border with Senegal is delineated by the following points:

Point	Latitude north	Longitude west
A	13° 39' 00"	20° 04' 25"
B	14° 51' 00"	20° 04' 25"
C	14° 55' 00"	20° 00' 00"
D	15° 10' 00"	19° 51' 30"
E	15° 25' 00"	19° 44' 50"
F	15° 40' 00"	19° 38' 30"
G	15° 55' 00"	19° 35' 40"
H	16° 04' 05"	19° 33' 30"

Pursuant to the treaty signed on 19 September 2003 between the Republic of Cape Verde and the Islamic Republic of Mauritania, the maritime border between the two countries is delineated by the following points:

Point	Latitude north	Longitude west
H	16° 04,0'	019° 33,5'
I	16° 17,0'	019° 32,5'
J	16° 28,5'	019° 32,5'
K	16° 38,0'	019° 33,2'
L	17° 00,0'	019° 32,1'
M	17° 06,0'	019° 36,8'
N	17° 26,8'	019° 37,9'
O	17° 31,9'	019° 38,0'
P	17° 44,1'	019° 38,0'
Q	17° 53,3'	019° 38,0'
R	18° 02,5'	019° 42,1'
S	18° 07,8'	019° 44,2'
T	18° 13,4'	019° 47,0'
U	18° 18,8'	019° 49,0'
V	18° 24,0'	019° 51,5'
X	18° 28,8'	019° 53,8'
Y	18° 34,9'	019° 56,0'
Z	18° 44,2'	020° 00,0'

Appendix 2

Technical conservation measures

1. Measures applicable to all categories:

Prohibited species

In accordance with the Convention on Migratory Species (CMS) and ICCAT resolutions, fishing for giant manta ray (*Manta birostris*), basking shark (*Cetorhinus maximus*), white shark (*Carcharodon carcharias*), bigeye thresher shark (*Alopias superciliosus*), hammerhead sharks in the Sphyrnidae family (with the exception of the bonnethead shark), oceanic whitetip shark (*Carcharhinus longimanus*) and silky shark (*Carcharhinus falciformis*) is prohibited.

Fishing for whale shark (*Rhincondon typus*) is prohibited in accordance with national Cape Verdean legislation.

Prohibition on removing shark fins:

It is prohibited to remove shark fins on board vessels, and to retain on board, tranship or land shark fins. Without prejudice to the above, in order to facilitate on-board storage, shark fins may be partially sliced through and folded against the carcass, but may not be removed from the carcass before landing.

Prohibition of transshipments at sea:

Transshipment at sea is prohibited. Any transshipment operation must be carried out in the waters of a Cape Verdean port authorised for this purpose.

2. Specific measures

SHEET 1: POLE-AND-LINE TUNA VESSELS

(1) Fishing zone: Beyond 12 nautical miles from the base line

(2) Authorised gear: Pole and line

(3) Target species: Yellowfin tuna (*Thunnus albacares*), bigeye tuna (*Thunnus obesus*) and skipjack tuna (*Katsuwonus pelamis*)

By-catches: Compliance with ICCAT and FAO recommendations.

SHEET 2: TUNA SEINERS

(1) Fishing zone: Beyond 18 nautical miles from the base line, taking into account the archipelagic nature of the Cape Verdean fishing zone.

(2) Authorised gear: Seine

(3) Target species: Yellowfin tuna (*Thunnus albacares*), bigeye tuna (*Thunnus obesus*) and skipjack tuna (*Katsuwonus pelamis*)

By-catches: Compliance with ICCAT and FAO recommendations.

SHEET 3: SURFACE LONGLINERS

(1) Fishing zone: Beyond 18 nautical miles from the base line

(2) Authorised gear: Surface longline

(3) Target species: Swordfish (*Xiphias gladius*), blue shark (*Prionace glauca*), yellowfin tuna (*Thunnus albacares*), bigeye tuna (*Thunnus obesus*)

By-catches: Compliance with ICCAT and FAO recommendations.

3. Updating

The parties shall consult each other within the Joint Committee to update these technical conservation measures on the basis of scientific recommendations.

Appendix 3

Fishing licence application form

CAPE VERDE — EUROPEAN UNION FISHING AGREEMENT

I — APPLICANT

1. Name of applicant:
2. Name of producer organisation (PO) or vessel owner:
3. Address of PO or vessel owner:
4. Tel. No: Fax E-mail:
5. Master's name: Nationality: E-mail:
6. Name and address of local agent:

II — VESSEL IDENTIFICATION DETAILS

7. Vessel name:
8. Flag state: Port of registry:
9. External identification letters and numbers: MMSI: IMO No.:
10. Date of current flag registration (DD/MM/YYYY): .../.../...
Previous flag (if applicable):
11. Place of construction: Date (DD/MM/YYYY): .../.../...
12. Radio call frequency: HF: VHF:
13. Vessel satellite phone No.: IRCS:

III — VESSEL TECHNICAL DETAILS

14. Vessel LOA (mts): BOA (mts):
Tonnage (expressed in GT London):
15. Engine type: Engine power (in kW):
16. No of crew:
17. Conservation method on board: Ice ☐ Chilling ☐ Mixed ☐ Freezing ☐
18. Processing capacity per day (24h) in tonnes:
No of fish holds: Total capacity of fish holds (m³):

19. VMS Details of the automatic location device:

Manufacturer: Model: Serial number:

Software version: Satellite operator (MCSP):

IV — FISHING ACTIVITY

20. Fishing gear authorised: ☐ purse-seine ☐ longline ☐ pole-and-line

21. Place for landing catch:

22. License period requested from (DD/MM/YYYY): .../.../... to .../.../...

I the undersigned, hereby certify that the information provided in this application is true and correct and given in good faith.

Done at, on .../.../...

Applicant's signature:

Appendix 4

Fishing logbook

Vessel name:		Gross tonnage:		Vessel DEPARTED:	Month	Date	Year	Port	Longline Live bait Purse seine Trawl Other
Flag country:		Capacity — (MT):							
Registration No:		Master:							
Vessel owner:		No of crew:							
Address:		Reporting date:		Vessel RETURNED:					
		(Reported by):		No of days at sea:		No of fishing days:			Trip number:
						No of sets made:			

[illegible]

Comments

- 1 — Use one sheet per month and one line per day.

- 2 — 'Day' refers to the day you set the line.

- 3 — Fishing area refers to the position of the vessel. Round off minutes and record degree of latitude and longitude. Be sure to record N/S and E/W.

- 4— The last line (landing weight) should be completed only at the end of the trip. Actual weight at the time of unloading should be recorded.

- 5 — All information reported herein will be kept strictly confidential.

Appendix 5

Sending of VMS messages to Cape Verde

POSITION REPORT

Data element	Code	Mandatory/optional	Comments
Start record	SR	M	System detail — indicates start of record
Addressee	AD	M	Message detail — addressee. Alpha-3 ISO country code
From	FS	M	Message detail — sender. Alpha-3 ISO country code
Type of message	TM	M	Message detail — Message type 'POS'
Radio call sign	RC	M	Vessel detail — international radio call sign of vessel
Contracting Party internal reference number	IR	O	Vessel detail — unique Contracting Party number (flag State ISO-3 code followed by number)
External registration number	XR	O	Vessel detail — number marked on side of vessel
Flag State	FS	O	Flag State detail
Latitude	LA	M	Vessel position detail — position in degrees and minutes N/S DDMM (WGS-84)
Longitude	LO	M	Vessel position detail — position in degrees and minutes E/W DDMM (WGS-84)
Date	DA	M	Vessel position detail — date of record of UTC position (YYYYMMDD)
Time	TI	M	Vessel position detail — time of record of UTC position (HHMM)
End record	ER	M	System detail — indicates end of record

Character set: ISO 8859.1

Each data transmission is structured as follows:

a double slash (//) and the code 'SR' indicate the start of the message;

a double slash (//) and a code indicate the start of a data element;

a single slash (/) separates the code and the data;

pairs of data are separated by a space;

the code 'ER' and a double slash (//) at the end indicate the end of a record.

Optional data elements have to be inserted between the start and end of the record.

Appendix 6

Guidelines for managing and implementing the electronic reporting system for fishing activities (ERS)

GENERAL PROVISIONS

1. All Union fishing vessels must be equipped with an electronic system (hereinafter referred to as an 'ERS') capable of recording and transmitting data on the vessel's fishing activities (hereinafter referred to as 'ERS data') when the vessel is operating in the Cape Verdean fishing zone.
2. A Union vessel that is not equipped with an ERS, or whose ERS is not working, shall not be permitted to enter the Cape Verdean fishing zone in order to engage in fishing activities.
3. ERS data shall be transmitted in accordance with these guidelines to the Fisheries Monitoring Centre (hereinafter referred to as 'FMC') of the flag State, which will make them automatically available to the Cape Verdean FMC.
4. The flag State and Cape Verde shall ensure that their FMCs have the necessary IT equipment and software to automatically transmit ERS data in xml format, [available via http://ec.europa.eu/cfp/control/codes/index_en.htm] and a backup procedure in place capable of saving and storing ERS data in a format which will be computer-readable for at least three years.
5. Any change or update to the format referred to in point 3 shall be identified and dated and must be operational six months after its introduction.
6. ERS data must be transmitted using the electronic means of communication operated by the European Commission on behalf of the Union, referred to as the DEH (Data Exchange Highway).
7. The flag State and Cape Verde shall each designate an ERS correspondent who will act as the point of contact.
 - (a) ERS correspondents shall be designated for a minimum period of six months.
 - (b) The FMC of the flag State and that of Cape Verde shall notify each other of the contact details (name, address, telephone and telex numbers and e-mail) of their ERS correspondents.
 - (c) Any changes to the contact details of the ERS correspondent must be notified immediately.

PRODUCING AND SENDING ERS DATA

8. Union fishing vessels must:
 - (a) draw up ERS data on a daily basis for each day spent in the Cape Verdean fishing zone;
 - (b) record, for each seine tow or set of a longline, the quantities of each species caught and kept on board as a target species or bycatch, or rejected;
 - (c) declare the bad catch of each species specified in the fishing licence issued by Cape Verde;
 - (d) identify each species by its FAO alpha 3 code;
 - (e) express quantities in kilograms of live weight or, where necessary, the number of individual fish;
 - (f) record, in the ERS data, the transhipped and/or landed quantity of each species specified in the fishing licence issued by Cape Verde;
 - (g) record in the ERS data, every time Cape Verdean waters are entered (COE message) or exited (COX message), a specific message containing the quantities held on board at the time of passing for each species specified in the fishing licence issued by Cape Verde;
 - (h) transmit ERS data on a daily basis to the FMC of the flag State using the format referred to in paragraph 3, by 23:59 UTC at the latest.
9. The master is responsible for the accuracy of the ERS data recorded and sent.
10. The FMC of the flag State shall send the ERS data automatically and without delay to the Cape Verdean FMC.
11. The Cape Verdean FMC shall confirm that it has received the ERS data by means of a return message and shall handle all ERS data confidentially.

