

Official Journal of the European Union

L 135



English edition

Legislation

Volume 60

24 May 2017

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⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) 2017/880

of 23 May 2017

laying down rules on the use of a maximum residue limit established for a pharmacologically active substance in a particular foodstuff for another foodstuff derived from the same species and a maximum residue limit established for a pharmacologically active substance in one or more species for other species, in accordance with Regulation (EC) No 470/2009 of the European Parliament and of the Council

(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 13(2)(b) thereof,

Whereas:

- (1) Pharmacologically active substances are classified on the basis of opinions on maximum residue limits (MRLs) issued by the European Medicines Agency (EMA). Those opinions consist of a scientific risk assessment and risk management considerations.
- (2) When carrying out scientific risk assessments and drawing up risk management recommendations, EMA is required 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 in one or more species for other species in extrapolation, in order to increase the availability of authorised veterinary medicinal products for conditions affecting food producing animals.
- (3) Extrapolation of MRLs involves the process by which residue levels in tissues or food commodities of a food producing species for which MRLs exist are used to estimate residue levels and establish MRLs in a tissue or a food commodity of another species or another tissue or food commodity of the same species for which no, or no complete, conventional residue data is available. For proper application of Regulation (EC) No 470/2009 principles and minimum criteria for extrapolation should be established.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Veterinary Medicinal Products,

⁽¹⁾ OJ L 152, 16.6.2009, p. 11.

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation establishes principles and minimum criteria for using MRLs established for a pharmacologically active substance in a particular foodstuff for another foodstuff derived from the same species and MRLs established in one or more species for other species ('extrapolation').

Article 2

Definitions

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

- (1) 'reference species/food commodity/tissue' means a species/food commodity/tissue in which MRLs based on appropriate and complete data has been established;
- (2) 'concerned species/food commodity/tissue' means a species/food commodity/tissue for which extrapolation is considered;
- (3) 'major species' means cattle, sheep for meat, pigs, chicken including eggs, and Salmonidae;
- (4) 'minor species' means any species other than major species;
- (5) 'related species' means species belonging to the same category of food producing species of ruminants, monogastrics, mammals, birds or fish;
- (6) 'unrelated species' means species belonging to different categories of food producing species.

Article 3

Principles for extrapolation

The EMA shall consider the extrapolation of MRLs where there is MRL or 'No MRL required' status established for the pharmacologically active substance and one of the following circumstances applies to the concerned species:

- (1) It is related to a major reference species for which MRLs have been established or a 'No MRL required' status exists for the concerned tissue/food commodity;
- (2) It is related to a minor reference species for which MRLs have been established or a 'No MRL required' status exists for the concerned tissue/food commodity;
- (3) It is unrelated to the reference species for which MRLs have been established or a 'No MRL required' status exists for the concerned tissue/food commodity;
- (4) MRL has been established for the concerned species but not for the concerned tissue/food commodity.

Article 4

Minimum criteria for extrapolation

The EMA may undertake extrapolation only when all of the following conditions are fulfilled:

- (a) a full set of residue data for the reference species is available to the EMA;
- (b) the degree to which the pharmacologically active substance is metabolised in the reference species is established;
- (c) a suitably validated analytical method is available for the reference species;
- (d) when considering extrapolation between unrelated species, the similarity of the metabolic profiles in the reference and concerned species is established;

- (e) the extrapolated MRLs result in the Theoretical Maximum Daily Intake (TMDI) not exceeding the Acceptable Daily Intake (ADI);
- (f) for substances where the marker residue does not include parent compound, it is confirmed that the marker residue is present in the concerned species/food commodity;
- (g) in case of extrapolations between different food commodities, an unused portion of the ADI is available to accommodate the additional food item.

Article 5

Extrapolation from major to related minor species

When considering the extrapolation of MRLs from major reference species to minor concerned species within the related species category, the EMA shall apply the following criteria:

- (a) extrapolation of the reference species MRLs to the concerned species on a one to one basis is possible where the parent substance is the marker residue in the reference species;
- (b) where the parent substance is not the marker residue in the reference species, then confirmation that the marker residue is present in the concerned tissues/food commodities may be required from the applicant;
- (c) the established MRLs shall be extrapolated in accordance with the pattern set out in the Annex;
- (d) the tissue/food commodity of the major and minor species shall be the same;
- (e) a 'No MRL required' status may be directly extrapolated to the concerned species.