FAILURE OF THE ON-BOARD ERS AND/OR TRANSMISSION OF ERS DATA BETWEEN THE VESSEL AND THE FMC OF THE FLAG STATE

12. The flag State shall immediately inform the master and/or owner of a vessel flying its flag, or their agent, of any technical failure of the ERS installed on board or any breakdown in transmission of ERS data between the vessel and the FMC of the flag State.
13. The flag State shall inform Cape Verde of the failure detected and the corrective measures taken.
14. In the event of a breakdown in the on-board ERS, the master and/or owner shall ensure the ERS is repaired or replaced within 10 days. If the vessel makes a call at a port within those 10 days, it may only resume fishing activity in the Cape Verdean fishing zone once its ERS is in perfect working order, unless Cape Verde authorises otherwise.
15. Following a technical failure in its ERS, a fishing vessel may not leave port until:
 - (a) its ERS is in working order again, to the satisfaction of the flag State and Cape Verde, or
 - (b) if the vessel does not resume fishing in the Cape Verdean fishing zone, it is authorised to do so by the flag State. In the latter case, the flag State shall inform Cape Verde of its decision before the vessel leaves.
16. Any Union vessel operating in the Cape Verdean fishing zone with a faulty ERS must transmit all ERS data on a daily basis and by 23:59 UTC at the latest to the FMC of the flag State by any other available means of electronic communication accessible by the Cape Verdean FMC.
17. ERS data which could not be made available to Cape Verde via the ERS owing to the failure referred to in paragraph 12 shall be transmitted by the FMC of the flag State to the Cape Verdean FMC by another mutually agreed form of electronic communication. This alternative transmission shall be considered priority as it will not be possible to comply with the transmission deadlines usually applicable.
18. If the Cape Verdean FMC does not receive ERS data from a vessel for three consecutive days, Cape Verde may instruct the vessel to immediately call at a port of its choosing in order to investigate.

FMC FAILURE — ERS DATA NOT RECEIVED BY CAPE VERDEAN FMC

19. In the event that ERS data are not received by an FMC, its ERS correspondent shall immediately inform the ERS correspondent for the other FMC and, if necessary, they shall work together in order to solve the problem.
20. The FMC of the flag State and the FMC of Cape Verde shall mutually agree on the alternative means of electronic communication to be used in order to transmit ERS data in the event of a FMC failure, and shall immediately inform one another of any changes.
21. If the Cape Verdean FMC reports that ERS data have not been received, the FMC of the flag State shall identify the causes of the problem and take appropriate measures in order to resolve it. The FMC of the flag State shall inform the Cape Verdean FMC and the Union of the outcome of the measures taken within 24 hours after recognising the failure.
22. If more than 24 hours is required to resolve the problem, the FMC of the flag State shall immediately transmit the missing ERS data to the Cape Verdean FMC via one of the alternative means of electronic communication referred to in paragraph 17.
23. Cape Verde shall inform its competent monitoring services (CMS) in order that Union vessels are not considered by the Cape Verdean FMC to be in violation of their obligations for not transmitting ERS data owing to a failure in one of the FMCs.

FMC MAINTENANCE

24. Planned maintenance of an FMC (maintenance programme) which may affect the exchange of ERS data must be notified at least 72 hours in advance to the other FMC, indicating, where possible, the date and duration of the maintenance work. Information on unplanned maintenance work shall be sent to the other FMC as soon as possible.

25. During the maintenance work, the provision of ERS data may be put on hold until the system is operational again. The relevant ERS data shall be made available immediately after the maintenance work has been completed.
26. If the maintenance work takes more than 24 hours, ERS data shall be sent to the other FMC using one of the alternative means of electronic communication referred to in paragraph 17.
27. Cape Verde shall inform its competent monitoring services (CMS) in order that Union vessels are not considered by the Cape Verdean FMC to be in violation of their obligations for not transmitting ERS data owing to the maintenance of an FMC.

ROUTING OF ERS DATA TO CAPE VERDE

28. ERS data from the flag State to Cape Verde must be transmitted using the electronic means of communication operated by the European Commission on behalf of the Union, referred to as the 'DEH' (Data Exchange Highway) in paragraph 6.
 29. The data will be stored to permit authorised staff of the European Commission, on behalf of the Union, to consult them for the purposes of managing the fishing activities of the Union fleet.
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REGULATIONS

COUNCIL REGULATION (EU) No 1385/2014

of 15 December 2014

on the allocation of fishing opportunities under the Protocol between the European Union and the Republic of Cape Verde setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 19 December 2006, by adopting Regulation (EC) No 2027/2006 ⁽¹⁾ the Council approved the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (the 'Agreement').
- (2) A new protocol ⁽²⁾ to the Agreement (the 'Protocol') was initialled on 28 August 2014. The Protocol grants Union vessels fishing opportunities in the fishing zone in which the Republic of Cape Verde exercises sovereignty or jurisdiction.
- (3) On 15 December 2014, the Council adopted Decision 2014/948/EU ⁽³⁾ on the signing and provisional application of the Protocol.
- (4) The method for allocating the fishing opportunities among the Member States should be defined for the period of application of the Protocol.
- (5) Article 10(1) of Council Regulation (EC) No 1006/2008 ⁽⁴⁾ provides that the Commission will inform the Member States concerned if it appears that the fishing opportunities allocated to the Union under the Protocol are not fully exhausted. If no reply is received within a time limit to be set by the Council, this will be considered as confirmation that the vessels of the Member State concerned are not making full use of their fishing opportunities during the period in question. This time limit should be set by the Council.
- (6) To ensure that Union vessels can recommence their fishing activities, the Protocol provides for it to apply on a provisional basis from the date of its signature. It should therefore be established that this Regulation is to apply as from the same date,

HAS ADOPTED THIS REGULATION:

Article 1

1. The fishing opportunities established under the Protocol shall be allocated among the Member States as follows:
 - (a) tuna seiners:

Spain	16 vessels
France	12 vessels

⁽¹⁾ Council Regulation (EC) No 2027/2006 of 19 December 2006 on the conclusion of the Fisheries partnership agreement between the European Community and the Republic of Cape Verde (OJ L 414, 30.12.2006, p. 1).

⁽²⁾ Protocol between the European Union and the Republic of Cape Verde setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (see page 3 of this Official Journal).

⁽³⁾ Council Decision 2014/948/EU of 15 December 2014 on the signing, on behalf of the European Union, and provisional application of the Protocol between the European Union and the Republic of Cape Verde setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (See page 1 of this Official Journal).

⁽⁴⁾ Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters, amending Regulations (EEC) No 2847/93 and (EC) No 1627/94 and repealing Regulation (EC) No 3317/94 (OJ L 286, 29.10.2008, p. 33).

(b) surface longliners:

Spain	23 vessels
Portugal	7 vessels

(c) pole-and-line tuna vessels:

Spain	7 vessels
France	4 vessels
Portugal	2 vessels

2. Regulation (EC) No 1006/2008 shall apply without prejudice to the Agreement.

3. If applications for fishing licences from the Member States referred to in paragraph 1 do not cover all the fishing opportunities set by the Protocol, the Commission shall consider applications for fishing licences from any other Member State pursuant to Article 10 of Regulation (EC) No 1006/2008.

4. The time limit within which the Member States must confirm that they are not making full use of the fishing opportunities granted to them, as provided by Article 10(1) of Regulation (EC) No 1006/2008, is set at ten working days from the date on which the Commission informs them that the fishing opportunities are not fully exhausted.

Article 2

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

It shall apply from the date of signature of the Protocol.

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

Done at Brussels, 15 December 2014.

For the Council
The President
M. MARTINA

COMMISSION DELEGATED REGULATION (EU) No 1386/2014**of 19 August 2014****amending Annex III to Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 ⁽¹⁾, and in particular Article 10(4) thereof,

Whereas:

- (1) Article 9(1) of Regulation (EU) No 978/2012 establishes specific eligibility criteria for the granting of tariff preferences under the special incentive arrangement for sustainable development and good governance (GSP+) to a requesting country. For that purpose, the country should be considered vulnerable. It should have ratified all the conventions listed in Annex VIII to that Regulation and the most recent available conclusions of the relevant monitoring bodies do not identify a serious failure to effectively implement any of those conventions. In relation to any of the conventions, the country should not have formulated a reservation which is prohibited by that convention or which, for the exclusive purposes of Article 9 of Regulation (EU) No 978/2012, is considered to be incompatible with the object and purpose of that convention. It should accept without reservation the reporting requirements imposed by each convention and give the binding undertakings referred to in points (d), (e) and (f) of Article 9(1) of Regulation (EU) No 978/2012.
- (2) A GSP beneficiary country wishing to benefit from GSP+ has to submit a request accompanied by comprehensive information concerning ratification of the relevant conventions, its reservations and the objections to those reservations made by other parties to the convention, and its binding undertakings.
- (3) The Commission has been empowered to adopt a delegated act in accordance with Article 290 TFEU to establish and amend Annex III in order to grant GSP+ to a requesting country by adding it to the list of GSP+ beneficiary countries.
- (4) On 28 February 2014, the Commission received a GSP+ request from the Republic of the Philippines (the Philippines).
- (5) The Commission has examined the request made in accordance with the provisions of Article 10(1) of Regulation (EU) No 978/2012, and has established that the Philippines meets the eligibility criteria. The Philippines should therefore be granted GSP+ from the date of entry into force of this Regulation and Annex III to Regulation (EU) No 978/2012 should be amended accordingly.
- (6) The Commission will keep under review the status of ratification of the relevant conventions and their effective implementation by the Philippines, as well as the Philippines' cooperation with the relevant monitoring bodies, in accordance with Article 13 of Regulation (EU) No 978/2012,

⁽¹⁾ OJ L 303, 31.10.2012, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Regulation (EU) No 978/2012

In Annex III to Regulation (EU) No 978/2012, the following country and the corresponding alphabetical code is added under columns B and A, respectively:

Philippines	PH
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Article 2

Entry into force

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

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

Done at Brussels, 19 August 2014.

For the Commission

The President

José Manuel BARROSO

COMMISSION DELEGATED REGULATION (EU) No 1387/2014**of 14 November 2014****amending Annex I to Council Regulation (EC) No 1528/2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1528/2007 of 20 December 2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements ⁽¹⁾, and in particular Article 2(2) thereof,

Whereas:

- (1) The list of beneficiary countries of the EU duty-free quota-free import regime is established by Annex I to Regulation (EC) No 1528/2007.
- (2) Kenya had not taken the necessary steps towards ratification of its interim Economic Partnership Agreement and consequently, in accordance with Article 2(3) of Regulation (EC) No 1528/2007, and in particular point (b) thereof, pursuant to Regulation (EU) No 527/2013 of the European Parliament and of the Council ⁽²⁾ ceased to be covered by the market access arrangement permitted under Regulation (EC) No 1528/2007, as from 1 October 2014.
- (3) However, Kenya, the European Union and its Member States concluded negotiations on an Economic Partnership Agreement on 16 October 2014.
- (4) The Commission is empowered to adopt delegated acts in accordance with Article 24a of Regulation (EC) No 1528/2007 to amend Annex I to that Regulation so as to add regions or states from the ACP Group of States that have concluded negotiations on an agreement between the European Union and that region or state which meets the requirements of Article XXIV GATT 1994.
- (5) Following the date of application of this Regulation, the addition of Kenya in Annex I to Regulation (EC) No 1528/2007 will be subject to the conditions of Article 2(3) of that Regulation and in particular point (b) thereof,

HAS ADOPTED THIS REGULATION:

Article 1

In Annex I to Regulation (EC) No 1528/2007 the following country is inserted:

‘THE REPUBLIC OF KENYA’

⁽¹⁾ OJ L 348, 31.12.2007, p. 1.

⁽²⁾ Regulation (EU) No 527/2013 of the European Parliament and of the Council of 21 May 2013 amending Council Regulation (EC) No 1528/2007 as regards the exclusion of a number of countries from the list of regions or states which have concluded negotiations (OJ L 165, 18.6.2013, p. 59).

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, 14 November 2014.

For the Commission

The President

Jean-Claude JUNKER

COMMISSION REGULATION (EU) No 1388/2014**of 16 December 2014****declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid ⁽¹⁾, and in particular Article 1(1) (a)(i) and (vi) thereof,

Having published a draft of this Regulation ⁽²⁾,

After consulting the Advisory Committee on State Aid,

Whereas:

- (1) State funding meeting the criteria laid down in Article 107(1) of the Treaty constitutes State aid and requires notification to the Commission by virtue of Article 108(3) thereof. However, pursuant to Article 109 of the Treaty, the Council may determine categories of aid that are exempted from this notification requirement. In accordance with Article 108(4) of the Treaty, the Commission may adopt regulations relating to those categories of aid.
- (2) Regulation (EC) No 994/98 empowers the Commission to declare, in accordance with Article 109 of the Treaty, that certain categories of aid may, under certain conditions, be exempted from the notification requirement. On the basis of that Regulation, the Commission adopted Commission Regulation (EC) No 736/2008 ⁽³⁾ which provided that, under certain conditions, aid to small and medium-sized enterprises ('SMEs') active in the production, processing and marketing of fisheries products is compatible with the internal market and not subject to the notification requirement of Article 108(3) of the Treaty. Regulation (EC) No 736/2008 applied until 31 December 2013.
- (3) The Commission has applied Articles 107 and 108 of the Treaty to SMEs active in the production, processing and marketing of fishery and aquaculture products in numerous decisions. It has also stated its policy in guidelines specific to that sector. In the light of the Commission's experience in applying those provisions to SMEs, it is appropriate for the Commission to continue making use of the powers conferred by Regulation (EC) No 994/98 in order to exempt aid to that category of undertakings from the notification requirement of Article 108(3) of the Treaty under certain conditions.
- (4) On 22 July 2013 Regulation (EC) No 994/98 was amended by Council Regulation (EU) No 733/2013 ⁽⁴⁾ to empower the Commission to extend the block exemption to new categories of aid in respect of which clear compatibility conditions can be defined. In the fishery and aquaculture sector, this is the case for aid to make good the damage caused by certain natural disasters, in light of the Commission's experience in applying Article 107(2)(b) of the Treaty to this category of aid.
- (5) The compatibility of State aid in the fishery and aquaculture sector is assessed by the Commission on the basis of the objectives of both the Competition Policy and the Common Fisheries Policy. In the interests of coherence with Union-financed support measures, the maximum intensity of public aid allowed under this Regulation should be equal to that fixed for the same kind of aid in Article 95 of Regulation (EU) No 508/2014 of the European Parliament and of the Council ⁽⁵⁾ and the implementing acts adopted pursuant to that Regulation.

⁽¹⁾ Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid (OJ L 142, 14.5.1998, p. 1.).

⁽²⁾ OJ C 258, 8.8.2014, p. 1.

⁽³⁾ Commission Regulation (EC) No 736/2008 of 22 July 2008 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production, processing and marketing of fisheries products (OJ L 201, 30.7.2008, p. 16).

⁽⁴⁾ Council Regulation (EU) No 733/2013 of 22 July 2013 amending Regulation (EC) No 994/98 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid (OJ L 204, 31.7.2013, p. 11).

⁽⁵⁾ Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council (OJ L 149, 20.5.2014, p. 1).

- (6) It is essential that no aid is granted in circumstances where Union law, and in particular rules of the Common Fisheries Policy, are not complied with. An aid may therefore only be granted by a Member State in the fishery and aquaculture sector if the measures financed and their effects comply with Union law. Member States should ensure that beneficiaries of State aid comply with the rules of the Common Fisheries Policy.
- (7) With its Communication on EU State Aid Modernisation (SAM) ⁽¹⁾, the Commission launched a wider review of the State aid rules. The main objectives of that modernisation are: (i) to achieve sustainable, smart and inclusive growth in a competitive internal market, while contributing to Member State efforts towards a more efficient use of public finances; (ii) to focus Commission ex ante scrutiny of aid measures on cases with the biggest impact on the internal market, while strengthening Member State cooperation in State aid enforcement; and (iii) to streamline the rules and provide for faster, better informed and more robust decisions based on a clear economic rationale, a common approach and clear obligations. This Regulation is part of the SAM programme.
- (8) This Regulation should allow for better prioritisation of State aid enforcement activities and greater simplification and should enhance transparency, effective evaluation and the control of compliance with the State aid rules at national and Union levels, while preserving the institutional competences of the Commission and the Member States. In accordance with the principle of proportionality, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (9) The general conditions for the application of this Regulation should be defined on the basis of a set of common principles that ensure that the aid serves a purpose of common interest, has a clear incentive effect, is appropriate and proportionate, is granted in full transparency and subject to a control mechanism and regular evaluation and does not adversely affect trading conditions to an extent that is contrary to the common interest.
- (10) Aid that fulfils all the conditions laid down in this Regulation both general and specific to the relevant categories of aid should be considered compatible with the internal market and exempted from the notification requirement laid down in Article 108(3) of the Treaty.
- (11) State aid within the meaning of Article 107(1) of the Treaty not covered by this Regulation or by other Regulations adopted pursuant to Article 1 of Regulation (EC) No 994/98 remains subject to the notification requirement of Article 108(3) of the Treaty. This Regulation is without prejudice for Member States to notify aid potentially covered by this Regulation. Such aid should be assessed in the light of the Guidelines for the examination of State aid in the fishery and aquaculture sector or any successor guidelines ⁽²⁾.
- (12) This Regulation should not apply to aid contingent upon the use of domestic over imported products or aid to export-related activities. In particular, it should not apply to aid financing the establishment and operation of a distribution network in other Member States or third countries. Aid towards the cost of participating in trade fairs or of studies or consultancy services needed for the launch of a new or existing product on a new market in another Member State or third country should not normally constitute aid to export-related activities.
- (13) The Commission should ensure that authorised aid does not adversely affect trading conditions to an extent that is contrary to the common interest. Therefore, aid in favour of a beneficiary which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market should be excluded from the scope of this Regulation, with the exception of aid schemes to make good the damage caused by natural disasters.
- (14) Aid granted to undertakings in difficulty should be excluded from the scope of this Regulation, since such aid should be assessed under the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty ⁽³⁾, in order to avoid their circumvention, with the exception of aid schemes to make good the damage caused by natural disasters. In order to provide legal certainty, it is appropriate to establish clear criteria that do not require an assessment of all the particularities of the situation of an undertaking to determine whether an undertaking is considered to be in difficulty for the purposes of this Regulation.

⁽¹⁾ COM(2012)209, 8.5.2012.

⁽²⁾ OJ C 84, 3.4.2008, p. 10.

⁽³⁾ OJ C 249, 31.7.2014, p. 1.

- (15) State aid enforcement is highly dependent on the cooperation of Member States. Therefore, Member States should take all necessary measures to ensure compliance with this Regulation, including compliance of individual aid granted under block-exempted schemes.
- (16) In view of the need to strike the appropriate balance between minimising distortions of competition in the aided sector and the objectives of this Regulation, this Regulation should not exempt individual grants which exceed a fixed maximum amount, whether or not made under an aid scheme exempted by this Regulation.
- (17) For the purpose of transparency, equal treatment and effective monitoring, this Regulation should apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent *ex ante* without the need to undertake a risk assessment ('transparent aid').
- (18) This Regulation should define the conditions under which certain specific aid instruments, such as loans, guarantees, tax measures, and, in particular, repayable advances may be considered transparent. Aid comprised in guarantees should be considered as transparent if the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down for the respective type of undertaking. In the case of SMEs, the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees ⁽¹⁾ indicates levels of annual premium above which a State guarantee would be deemed not to constitute aid. For the purposes of this Regulation, capital injections and risk capital measures should not be considered transparent aid.
- (19) In order to ensure that the aid is necessary and acts as an incentive to further develop activities or projects, this Regulation should not apply to aid for activities in which the beneficiary would in any case engage even in the absence of the aid. Aid should only be exempted from notification requirement of Article 108(3) of the Treaty in accordance with this Regulation, where the activity or the work on the aided project starts after the beneficiary has submitted a written application for the aid.
- (20) Automatic aid schemes in the form of tax advantages should continue to be subject to a specific condition concerning the incentive effect, due to the fact that this kind of aid is granted under different procedures than other categories of aid. Such schemes should already have been adopted before work on the aided project or activity started. However, this condition should not apply in the case of fiscal successor schemes provided the activity was already covered by the previous fiscal schemes in the form of tax advantages. For the assessment of the incentive effect of such schemes, the crucial moment is the moment when the tax measure was set out for the first time in the original scheme, which is then replaced by the successor scheme.
- (21) For the calculation of aid intensity, only eligible costs should be included. This Regulation should not exempt aid which exceeds the relevant aid intensity as a result of including ineligible costs. The identification of eligible costs should be supported by clear, specific and up-to date documentary evidence. All figures used should be taken before any deduction of tax or other charges. Aid payable in several instalments should be discounted to its value on the date of granting of the aid. The eligible costs should also be discounted to their value on the date of granting. The interest rate to be used for discounting purposes and for calculating the amount of aid in the case of aid which does not take the form of a grant should be respectively the discount rate and the reference rate applicable at the time of the grant, as laid down in the Commission Communication on the revision of the method for setting the reference and discount rates ⁽²⁾. Where aid is granted by means of tax advantages, aid tranches should be discounted on the basis of the discount rates applicable on the various dates when the tax advantages become effective. The use of aid in the form of repayable advances should be promoted, since such risk-sharing instruments are conducive to strengthened incentive effect of aid. It is therefore appropriate to establish that where aid is granted in the form of repayable advances the applicable aid intensities referred to in this Regulation may be increased.
- (22) In the case of tax advantages on future taxes, the applicable discount rate and the exact amount of the aid tranches may not be known in advance. In such cases, Member States should set in advance a cap on the discounted value of the aid respecting the applicable aid intensity. Subsequently, when the amount of the aid tranche at a given date becomes known, discounting can take place on the basis of the discount rate applicable at that time. The discounted value of each aid tranche should be deducted from the overall amount of the cap ('capped amount').
- (23) To determine whether the notification thresholds and the maximum aid intensities referred to in this Regulation are respected, the total amount of public support for the aided activity or project should be taken into account.