Article 6

Extrapolation between unrelated species and from a minor reference species to a major concerned species

When considering the extrapolation of MRLs between unrelated species and from a minor reference species to a major concerned species, the EMA shall apply the following criteria:

- (a) extrapolation on a one to one basis from minor to major species may be justified only in cases where it is clear that metabolism in the reference and concerned species are similar;
- (b) where extrapolation is considered between unrelated species (including minor species), supportive substance-specific information regarding the similarity of metabolism between the reference and concerned species may be required from the applicant;
- (c) where MRLs have been established for more than one unrelated species, the set of MRLs leading to the lowest consumer intake shall be extrapolated to the concerned species on a one to one basis;
- (d) the use of other specific safety factors on a case-by-case basis may be considered by the EMA to account for specific uncertainties in the data;
- (e) 'no MRL required' status may be extrapolated to the concerned species if the metabolism is similar;
- (f) extrapolation of MRLs from terrestrial species to fish with muscle and skin in natural proportions is directly possible where the parent compound is the marker residue and MRL has been established in muscle of the reference species;
- (g) extrapolation from fish to mammals/avian species shall not be carried out.

Article 7

Extrapolation across food commodities

When considering the extrapolation across food commodities, the EMA shall apply the following criteria:

- (a) for extrapolation across food commodities, the lowest established MRL in the species shall be selected as the point of departure for derivation of the MRL in the concerned food commodity;
- (b) use of the remaining portion of the ADI as the point of departure and direct calculation of the MRL may also be possible;

- (c) in addition, for the estimation of exposure, a conservative estimate of the ratio of marker to total residues to calculate the TMDI shall be used;
- (d) extrapolation between commodities may require adjustment of the MRL values to account for differences in consumption figures;
- (e) when extrapolating MRL from other tissues to milk within the same species, consideration shall be given to the physicochemical characteristics of the active substance and how these characteristics may influence accumulation in milk. Use of the lowest ratio of marker to total residues in tissues may be an acceptable point of departure from which to determine the ratio to use for milk;
- (f) extrapolation of MRLs from poultry tissues to poultry eggs shall not be carried out;
- (g) in the case of extrapolation of MRLs to honey the following points shall be considered:
 - (i) physico-chemical and biological data on the stability of the marker residue and likely (major) degradation products and their possible formation may be required from the applicant;
 - (ii) taking into account that 'zero days' withdrawal period is desired for honey, residue data shall be needed to demonstrate that the intended use of the substance in bees leads to safe residue levels in honey, without applying a withdrawal period. Such data may also be used for deriving the MRL;
 - (iii) MRLs may only be extrapolated to honey when information is available to confirm the toxicological relevance of the major residues (including degradation products) in honey and when it is clear that honey from treated bees contains residues below the MRL even without application of a withdrawal period.

Article 8

Entry into force

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

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

Done at Brussels, 23 May 2017.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

Extrapolation from major to minor species:

Category	Existing MRLs	Extrapolation to
Ruminant	Cattle (meat)	All other ruminants (meat) except sheep
	Sheep (meat)	All other ruminants (meat) except cattle
	Cattle and sheep (meat)	All ruminants (meat)
	Cattle milk	All ruminant milk
Monogastric	Pigs	All monogastric mammals
Birds	Chicken and eggs	Poultry and poultry eggs
Fish	Salmonidae	All fin fish
Other	Either cattle, sheep or pigs	Horses, rabbits
	If identical MRL in ruminants and monogastrics	All mammals
	If identical MRLs in cattle (or sheep), pigs and chicken	All food producing animals (except fish)

COMMISSION IMPLEMENTING REGULATION (EU) 2017/881**of 23 May 2017****implementing Regulation (EC) No 763/2008 of the European Parliament and of the Council on population and housing censuses, as regards the modalities and structure of the quality reports and the technical format for data transmission, and amending Regulation (EU) No 1151/2010****(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 763/2008 of the European Parliament and of the Council of 9 July 2008 on population and housing censuses ⁽¹⁾, and in particular Articles 5(5) and 6(3) thereof,

Whereas:

- (1) Regulation (EC) No 763/2008 establishes common rules for the decennial provision of comprehensive data on population and housing.
- (2) Under Commission Regulation (EU) 2017/712 ⁽²⁾, the next population and housing census should relate to the reference year 2021.
- (3) Commission Regulation (EU) No 1151/2010 ⁽³⁾ laid down the modalities and structure of the quality reports and the technical format for data transmission on population and housing censuses for the reference year 2011.
- (4) For the purposes of the next population and housing census 2021, and in order to assess the quality of the data transmitted to the Commission (Eurostat), it is necessary to lay down new modalities and structure for the quality reports and the technical format for data transmission.
- (5) In accordance with Article 5(5) of Regulation (EC) No 763/2008, Member States should transmit their validated data and metadata in electronic form, in an appropriate technical format to be adopted by the Commission. The Statistical Data and Metadata eXchange (SDMX) initiative on statistical and technical standards for the exchange and sharing of data and metadata, on which Census Hub is based, was launched by the Bank of International Settlements, the European Central Bank, the Commission (Eurostat), the International Monetary Fund, the Organisation for Economic Cooperation and Development (OECD), the United Nations and the World Bank. For the exchange of official statistics, SDMX and the Census Hub provide statistical, technical and transmission standards. A technical format in accordance with those standards should therefore be introduced.
- (6) Regulation (EU) No 1151/2010 requires Member States to store the population and housing census data for the 2011 reference year until 1 January 2025. In order to allow users to make comparisons between the two censuses, the 2011 census data should be available until 1 January 2035 in parallel with the 2021 data.
- (7) Regulation (EU) No 1151/2010 should therefore be amended accordingly.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the European Statistical System Committee,