⁽¹⁾ OJ C 155, 20.6.2008, p. 10.

⁽²⁾ OJ C 14, 19.1.2008, p. 6.

Moreover, this Regulation should specify the circumstances under which different categories of aid may be cumulated. Aid exempted by this Regulation and any other compatible aid exempted under other regulations or approved by the Commission may be cumulated as long as those measures concern different identifiable eligible costs. Where different sources of aid are related to the same — partly or fully overlapping — identifiable eligible costs, cumulation should be allowed up to the highest aid intensity or aid amount applicable to that aid under this Regulation. This Regulation should also set out special rules for cumulation of aid measures with *de minimis* aid. *De minimis* aid is often not granted for or attributable to specific identifiable eligible costs. In such a case, it should be possible to freely cumulate *de minimis* aid with State aid exempted under this Regulation. Where, however, *de minimis* aid is granted for the same identifiable eligible costs as State aid exempted under this Regulation, cumulation should only be allowed up to the maximum aid intensity as referred to in Chapter III of this Regulation.

- (24) Given that State aid within the meaning of Article 107(1) of the Treaty is, in principle, prohibited, it is important for all parties to be able to check whether an aid is granted in compliance with the applicable rules. Transparency of State aid is, therefore, essential for the correct application of Treaty rules and leads to better compliance, greater accountability, peer review and ultimately more effective public spending. To ensure transparency, Member States should be required to establish comprehensive State aid websites, at regional or national level, setting out summary information about each aid measure exempted under this Regulation. That obligation should be a condition for the compatibility of the individual aid with the internal market. Following the standard practice regarding publication of information in Directive 2013/37/EU of the European Parliament and of the Council ⁽¹⁾, a standard format should be used which allows the information to be searched, downloaded and easily published on the Internet. The links to the State aid websites of all the Member States should be published on the Commission's website. In accordance with Article 3 of Regulation (EC) No 994/98, as amended by Regulation (EU) No 733/2013, summary information on each aid measure exempted under this Regulation should be published on the website of the Commission.
- (25) To ensure effective monitoring of aid measures in accordance with Regulation (EC) No 994/98, as amended by Regulation (EU) No 733/2013, it is appropriate to establish requirements regarding the reporting by the Member States of aid measures which have been exempted pursuant to this Regulation and the application of this Regulation. Moreover, it is appropriate to establish rules concerning the records that Member States should keep regarding the aid exempted by this Regulation, in light of the limitation period established in Article 15 of Council Regulation (EC) No 659/1999 ⁽²⁾. Finally, each individual aid should contain an express reference to this Regulation.
- (26) To reinforce the effectiveness of compatibility conditions set out in this Regulation, it should be possible for the Commission to withdraw the benefit of the block exemption for future aid measures in the event of failure to comply with these requirements. The Commission should be able to restrict the withdrawal of the benefit of the block exemption to certain types of aid, certain beneficiaries or aid measures adopted by certain authorities, where non-compliance with this Regulation affects only a limited group of measures or certain authorities. Such a targeted withdrawal should provide a proportionate remedy directly linked to the identified non-compliance with this Regulation. In case of failure to meet compatibility conditions set out in Chapters I and III, aid granted will not be covered by this Regulation and, as a consequence, will constitute unlawful aid, which the Commission will examine in the framework of the relevant procedure as set out in Regulation No (EC) No 659/1999. In case of failure to fulfil the requirements of Chapter II, the withdrawal of the benefit of the block exemption in respect of the future aid measures does not affect the fact that the past measures complying with this Regulation were block exempted.
- (27) To eliminate differences that might give rise to distortions of competition and to facilitate coordination between different Union and national initiatives concerning SMEs, as well as for reasons of administrative clarity and legal certainty, the definition of SMEs used for the purpose of this Regulation should be based on the definition in Commission Recommendation 2003/361/EC ⁽³⁾.
- (28) This Regulation should cover types of aid granted in the fishery and aquaculture sector which have been systematically approved by the Commission for many years. This aid should not require a case-by-case assessment of its compatibility with the internal market from the Commission, provided that it complies with the conditions laid down in Regulation (EU) No 508/2014.

⁽¹⁾ Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information (OJ L 175, 27.6.2013, p. 1).

⁽²⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 83, 27.3.1999, p. 1).

⁽³⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium sized enterprises (OJ L 124, 20.5.2003, p. 36).

- (29) In accordance with Article 107(2)(b) of the Treaty, aid to make good the damage caused by natural disasters is compatible with the internal market. In order to provide legal certainty, it is necessary to define the type of the events that may constitute a natural disaster exempted by this Regulation. For the purposes of this Regulation, earthquakes, landslides, floods, in particular floods brought about by waters overflowing river banks or lake shores, avalanches, tornadoes, hurricanes, volcanic eruptions and wildfires of natural origin should be considered events constituting a natural disaster. Damage caused by adverse weather conditions such as storms, frost, hail, ice, rain or drought, which occur on a more regular basis, should not be considered a natural disaster within the meaning of Article 107(2)(b) of the Treaty. In order to ensure that the exemption covers indeed aid granted to make good the damage caused by natural disasters, this Regulation should lay down, following established practice, the conditions under which such aid schemes may benefit from that block exemption. Those conditions should relate, in particular, to the formal recognition by the competent Member States' authorities of the character of the event as a natural disaster and to a direct causal link between the natural disaster and the damages suffered by the beneficiary undertaking, which may include undertakings in difficulty, and should ensure that overcompensation is avoided. The compensation should not exceed what is necessary to enable the beneficiary to return to the situation prevailing before the disaster occurred.
- (30) Pursuant to Article 15(1)(f) and Article 15(3) of Council Directive 2003/96/EC ⁽¹⁾, Member States may introduce tax exemptions or reductions applicable to inland fishing and piscicultural works. It is therefore appropriate to continue exempting those measures from the notification requirement of Article 108(3) of the Treaty where the conditions provided under that Directive are fulfilled. Tax exemptions applicable to fishing within EU waters which Member States are to introduce pursuant to Article 14 (1)(c) of that Directive are not imputable to the State and therefore should not constitute State aid.
- (31) In the light of the Commission's experience in this area, State aid policy should periodically be revised. The period of application of this Regulation should therefore be limited and transitional provisions should be laid down. Having regard to the fact that the conditions for granting aid under this Regulation have been aligned with the conditions established for the application of Regulation (EU) No 508/2014 ⁽²⁾, it is appropriate to ensure consistency between the period of application of this Regulation and the period of application of Regulation (EU) No 508/2014. Should this Regulation expire without being extended, aid schemes already exempted by this Regulation should continue to be exempted for six months.

HAS ADOPTED THIS REGULATION:

CHAPTER I

COMMON PROVISIONS

Article 1

Scope

1. This Regulation shall apply to aid granted to small and medium-sized enterprises (SMEs) active in the production, processing or marketing of fishery and aquaculture products.
2. This Regulation shall also apply to aid granted to undertakings active in the production, processing or marketing of fishery and aquaculture products to make good the damage caused by natural disasters in accordance with Article 44 independently of the size of the beneficiary of the aid.
3. This Regulation shall not apply to:
 - (a) aid the amount of which is fixed on the basis of price or quantity of products put on the market;
 - (b) aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to the export activity;
 - (c) aid contingent upon the use of domestic over imported goods;
 - (d) aid granted to undertakings in difficulty, with the exception of aid to make good the damage caused by natural disasters;

⁽¹⁾ Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).

⁽²⁾ Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council (OJ L 149, 20.5.2014, p. 1).

- (e) aid schemes which do not explicitly exclude the payment of individual aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market, with the exception of aid schemes to make good the damage caused by natural disasters;
 - (f) ad hoc aid in favour of an undertaking as referred to in point (e);
 - (g) aid granted to operations which would have been ineligible for support under Article 11 of Regulation (EU) No 508/2014;
 - (h) aid granted to undertakings that cannot apply for support from the European Maritime and Fisheries Fund on the grounds set out in Article 10(1)-(3) of Regulation (EU) No 508/2014.
4. This Regulation shall not apply to State aid measures, which entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law, in particular:
- (a) aid where the grant of aid is subject to the obligation for the beneficiary to have its headquarters in the relevant Member State or to be predominantly established in that Member State. However, the requirement to have an establishment or branch in the aid granting Member State at the moment of payment of the aid is allowed;
 - (b) aid where the grant of aid is subject to the obligation for the beneficiary to use nationally produced goods or national services;
 - (c) aid restricting the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.

Article 2

Notification threshold

1. This Regulation shall not apply to aid for any project with eligible costs in excess of EUR 2 million, or where the amount of aid exceeds EUR 1 million per beneficiary per year.
2. The thresholds set out in paragraph 1 shall not be circumvented by artificially splitting up the aid schemes or aid projects.

Article 3

Definitions

For the purpose of this Regulation the following definitions shall apply:

- (1) 'aid' means any measure fulfilling all the criteria laid down in Article 107(1) of the Treaty;
- (2) 'small and medium-sized undertakings' or 'SMEs' means undertakings fulfilling the criteria laid down in Annex I;
- (3) 'fishery and aquaculture products' means the products defined in Annex I of Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 ⁽¹⁾;
- (4) 'natural disasters' means earthquakes, avalanches, landslides and floods, tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin;
- (5) 'undertaking in difficulty' means an undertaking in respect of which at least one of the following circumstances occurs:
 - (a) in the case of a limited liability company (other than an SME that has been in existence for less than three years), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, 'limited liability company' refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU of the European Parliament and of the Council ⁽²⁾ and 'share capital' includes, where relevant, any share premium;

⁽¹⁾ Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).

⁽²⁾ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

- (b) in the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, 'a company where at least some members have unlimited liability for the debt of the company' refers in particular to the types of company mentioned in Annex II to Directive 2013/34/EU;
 - (c) where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors;
 - (d) where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan;
- (6) 'ad hoc aid' means aid not granted on the basis of an aid scheme;
 - (7) 'aid scheme' means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount;
 - (8) 'individual aid' means:
 - (a) ad hoc aid; and
 - (b) awards of aid to individual beneficiaries on the basis of an aid scheme;
 - (9) 'gross grant equivalent' means the amount of the aid if it had been provided in the form of a grant to the beneficiary, before any deduction of tax or other charges;
 - (10) 'repayable advance' means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the project;
 - (11) 'start of works' means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works. For take-overs, 'start of works' means the moment of acquiring assets directly linked to the acquired establishment;
 - (12) 'fiscal successor scheme' means a scheme in the form of tax advantages which constitutes an amended version of a previously existing scheme in the form of tax advantages and which replaces it;
 - (13) 'aid intensity' means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;
 - (14) 'date of granting the aid' means the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime.

Article 4

Conditions for exemption

1. Aid schemes, individual aid granted under aid schemes and ad hoc aid shall be compatible with the internal market within the meaning of Article 107(2) or (3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty provided that such aid fulfils the conditions laid down in Chapter I of this Regulation, as well as the specific conditions for the relevant category of aid laid down in Chapter III of this Regulation.
2. Aid measures shall only be exempted under this Regulation as far as they explicitly provide that, during the grant period, the beneficiaries of the aid shall comply with the rules of the Common Fisheries Policy and that, if during that period it is found that the beneficiary does not comply with rules of the Common Fisheries Policy, the aid shall be reimbursed in proportion to the gravity of the infringement.

Article 5

Transparency of aid

1. This Regulation shall apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid *ex ante* without any need to undertake a risk assessment ('transparent aid').

2. The following categories of aid shall be considered to be transparent:
 - (a) aid comprised in grants and interest rate subsidies;
 - (b) aid comprised in loans where the gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant;
 - (c) aid comprised in guarantees:
 - (i) where the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down in a Commission notice; or
 - (ii) where before the implementation of the measure, the methodology to calculate the gross grant equivalent of the guarantee has been accepted on the basis of the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees ⁽¹⁾, or any successor notice, following notification of that methodology to the Commission under any regulation adopted by the Commission in the State aid area applicable at the time, and the approved methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation;
 - (d) aid in the form of tax advantages, where the measure provides for a cap ensuring that the applicable threshold is not exceeded;
 - (e) aid in the form of repayable advances, if the total nominal amount of the repayable advance does not exceed the thresholds applicable under this Regulation or if, before implementation of the measure, the methodology to calculate the gross grant equivalent of the repayable advance has been accepted following its notification to the Commission.
3. For the purposes of this Regulation, the following categories of aid shall not be considered to be transparent aid:
 - (a) aid comprised in capital injections;
 - (b) aid comprised in risk finance measures.

Article 6

Incentive effect

1. This Regulation shall apply only to aid which has an incentive effect.
2. Aid shall be considered to have an incentive effect if the beneficiary has submitted a written application for the aid to the Member State concerned before work on the project or activity starts. The application for the aid shall contain at least the following information:
 - (a) undertaking's name and size;
 - (b) description of the project or activity, including its start and end dates;
 - (c) location of the project or activity;
 - (d) list of eligible costs;
 - (e) type of aid (grant, loan, guarantee, repayable advance or other) and amount of public funding needed for the project or activity.
3. By way of derogation from paragraph 2, measures in the form of tax advantages shall be deemed to have an incentive effect if the following conditions are fulfilled:
 - (a) the measure establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State; and
 - (b) the measure has been adopted and is in force before work on the aided project or activity has started, except in the case of fiscal successor schemes where the activity was already covered by the previous schemes in the form of tax advantages.

⁽¹⁾ OJ C 155, 20.6.2008, p. 10.

4. By way of derogation from paragraphs 1 and 2, the following categories of aid are not required to have or shall be deemed to have an incentive effect:

- (a) aid to make good the damage caused by natural disasters, if the conditions laid down in Article 44 are fulfilled;
- (b) aid in the form of tax exemptions or reductions adopted by the Member States pursuant to Article 15(1)(f) and Article 15(3) of Directive 2003/96/EC, if the conditions laid down in Article 45 of this Regulation are fulfilled.

Article 7

Aid intensity and eligible costs

1. For the purpose of calculating aid intensity and eligible costs, all figures used shall be taken before any deduction of tax or other charge. The eligible costs shall be supported by documentary evidence which shall be clear, specific and contemporary.
2. Where aid is granted in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.
3. Aid payable in several instalments shall be discounted to its value on the date of granting the aid. The eligible costs shall be discounted to their value on the date of granting the aid. The interest rate to be used for discounting purposes shall be the discount rate applicable on the date of granting the aid.
4. Where aid is granted by means of tax advantages discounting of aid tranches shall take place on the basis of the discount rates applicable on the various dates when the tax advantage takes effect.
5. Where aid is granted in the form of repayable advances which, in the absence of an accepted methodology to calculate their gross grant equivalent, are expressed as a percentage of the eligible costs and the measure provides that in case of a successful outcome of the project, as defined on the basis of a reasonable and prudent hypothesis, the advances will be repaid with an interest rate at least equal to the discount rate applicable on the date of granting the aid, the maximum aid intensities laid down in Chapter III may be increased by 10 percentage points.
6. The eligible costs shall comply with the requirements of Articles 67 to 69 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council ⁽¹⁾.

Article 8

Cumulation

1. In determining whether the notification thresholds in Article 2 and the maximum aid intensities in Chapter III are respected, the total amount of public support measures for the aided activity or project or undertaking shall be taken into account, regardless of whether that support is financed from local, regional, national or Union sources.
2. Aid exempted by this Regulation may be cumulated with:
 - (a) any other State aid, as long as those measures concern different identifiable eligible costs;
 - (b) any other State aid, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable to this aid under this Regulation.
3. State aid exempted under this Regulation shall not be cumulated with any *de minimis* aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding those referred to in Chapter III.

⁽¹⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

*Article 9***Publication and information**

1. The Member State concerned shall ensure the publication on a comprehensive State aid website, at national or regional level of:

- (a) the summary information referred to in Article 11 in the standardised format laid down in Annex II or a link providing access to it;
- (b) the full text of each aid measure as referred to in Article 11 or a link providing access to the full text;
- (c) the information referred to in Annex III on each individual aid award exceeding EUR 30 000.

2. For schemes in the form of tax advantages, the conditions set out in paragraph 1(c) shall be considered fulfilled if Member States publish the required information on individual aid amounts in the following ranges (in EUR million):

- (a) 0,03-0,2
- (b) 0,2-0,4
- (c) 0,4-0,6
- (d) 0,6-0,8
- (e) 0,8-1

3. The information referred to in paragraph 1(c) shall be organised and accessible in a standardised manner, as described in Annex III, and shall allow for effective search and download functions. The information referred to in paragraph 1 shall be published within six months from the date the aid was granted, or for aid in the form of tax advantage, within one year from the date the tax declaration is due, and shall be available for at least 10 years from the date on which the aid was granted.

4. Each aid scheme and individual aid shall contain an explicit reference to this Regulation, by citing its title and publication reference in the *Official Journal of the European Union*, and to the specific provisions of Chapter III concerned by that act, or where applicable, to the national law which ensures that the relevant provisions of this Regulation are complied with. It shall be accompanied by its implementing provisions and its amendments.

5. The Commission shall publish on its website:

- (a) the links to the State aid websites, referred to in paragraph 1 of this Article;
- (b) the summary information referred to in Article 11.

6. Member States shall comply with the provisions of this Article at the latest within two years after the entry into force of this Regulation.

CHAPTER II

MONITORING*Article 10***Withdrawal of the benefit of the block exemption**

Where a Member State grants aid allegedly exempted from the notification requirement under this Regulation without fulfilling the conditions set out in Chapters I, II and III, the Commission may, after having provided the Member State concerned with the possibility to make its views known, adopt a decision stating that all or some of the future aid measures adopted by the Member State concerned which would otherwise fulfil the requirements of this Regulation, are to be notified to the Commission in accordance with Article 108(3) of the Treaty. The measures to be notified may be limited to measures granting certain types of aid, in favour of certain beneficiaries or adopted by certain authorities of the Member State concerned.

*Article 11***Reporting**

Member States shall transmit to the Commission:

- (a) via the Commission's electronic notification system, the summary information about each aid measure exempted under this Regulation in the standardised format laid down in Annex II, together with a link providing access to the full text of the aid measure, including its amendments, within 20 working days following its entry into force;
- (b) an annual report, as referred to in Commission Regulation (EC) No 794/2004 ⁽¹⁾, in electronic form, on the application of this Regulation, containing the information indicated in Regulation (EC) No 794/2004, in respect of each whole year or each part of the year during which this Regulation applies.

*Article 12***Monitoring**

In order to enable the Commission to monitor the aid exempted from notification by this Regulation, Member States shall maintain detailed records with the information and supporting documentation necessary to establish that all the conditions laid down in this Regulation are fulfilled. Such records shall be kept for 10 years from the date on which the ad hoc aid was granted or the last aid was granted under the scheme. The Member State concerned shall provide the Commission within a period of 20 working days or such longer period as may be fixed in the request, with all the information and supporting documentation which the Commission considers necessary to monitor the application of this Regulation.

CHAPTER III

SPECIFIC PROVISIONS FOR DIFFERENT CATEGORIES OF AID

SECTION 1

Sustainable development of fisheries*Article 13***Aid for innovation**

Aid for innovation in fisheries fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 26 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 14***Aid for advisory services**

Aid for advisory services fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 27 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

⁽¹⁾ Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 140, 30.4.2004, p. 1).

*Article 15***Aid for partnership between scientists and fishermen**

Aid for partnership between scientists and fishermen fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 28 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 16***Aid to promote human capital, job creation and social dialogue**

Aid to promote human capital, job creation and social dialogue fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 29 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 17***Aid to facilitate diversification and new forms of income**

Aid to facilitate diversification and new forms of income fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 30 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 18***Aid to start-up support for young fishermen**

Aid to start-up support for young fishermen fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 31 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 19***Aid to improve health and safety**

Aid to improve health and safety fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 32 of Regulation (EU) No 508/2014 and the delegated acts adopted on the basis of Article 32(4) of that Regulation; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 20***Aid to mutual funds for adverse climatic events and environmental incidents**

Aid to mutual funds for adverse climatic events and environmental incidents fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 35 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 21***Aid to support systems of allocation of fishing opportunities**

Aid to support systems of allocation of fishing opportunities fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 36 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 22***Aid to support the design and implementation of conservation measures and regional cooperation**

Aid to support the design and implementation of conservation measures and regional cooperation fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 37 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 23***Aid to limit the impact of fishing on the marine environment and adapt fishing to the protection of species**

Aid to limit the impact of fishing on the marine environment and adapt fishing to the protection of species fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 38 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 24***Aid to innovation linked to the conservation of marine biological resources**

Aid to innovation linked to the conservation of marine biological resources fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 39 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 25***Aid for the protection and restoration of marine biodiversity and ecosystems and compensation regimes in the framework of sustainable fishing activities**

Aid for the protection and restoration of marine biodiversity and ecosystems and compensation regimes in the framework of sustainable fishing activities fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 40 of Regulation (EU) No 508/2014 and the delegated acts adopted on the basis of Article 40(4) of that Regulation; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 26***Aid to improve energy efficiency and to mitigate the effects of climate change**

Aid to improve energy efficiency and to mitigate the effects of climate change, with the exception of aid to replace or modernise engines, fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 41 of Regulation (EU) No 508/2014 and the delegated acts adopted on the basis of Article 41(10) of that Regulation; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 27***Aid to added value, product quality and use of unwanted catches**

Aid to added value, product quality and use of unwanted catches fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 42 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 28***Aid to fishing ports, landing sites, auction halls and shelters**

Aid to fishing ports, landing sites, auction halls and shelters fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 43 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 29***Aid to inland fishing and inland aquatic fauna and flora**

Aid to inland fishing and inland aquatic fauna and flora fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 25(1) and (2) and Article 44 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*SECTION 2****Sustainable development of aquaculture****Article 30***Aid for innovation in aquaculture**