⁽¹⁾ OJ L 218, 13.8.2008, p. 14.

⁽²⁾ Commission Regulation (EU) 2017/712 of 20 April 2017 establishing the reference year and the programme of the statistical data and metadata for population and housing censuses provided for by Regulation (EC) No 763/2008 of the European Parliament and of the Council (OJ L 105, 21.4.2017, p. 1).

⁽³⁾ Commission Regulation (EU) No 1151/2010 of 8 December 2010 implementing Regulation (EC) No 763/2008 of the European Parliament and of the Council on population and housing censuses, as regards the modalities and structure of the quality reports and the technical format for data transmission (OJ L 324, 9.12.2010, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down the modalities and structure of Member States' reports on the quality of the data that they transmit to the Commission (Eurostat) from their population and housing censuses for the reference year 2021, and the technical format for data transmission.

Article 2

Definitions

The definitions and technical specifications set out in Regulation (EC) No 763/2008, Commission Implementing Regulation (EU) 2017/543 ⁽¹⁾ and Regulation (EU) 2017/712 shall apply for the purpose of this Regulation.

The following definitions shall also apply:

1. 'statistical unit' means the basic observation unit, namely a natural person, household, family, living quarter or conventional dwelling;
2. 'individual enumeration' means the collection of information on each statistical unit so that its characteristics can be recorded separately and cross-classified with other characteristics;
3. 'simultaneity' means that the information obtained in a census refers to the same point in time (reference date);
4. 'universality within a defined territory' means that data are provided for all statistical units within a precisely defined territory. Where the statistical units are persons, 'universality within a defined territory' means that data are provided based on information for all persons who have their usual residence in the defined territory (total population);
5. 'availability of small-area data' means the availability of data for small geographical areas and small groups of statistical units;
6. 'defined periodicity' means the regular conducting of censuses at the beginning of every decade, including the continuity of registers;
7. 'data source' means the set of data records for statistical units and/or events relating to the statistical units which forms a direct basis for the production of census data about one or more specified topics for a specified target population;
8. 'target population' means the set of all statistical units in a defined geographical area at the reference date which qualify for reporting on one or more specified topics. It includes each valid statistical unit only once;
9. 'estimated target population' means the best available approximation of the target population. It consists of the census population plus under-coverage minus over-coverage;
10. 'census population' means the set of statistical units that is factually represented by the census results on one or more specified topics for a specified target population. The data records for the census population are those in the data source for the specified target population, including all imputed records and excluding all deleted records. If a data source comprises, as a matter of methodological principle, data records for only a sample of the statistical units in its estimated target population, the census population includes the complementary set of statistical units, in addition to the statistical units in the sample;
11. 'complementary set of statistical units' means the set of those statistical units that belong to an estimated target population, but on which, as a result of an applied sampling methodology, the data source contains no data records;

⁽¹⁾ Commission Implementing Regulation (EU) 2017/543 of 22 March 2017 laying down rules for the application of Regulation (EC) No 763/2008 of the European Parliament and of the Council on population and housing censuses as regards the technical specifications of the topics and of their breakdowns (OJ L 78, 23.3.2017, p. 13).