Aid for innovation in aquaculture fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Articles 46 and 47 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 31***Aid to productive investments in aquaculture**

Aid to productive investments in aquaculture fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Articles 46 and 48 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 32***Aid to management, relief and advisory services for aquaculture farms**

Aid to management, relief and advisory services for aquaculture farms fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Articles 46 and 49 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 33***Aid to promote human capital and networking in aquaculture**

Aid to promote human capital and networking in aquaculture fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Articles 46 and 50 of Regulation (EU) No 508/2014 and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 34***Aid to increase the potential of aquaculture sites**

Aid to increase the potential of aquaculture sites fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Articles 46 and 51 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 35***Aid to encourage new aquaculture farmers practising sustainable aquaculture**

Aid to encourage new aquaculture farmers practising sustainable aquaculture fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Articles 46 and 52 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 36***Aid for the conversion to eco-management and audit schemes and organic aquaculture**

Aid for the conversion to eco-management and audit schemes and organic aquaculture fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Articles 46 and 53 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 37***Aid to aquaculture providing environmental services**

Aid to aquaculture providing environmental services fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Articles 46 and 54 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 38***Aid for public health measures**

Aid for public health measures fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Articles 46 and 55 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 39***Aid for animal health and welfare measures**

Aid for animal health and welfare measures fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Articles 46 and 56 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 40***Aid for aquaculture stock insurance**

Aid for aquaculture stock insurance fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Articles 46 and 57 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*SECTION 3****Marketing and processing related measures****Article 41***Aid for marketing measures**

Aid for marketing measures fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 68 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 42***Aid for the processing of fishery and aquaculture products**

Aid for the processing of fishery and aquaculture products fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 69 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*SECTION 4****Other categories of AID****Article 43***Aid for data collection**

Aid for data collection fulfilling the conditions laid down in Chapter I shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid fulfils the conditions of Article 77 of Regulation (EU) No 508/2014; and
- (b) the amount of the aid does not exceed, in gross grant equivalent, the maximum intensity of public aid fixed by Article 95 of Regulation (EU) No 508/2014 and the implementing acts adopted on the basis of Article 95(5) of that Regulation.

*Article 44***Aid to make good the damage caused by natural disasters**

1. Aid schemes to make good the damage caused by natural disasters shall be compatible with the internal market within the meaning of Article 107(2)(b) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in this Article and in Chapter I.
2. Aid granted under this Article shall be granted subject to the following conditions:
 - (a) the competent authority of the Member State has formally recognized the character of the event as a natural disaster; and
 - (b) there is a direct causal link between the natural disaster and the damage suffered by the undertaking.
3. Aid shall be paid directly to the undertaking concerned.
4. Aid schemes related to a specific natural disaster shall be established within three years from the date of the occurrence of the natural disaster. The aid shall be paid out within four years from that date.
5. The eligible costs shall be the damage incurred as a direct consequence of the natural disaster, as assessed either by a public authority, by an independent expert recognized by the granting authority or by an insurance undertaking. That damage may include the following:
 - (a) material damage to assets such as buildings, equipment, machinery, stocks and means of production;
 - (b) loss of income due to the full or partial suspension of activity for a period not exceeding six months from the occurrence of the disaster.
6. The calculation of the material damage shall be based on the repair cost or economic value of the affected asset before the disaster. It shall not exceed the repair cost or the decrease in fair market value caused by the disaster, namely the difference between the property's value immediately before and immediately after the disaster.
7. The loss of income shall be calculated by subtracting:
 - (a) the result of multiplying the quantity of the fishery and aquaculture products produced in the year of the natural disaster, or in each following year affected by the full or partial destruction of the means of production, by the average selling price obtained during that year; from
 - (b) the result of multiplying the average annual quantity of fishery and aquaculture products produced in the three-year period preceding the natural disaster, or a three year average based on the five-year period preceding the natural disaster, excluding the highest and lowest entry, by the average selling price obtained.
8. The damage shall be calculated at the level of the individual beneficiary.
9. The aid and any other payments received to compensate the damage, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

*Article 45***Tax exemptions and reductions in accordance with Directive 2003/96/EC**

1. Aid in the form of tax exemptions or reductions adopted by the Member States pursuant to Article 15(1)(f) and Article 15(3) of Directive 2003/96/EC shall be compatible with the internal market within the meaning of Article 107(3)(c) and exempt from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in Directive 2003/96/EC and in Chapter I of this Regulation are fulfilled.
2. The beneficiaries of the tax exemptions or reductions shall be selected on the basis of transparent and objective criteria. Where applicable, they shall pay at least the respective minimum level of taxation set by Directive 2003/96/EC.

CHAPTER IV

TRANSITIONAL AND FINAL PROVISIONS*Article 46***Transitional provisions**

1. This Regulation shall apply to individual aid granted before its entry into force, if the aid fulfils all the conditions laid down in this Regulation, with the exception of Article 9.
2. Any aid granted before 1 July 2014 by virtue of any regulation adopted pursuant to Article 1 of Regulation (EC) No 994/98 previously in force shall be compatible with the internal market and exempted from the notification requirement of Article 108(3) of the Treaty.
3. Any aid not exempted from the notification requirement of Article 108(3) of the Treaty by virtue of this Regulation or other regulations adopted pursuant to Article 1 of Regulation (EC) No 994/98 previously in force shall be assessed by the Commission in accordance with the relevant frameworks, guidelines, communications and notices.
4. At the end of the period of validity of this Regulation any aid schemes exempted under this Regulation shall remain exempted during an adjustment period of six months.

*Article 47***Entry into force and applicability**

This Regulation shall enter into force on 1 January 2015.

It shall apply until 31 December 2020.

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

Done at Brussels, 16 December 2014.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX I

SME DEFINITION*Article 1***Enterprise**

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

*Article 2***Staff headcount and financial thresholds determining enterprise categories**

1. The category of micro, small and medium-sized enterprises ('SMEs') is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.
2. Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.
3. Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

*Article 3***Types of enterprise taken into consideration in calculating staff numbers and financial amounts**

1. An 'autonomous enterprise' is any enterprise which is not classified as a partner enterprise within the meaning of paragraph 2 or as a linked enterprise within the meaning of paragraph 3.
2. 'Partner enterprises' are all enterprises which are not classified as linked enterprises within the meaning of paragraph 3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of paragraph 3, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:

- (a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same enterprise is less than EUR 1 250 000;
 - (b) universities or non-profit research centres;
 - (c) institutional investors, including regional development funds;
 - (d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5 000 inhabitants.
3. 'Linked enterprises' are enterprises which have any of the following relationships with each other:
 - (a) an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
 - (b) an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
 - (c) an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
 - (d) an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of paragraph 2 are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as shareholders.

Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors mentioned in paragraph 2, are also considered to be linked.

Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An 'adjacent market' is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

4. Except in the cases set out in paragraph 2, second subparagraph, an enterprise cannot be considered an SME if 5 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.

5. Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the thresholds set out in Article 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Union rules.

Article 4

Data used for the staff headcount and the financial amounts and reference period

1. The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.

2. Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in Article 2, this will not result in the loss or acquisition of the status of medium-sized, small or micro-enterprise unless those thresholds are exceeded over two consecutive accounting periods.

3. In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

Article 5

Staff headcount

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:

- (a) employees;
- (b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;
- (c) owner-managers;
- (d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

*Article 6***Establishing the data of an enterprise**

1. In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.

2. The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

To the data referred to in the first subparagraph are added the data of any partner enterprise of the enterprise in question situated immediately upstream or downstream from it. Aggregation is proportional to the percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies.

To the data referred to in the first and second subparagraph are added 100 % of the data of any enterprise, which is linked directly or indirectly to the enterprise in question, where the data were not already included through consolidation in the accounts.

3. For the application of paragraph 2, the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation.

For the application of the same paragraph 2, the data of the enterprises which are linked to the enterprise in question are to be derived from their accounts and their other data, consolidated if they exist. To these are added, pro rata, the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of paragraph 2.

4. Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.

ANNEX II

Information regarding State aid exempt under the conditions of this Regulation to be provided through the established Commission IT application as laid down in Article 11

Aid reference	<i>(to be completed by the Commission)</i>	
Member State	.....	
Member State reference number	.....	
Region	Name of the Region(s) (NUTS ⁽¹⁾)	
Granting authority	Name	.....
	Postal address	.....
	Web address	.....
Title of the aid measure	.....	
National legal basis (Reference to the relevant national official publication)	..... ..... .....	
Web link to the full text of the aid measure	.....	
Type of measure	☐ Scheme	
	☐ Ad hoc aid	Name of the beneficiary and the group ⁽²⁾ it belongs to
Amendment of an existing aid scheme or ad hoc aid		Commission aid reference
	☐ Prolongation	..... .....
	☐ Modification	..... .....

⁽¹⁾ NUTS - Nomenclature of Territorial Units for Statistics. Typically, the region is specified at level 2.

⁽²⁾ An undertaking for the purposes of rules on competition laid down in the Treaty and for the purposes of this Regulation is any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed. The Court of Justice has ruled that entities which are controlled (on a legal or on a de facto basis) by the same entity should be considered as one undertaking.

Duration ⁽³⁾	☐ Scheme	dd/mm/yyyy to dd/mm/yyyy
Date of granting	☐ Ad hoc aid	dd/mm/yyyy
Economic sector(s) concerned	☐ All economic sectors eligible to receive aid	
	☐ Limited to certain sectors: Please specify at NACE group level ⁽⁴⁾	
Type of beneficiary	☐ SME	
	☐ Large undertakings	
Budget	Total annual amount of the budget planned under the scheme ⁽⁵⁾	National currency (full amounts)
	Overall amount of the <i>ad hoc</i> aid awarded to the undertaking ⁽⁶⁾	National currency (full amounts)
	☐ For guarantees ⁽⁷⁾	National currency (full amounts)
Aid instrument	☐ Grant/Interest rate subsidy	
	☐ Loan/Repayable advances	
	☐ Guarantee (where appropriate with a reference to the Commission decision ⁽⁸⁾)	
	☐ Tax advantage or tax exemption	
	☐ Other (please specify)	.....
	Indicate to which broad category below it would fit best in terms of its effect/function: ☐ Grant ☐ Loan ☐ Guarantee ☐ Tax advantage	

⁽³⁾ Period during which the granting authority can commit itself to grant the aid.

⁽⁴⁾ NACE Rev. 2 — Statistical classification of Economic Activities in the European Union. Typically, the sector shall be specified at group level.

⁽⁵⁾ In case of an aid scheme: Indicate the annual overall amount of the budget planned under the scheme or the estimated tax loss per year for all aid instruments contained in the scheme.

⁽⁶⁾ In case of an *ad hoc* aid award: Indicate the overall aid amount/tax loss.

⁽⁷⁾ For guarantees, indicate the (maximum) amount of loans guaranteed.

⁽⁸⁾ Where appropriate, reference to the Commission decision approving the methodology to calculate the gross grant equivalent, in accordance with Article 5(2)(c).

Indicate which of Articles 13 to 45 is used	☐ list of Articles
Aid to make good the damage caused by natural disasters (Article 44)	Type of natural disaster: ☐ earthquake ☐ avalanche ☐ landslide ☐ flood ☐ tornado ☐ hurricane ☐ volcanic eruption ☐ wild fire Date of the occurrence of the natural disaster dd/mm/yyyy to dd/mm/yyyy
Motivation	Indicate why a State aid scheme has been established or an ad-hoc aid has been granted, instead of assistance under the European Maritime and Fisheries Fund (EMFF): ☐ measure not covered by the national operational programme; ☐ prioritisation in the allocation of funds under the national operational programme; ☐ funding no longer available under the EMFF; ☐ other (please specify)

ANNEX III

Provisions for the publication of information referred to in Article 9(1)

Member States shall organise their comprehensive State aid websites, on which the information referred to in Article 9 (1) is to be published, in a way to allow easy access to the information.

Information shall be published in a spreadsheet data format, which allows data to be searched, extracted and easily published on the Internet, for instance in CSV or XML format. Access to the website shall be allowed to any interested party without restrictions. No prior user registration shall be required to access the website.

The following information on individual awards as laid down in Article 9(1)(c) shall be published:

- Name of the beneficiary
- Beneficiary's identifier
- Type of enterprise (SME/large) at the date of granting
- Region in which the beneficiary is located, at NUTS level II ⁽¹⁾
- Sector of activity at NACE group level ⁽²⁾
- Aid element, expressed as full amount in national currency ⁽³⁾
- Aid instrument ⁽⁴⁾ (grant/interest rate subsidy, loan/repayable advances/reimbursable grant, guarantee, tax advantage or tax exemption, other (please specify))
- Date of granting
- Objective of the aid
- Granting authority

⁽¹⁾ NUTS — Nomenclature of Territorial Units for Statistics. Typically, the region is specified at level 2.

⁽²⁾ Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1).

⁽³⁾ Gross grant equivalent. For fiscal schemes, this amount can be provided by the ranges set out in Article 9(2).

⁽⁴⁾ If the aid is granted through multiple aid instruments, the aid amount shall be provided by instrument.

**COMMISSION IMPLEMENTING REGULATION (EU) No 1389/2014
of 16 December 2014**

**approving non-minor amendments to the specification for a name entered in the register of
protected designations of origin and protected geographical indications [Beaufort (PDO)]**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) By virtue of the first subparagraph of Article 53(1) of Regulation (EU) No 1151/2012, the Commission has examined France's application for the approval of amendments to the specification for the protected designation of origin 'Beaufort' registered under Commission Regulation (EC) No 1107/96 ⁽²⁾, as amended by Regulation (EU) No 637/2011 ⁽³⁾.
- (2) Since the amendments in question are not minor within the meaning of Article 53(2) of Regulation (EU) No 1151/2012, the Commission published the amendment application in the *Official Journal of the European Union* ⁽⁴⁾ as required by Article 50(2)(a) of that Regulation.
- (3) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the amendments to the specification should be approved,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 16 December 2014.

*For the Commission,
On behalf of the President,
Phil HOGAN
Member of the Commission*

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ Commission Regulation (EC) No 1107/96 of 12 June 1996 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92 (OJ L 148, 21.6.1996, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) No 637/2011 of 29 June 2011 approving a non-minor amendment to the specification for a name entered in the register of protected designations of origin and protected geographical indications [Beaufort (PDO)] (OJ L 170, 30.6.2011, p. 30.)

⁽⁴⁾ OJ C 260, 9.8.2014, p. 24.

COMMISSION IMPLEMENTING REGULATION (EU) No 1390/2014
of 19 December 2014
amending the Annex to Regulation (EU) No 37/2010, as regards the substance ‘eprinomectin’
(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 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin, repealing Council Regulation (EEC) No 2377/90 and amending Directive 2001/82/EC of the European Parliament and of the Council and Regulation (EC) No 726/2004 of the European Parliament and the Council ⁽¹⁾, and in particular Article 14 in conjunction with Article 17 thereof,

Having regard to the opinion of the European Medicines Agency formulated by the Committee for Medicinal Products for Veterinary Use,

Whereas:

- (1) The maximum residue limit (MRL) for pharmacologically active substances intended for use in the Union in veterinary medicinal products for food-producing animals or in biocidal products used in animal husbandry is to be established in accordance with Regulation (EC) No 470/2009.
- (2) Pharmacologically active substances and their classification regarding MRLs in foodstuffs of animal origin are set out in the Annex to Commission Regulation (EU) No 37/2010 ⁽²⁾.
- (3) Eprinomectin is currently included in Table 1 of the Annex to Regulation (EU) No 37/2010 as an allowed substance, for bovine, ovine and caprine species, applicable to muscle, fat, liver, kidney and milk. The provisional maximum residue limits for that substance set out for ovine and caprine species, applicable to muscle, fat, liver, kidney and milk expired on 1 July 2014.
- (4) The Committee for Medicinal Products for Veterinary Use (CVMP) recommended an extension of the provisional MRL as the analytical method for monitoring residues in ovine and caprine species is not sufficiently validated. The incomplete scientific data on the validation of the analytical method is not considered to constitute a hazard to human health.
- (5) In accordance with Article 5 of Regulation (EC) No 470/2009 the European Medicines Agency is to consider using MRLs established for a pharmacologically active substance in a particular foodstuff for another foodstuff derived from the same species, or MRLs established for a pharmacologically active substance in one or more species for other species. The CVMP concluded that the extrapolation to other food producing species cannot be supported for this substance.
- (6) The entry for eprinomectin in Table 1 of the Annex to Regulation (EU) No 37/2010 should therefore be amended to extend the provisional MRL to 30 June 2016.
- (7) It is appropriate to provide for a reasonable period of time for the stakeholders concerned to take measures that may be required to comply with the newly set MRL.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Veterinary Medicinal Products,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EU) No 37/2010 is amended as set out in the Annex to this Regulation.

⁽¹⁾ OJ L 152, 16.6.2009, p. 11.

⁽²⁾ Commission Regulation (EU) No 37/2010 of 22 December 2009 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin (OJ L 15, 20.1.2010, p. 1).

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 22 February 2015.

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

Done at Brussels, 19 December 2014.

For the Commission

The President

Jean-Claude JUNKER

ANNEX

In Table 1 of the Annex to Regulation (EU) No 37/2010, the entry for the substance 'eprinomectin' is replaced by the following:

Pharmacologically active Substance	Marker residue	Animal Species	MRL	Target Tissues	Other Provisions (according to Article 14(7) of Regulation (EC) No 470/2009)	Therapeutic classification
Eprinomectin	Eprinomectin B1a	Bovine	50 µg/kg 250 µg/kg 1 500 µg/kg 300 µg/kg 20 µg/kg	Muscle Fat Liver Kidney Milk	NO ENTRY	Antiparasitic agents/Agents acting against endo- and ectoparasites'
		Ovine, caprine	50 µg/kg 250 µg/kg 1 500 µg/kg 300 µg/kg 20 µg/kg	Muscle Fat Liver Kidney Milk	Provisional maximum residue limits expire on 30 June 2016	

**COMMISSION IMPLEMENTING REGULATION (EU) No 1391/2014
of 23 December 2014**

establishing the standard import values for determining the entry price of certain fruit and vegetables

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⁾,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.
- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day 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, 23 December 2014.

*For the Commission,
On behalf of the President,
Jerzy PLEWA*

Director-General for Agriculture and Rural Development

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	AL	78,3
	EG	176,9
	IL	69,8
	MA	93,5
	TN	214,0
	TR	80,0
	ZZ	118,8
0707 00 05	IL	241,9
	TR	154,7
	ZZ	198,3
0709 93 10	MA	74,4
	TR	130,5
	ZZ	102,5
0805 10 20	MA	68,6
	TR	57,7
	UY	32,5
	ZA	56,1
	ZW	33,9
	ZZ	49,8
	ZZ	49,8
0805 20 10	MA	62,7
	ZZ	62,7
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	IL	94,1
	JM	156,9
	TR	80,7
	ZZ	110,6
	ZZ	110,6
0805 50 10	TR	70,8
	US	236,5
	ZZ	153,7
0808 10 80	BR	59,0
	CA	135,9
	CL	80,2
	NZ	90,6
	US	93,7
	ZA	54,1
	ZZ	85,6
	ZZ	85,6
	ZZ	85,6
0808 30 90	CN	98,8
	US	141,4
	ZZ	120,1

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

DECISIONS

DECISION OF THE EUROPEAN PARLIAMENT

of 16 December 2014

electing the European Ombudsman

(2014/949/EU, Euratom)

THE EUROPEAN PARLIAMENT,

Having regard to the Treaty on the Functioning of the European Union, and in particular the third paragraph of Article 24 and Article 228 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to its Decision 94/262/ECSC, EC, Euratom of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties ⁽¹⁾,

Having regard to Rule 219 of its Rules of Procedure,

Having regard to the call for nominations ⁽²⁾,

Having regard to its vote of 16 December 2014,

HAS DECIDED:

to elect Emily O'REILLY to exercise the function of European Ombudsman until the end of the parliamentary term.

Done at Strasbourg, 16 December 2014.

For the European Parliament

The President

M. SCHULZ

⁽¹⁾ OJ L 113, 4.5.1994, p. 15.

⁽²⁾ OJ C 293, 2.9.2014, p. 13.

COMMISSION IMPLEMENTING DECISION**of 19 December 2014****on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD)***(notified under document C(2014) 10135)***(Only the English, Greek and Slovenian texts are authentic)**

(2014/950/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ⁽¹⁾, and in particular Article 7(4) thereof,Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy ⁽²⁾, and in particular Article 31 thereof,

Having consulted the Committee on the Agricultural Funds,

Whereas:

- (1) Under Article 7(4) of Regulation (EC) No 1258/1999, and Article 31 of Regulation (EC) No 1290/2005, the Commission is to carry out the necessary verifications, communicate to the Member States the results of these verifications, take note of the comments of the Member States, initiate a bilateral discussion so that an agreement may be reached with the Member States in question, and formally communicate its conclusions to them.
- (2) The Member States have had an opportunity to request the launch of a conciliation procedure. That opportunity has been used in some cases and the reports issued on the outcome have been examined by the Commission.
- (3) Under Regulation (EC) No 1258/1999 and Regulation (EC) No 1290/2005, only agricultural expenditure which has been incurred in a way that has not infringed European Union rules may be financed.
- (4) In the light of the verifications carried out, the outcome of the bilateral discussions and the conciliation procedures, part of the expenditure declared by the Member States does not fulfil this requirement and cannot, therefore, be financed under the EAGGF Guarantee Section, the EAGF and the EAFRD.
- (5) The amounts that are not recognised as being chargeable to the EAGGF Guarantee Section, the EAGF and the EAFRD should be indicated. Those amounts do not relate to expenditure incurred more than 24 months before the Commission's written notification of the results of the verifications to the Member States.
- (6) As regards the cases covered by this decision, the assessment of the amounts to be excluded on grounds of non-compliance with European Union rules was notified by the Commission to the Member States in a summary report on the subject.
- (7) This Decision is without prejudice to any financial conclusions that the Commission may draw from the judgments of the Court of Justice in cases pending on 1 September 2014 and relating to its content,

HAS ADOPTED THIS DECISION:

Article 1

The expenditure itemised in the Annex hereto that has been incurred by the Member States' accredited paying agencies and declared under the EAGGF Guarantee Section, under the EAGF or under the EAFRD shall be excluded from European Union financing because it does not comply with European Union rules.

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.⁽²⁾ OJ L 209, 11.8.2005, p. 1.

Article 2

This Decision is addressed to Ireland, Hellenic Republic and the Republic of Slovenia.

Done at Brussels, 19 December 2014.

For the Commission
Phil HOGAN
Member of the Commission

Budget Item: 6 701

MS	Measure	FY	Reason	Type	Correction %	Currency	Amount	Deductions	Financial Impact
GR	Export refunds — Non-Annex I	2008	Lack of instructions related to the Regulation (EC) No 952/2006	FLAT RATE	5,00 %	EUR	– 13 507,00	0,00	– 13 507,00
	Export refunds — Sugar and isoglucose	2008	Lack of instructions related to the Regulation (EC) No 952/2006	FLAT RATE	5,00 %	EUR	– 47 747,49	0,00	– 47 747,49
	_Recoveries	2009	Lack of instructions related to the Regulation (EC) No 952/2006	FLAT RATE	2,00 %	EUR	– 872 542,52	0,00	– 872 542,52
	_Recoveries	2010	Lack of instructions related to the Regulation (EC) No 952/2006	FLAT RATE	2,00 %	EUR	– 845 323,17	0,00	– 845 323,17
	Wine — planting rights		Reimbursement following judgement of Court of Justice in case T-367/12	ONE-OFF	0,00 %	EUR	21 336 120,00	0,00	21 336 120,00
GR	Other Direct Aid — Article 68-72 of Regulation (EC) No 73/2009	2011	Non-achievement of the regulatory control rate, deficiencies in the timing and non-respect of the regulatory minimum rate of on-the-spot checks for the sheep and goat aid	FLAT RATE	2,00 %	EUR	– 476 400,54	0,00	– 476 400,54
GR	Decoupled Direct Aids	2009	Weaknesses in the LPIS and on-the-spot-checks, CY 2008	FLAT RATE	2,00 %	EUR	– 34 622 028,32	– 68 359,28	– 34 553 669,04
	Other Direct Aids	2009	Weaknesses in the LPIS and on-the-spot-checks, CY 2008	FLAT RATE	5,00 %	EUR	– 11 294 787,52	– 97 073,53	– 11 197 713,99
	Decoupled Direct Aids	2009	Weaknesses in the LPIS and on-the-spot-checks, CY 2008	FLAT RATE	10,00 %	EUR	– 32 548 736,62	– 64 265,67	– 32 484 470,95
	Other Direct Aids	2009	Weaknesses in the LPIS and on-the-spot-checks, CY 2008	FLAT RATE	100,00 %	EUR	0,00	– 132 067,09	132 067,09

MS	Measure	FY	Reason	Type	Correction %	Currency	Amount	Deductions	Financial Impact
	Decoupled Direct Aids	2010	Weaknesses in the LPIS and on-the-spot-checks, CY 2008	FLAT RATE	2,00 %	EUR	6 274,63	12,55	6 262,08
	Other Direct Aids	2010	Weaknesses in the LPIS and on-the-spot-checks, CY 2008	FLAT RATE	5,00 %	EUR	27,37	0,05	27,32
	Decoupled Direct Aids	2010	Weaknesses in the LPIS and on-the-spot-checks, CY 2008	FLAT RATE	10,00 %	EUR	5 898,88	11,80	5 887,08
GR	Financial audit — Overshooting	2011	Exceeding of financial ceilings	ONE-OFF	0,00 %	EUR	– 21 940,77	– 21 940,77	0,00
	Financial audit — Late payments and payment deadlines	2011	Late payments	ONE-OFF	0,00 %	EUR	– 1 617 403,78	– 1 751 757,38	134 353,60
					Total GR:	EUR	– 61 012 096,85	– 2 135 439,32	– 58 876 657,53
MS	Measure	FY	Reason	Type	Correction %	Currency	Amount	Deductions	Financial Impact
IE	Fruit and Vegetables —Operational Programmes	2009	Absence of checks on compliance with recognition criteria	FLAT RATE	10,00 %	EUR	– 477 165,20	0,00	– 477 165,20
	Fruit and Vegetables — Operational Programmes	2010	Absence of checks on compliance with recognition criteria	FLAT RATE	10,00 %	EUR	– 578 539,13	0,00	– 578 539,13
					Total IE:	EUR	– 1 055 704,33	0,00	– 1 055 704,33
MS	Measure	FY	Reason	Type	Correction %	Currency	Amount	Deductions	Financial Impact
SI	Sugar — Restructuring Fund	2009	Silos still present at the premises of the sugar factory	ONE-OFF	0,00 %	EUR	– 8 700 815,25	0,00	– 8 700 815,25
					Total SI:	EUR	– 8 700 815,25	0,00	– 8 700 815,25

Totals by Budget Item: 6701

Amount	Deductions	Financial Impact
– 70 768 616,43	– 2 135 439,32	– 68 633 177,11

Budget Item: 6711

MS	Measure	FY	Reason	Type	Correction %	Currency	Amount	Deductions	Financial Impact
GR	Rural Development EAFRD Axis 2 (2007-2013, area related measures)	2009	Weaknesses in the LPIS and on-the-spot-checks, 2nd pillar, CY 2008	FLAT RATE	5,00 %	EUR	– 5 007 867,36	– 2 318 055,75	– 2 689 811,61
	Rural Development EAFRD Axis 2 (2007-2013, area related measures)	2010	Weaknesses in the LPIS and on-the-spot-checks, 2nd pillar, CY 2008	FLAT RATE	5,00 %	EUR	– 5 496 524,54	– 270 175,45	– 5 226 349,09
					Total GR:	EUR	– 10 504 391,90	– 2 588 231,20	– 7 916 160,70

Totals by Budget Item: 6711

Amount	Deductions	Financial Impact
– 10 504 391,90	– 2 588 231,20	– 7 916 160,70

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

POLITICAL AND SECURITY COMMITTEE DECISION EUFOR RCA/6/2014

of 16 December 2014

on the appointment of the EU Force Commander for the European Union military operation in the Central African Republic (EUFOR RCA) and repealing Decision EUFOR RCA/1/2014

(2014/951/EU)

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular Article 38 thereof,

Having regard to Council Decision 2014/73/CFSP of 10 February 2014 on a European Union military operation in the Central African Republic (EUFOR RCA) ⁽¹⁾, and in particular Article 5 thereof,

Whereas:

- (1) Pursuant to Article 5 of Decision 2014/73/CFSP, the Council authorised the Political and Security Committee (PSC) to take decisions on the appointment of the EU Force Commander for the European Union military operation in the Central African Republic (EUFOR RCA).
- (2) On 19 February 2014, the PSC adopted Decision EUFOR RCA/1/2014 ⁽²⁾ appointing Brigadier General Thierry LION as EU Force Commander for EUFOR RCA.
- (3) On 7 November 2014, the Council adopted Decision 2014/775/CFSP ⁽³⁾ extending the duration of EUFOR RCA until 15 March 2015.
- (4) On 14 November 2014, France proposed the appointment of Brigadier General Jean-Marc BACQUET as the new EU Force Commander for EUFOR RCA to succeed Brigadier General Thierry LION.
- (5) On 25 November 2014 the EU Military Committee recommended that the PSC appoint Brigadier General Jean-Marc BACQUET as EU Force Commander for EUFOR RCA.
- (6) Decision EUFOR RCA/1/2014 should therefore be repealed.
- (7) In accordance with Article 5 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark does not participate in the elaboration and the implementation of decisions and actions of the Union which have defence implications,

HAS ADOPTED THIS DECISION:

Article 1

Brigadier General Jean-Marc BACQUET is hereby appointed EU Force Commander for the European Union military operation in the Central African Republic (EUFOR RCA) as from 15 December 2014.

Article 2

Decision EUFOR RCA/1/2014 is hereby repealed.

⁽¹⁾ OJ L 40, 11.2.2014, p. 59.

⁽²⁾ Political and Security Committee Decision EUFOR RCA/1/2014 of 19 February 2014 on the appointment of the EU Force Commander for the European Union military operation in the Central African Republic (OJ L 54, 22.2.2014, p. 18).

⁽³⁾ Council Decision 2014/775/CFSP of 7 November 2014 extending Decision 2014/73/CFSP on a European Union military operation in the Central African Republic (EUFOR RCA) (OJ L 325, 8.11.2014, p. 17).

Article 3

This Decision shall enter into force on 15 December 2014.

Done at Brussels, 16 December 2014.

For the Political and Security Committee
The Chairperson
W. STEVENS

POLITICAL AND SECURITY COMMITTEE DECISION EUMM GEORGIA/1/2014
of 19 December 2014
on the appointment of the Head of the European Union Monitoring Mission in Georgia
(EUMM Georgia)

(2014/952/EU)

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular the third paragraph of Article 38 thereof,

Having regard to Council Decision 2010/452/CFSP of 12 August 2010 on the European Union Monitoring Mission in Georgia, EUMM Georgia ⁽¹⁾, and in particular Article 10(1) thereof,

Whereas:

- (1) Pursuant to Decision 2010/452/CFSP, the Political and Security Committee (PSC) is authorised, in accordance with Article 38 of the Treaty, to take the relevant decisions for the purpose of exercising political control and strategic direction of the European Union Monitoring Mission in Georgia (EUMM Georgia), including the decision to appoint a Head of Mission.
- (2) On 13 September 2013, the PSC adopted Decision EUMM GEORGIA/1/2013 ⁽²⁾ appointing Mr Toivo KLAAR as Head of EUMM Georgia until 14 December 2014.
- (3) On 16 December 2014, the Council adopted Decision 2014/915/CFSP ⁽³⁾ extending the mandate of EUMM Georgia from 15 December 2014 until 14 December 2016.
- (4) On 16 December 2014, the High Representative of the Union for Foreign Affairs and Security Policy proposed the appointment of Mr Kęstutis JANKAUSKAS as Head of EUMM Georgia from 15 December 2014 to 14 December 2015,

HAS ADOPTED THIS DECISION:

Article 1

Mr Kęstutis JANKAUSKAS is hereby appointed as Head of the European Union Monitoring Mission in Georgia (EUMM Georgia) from 15 December 2014 to 14 December 2015.

Article 2

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

It shall apply from 15 December 2014.

Done at Brussels, 19 December 2014.

For the Political and Security Committee
The Chairperson
W. STEVENS

⁽¹⁾ OJ L 213, 13.8.2010, p. 43.

⁽²⁾ OJ L 251, 21.9.2013, p.12.

⁽³⁾ Council Decision 2014/915/CFSP of 16 December 2014 amending Decision 2010/452/CFSP on the European Union Monitoring Mission in Georgia, EUMM Georgia (OJ L 360, 17.12.2014, p. 56).