12. 'coverage assessment' means a study of the difference between a specified target population and its census population;
13. 'post-enumeration survey' means a survey conducted shortly after the enumeration for coverage and content assessment purposes;
14. 'under-coverage' means the set of all statistical units that belong to a specified target population but are not included in the corresponding census population;
15. 'over-coverage' means the set of all statistical units that are included in a census population used to report on a specified target population, but without belonging to that target population;
16. 'record imputation' means the assignment of an artificial but plausible data record to exactly one geographical area at the most detailed geographical level for which census data are produced, and the imputation of that data record into a data source;
17. 'record deletion' means the act of deleting or ignoring/not taking into account a data record that is included in a data source used to report on a specified target population but does not report any valid information on any statistical unit within that target population;
18. 'item imputation' means the insertion of an artificial but plausible value on a specific topic into a data record that already exists in a data source but either does not contain this value or contains a value that is considered implausible;
19. 'questionnaire-based data' means data originally obtained from respondents by means of a questionnaire in the context of a collection of statistical data that refer to a specified point in time;
20. 'record linkage' means the process of merging information from different data sources by comparing records for individual statistical units and merging information referring to the same statistical unit;
21. 'unique identifier' means a variable or set of variables in the data records in a data source or any list of statistical units which is used for
 - verifying that the data source (or list of statistical units) includes no more than one data record for each statistical unit, and/or
 - record linkage;
22. 'register' means a repository of information about statistical units which is directly updated in the course of events affecting the statistical units;
23. 'register-based data' means data in or from a register;
24. 'matching of registers' means record linkage where all matched data sources are contained in registers;
25. 'data extraction' means the process of retrieving census information from information contained in a register and relating to individual statistical units;
26. 'coding' means the process of converting information into codes representing classes within a classification scheme;
27. 'capturing' means the process by which collected data are imported into a form suitable for further processing;
28. 'record editing' means the process of checking and modifying data records to make them plausible while at the same time preserving major parts of them;
29. 'generation of a household' means the identification of a private household according to the household-dwelling concept as defined in the Annex to Implementing Regulation (EU) 2017/543 under the topic 'Household status';
30. 'generation of a family' means the identification of a family based on information on whether the persons live in the same household, but with no or incomplete information on family relationships between them. The term 'family' is specified in 'family nucleus' as defined in the Annex to Implementing Regulation (EU) 2017/543 under the topic 'Family status';
31. 'unit no-information' means the failure to collect any data from a statistical unit that is in the census population;
32. 'statistical disclosure control' means the methods and processes applied in order to minimise the risk of disclosing information on individual statistical units when releasing statistical information;

33. 'estimation' means the calculation of statistical estimates using a mathematical formula and/or algorithm applied to the available data;
34. 'data structure definition' means a set of structural metadata associated with a data set, which includes information about how topics are associated with the measures, dimensions and attributes of a hypercube, along with breakdowns, information about the representation of data and related descriptive metadata.

Article 3

Metadata and quality reporting

Member States shall report to the Commission (Eurostat), by 31 March 2024, the background information and quality-related data and metadata specified in the Annex to this Regulation, with reference to their population and housing censuses for the reference year 2021 and to the data and metadata transmitted to the Commission (Eurostat) under Regulation (EU) 2017/712.

Article 4

Data sources

Member States shall report on any data source(s) used for the collection of information needed to fulfil the requirements of Regulation (EC) No 763/2008, in particular to:

- (a) meet the essential features listed in point (i) of Article 2 of Regulation (EC) No 763/2008;
- (b) represent the target population;
- (c) comply with the relevant technical specifications set out in Implementing Regulation (EU) 2017/543; and
- (d) contribute to the provision of data for the programme of statistical data set out in Regulation (EU) 2017/712.

Article 5

Access to relevant information

1. Member States shall provide the Commission (Eurostat), at its request, with access to any information relevant to the assessment of the quality of the data and metadata transmitted under Regulation (EU) 2017/712.
2. In complying with paragraph 1, Member States shall not be obliged to provide the Commission (Eurostat) with any microdata or confidential data.

Article 6

Technical format for data transmission

The technical format to be used for the transmission of data and metadata for the reference year 2021 shall be the Statistical Data and Metadata eXchange (SDMX) format as implemented through the Census Hub. Member States shall transmit the required data in line with the data structure definitions and related technical specifications provided by the Commission (Eurostat). Member States shall store the required data and metadata until 1 January 2035, for any later transmission requested by the Commission (Eurostat).

Article 7

Amendment to Regulation (EU) No 1151/2010

In Article 6 of Regulation (EU) No 1151/2010, the third sentence is replaced by the following:

'Member States shall store the data and metadata for the 2011 reference year until 1 January 2035. Member States shall not be obliged to make changes or revisions to these data after 1 January 2025. Member States choosing to do so shall inform the Commission (Eurostat) about the changes or revisions before they are implemented.'

*Article 8***Entry into force**

This Regulation shall enter into force on the twentieth day following 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 May 2017.

For the Commission

The President

Jean-Claude JUNKER

ANNEX

Content and structure of the quality reports for data transmission

The **textual** and **quantitative** metadata information on the population and housing censuses conducted in the Member States for the reference year 2021 comprises the following sections:

1. OVERVIEW

- 1.1. Legal background
- 1.2. Bodies responsible

2. DATA SOURCES

- 2.1. Classification of data sources in accordance with Article 4(1) of Regulation (EC) No 763/2008.
- 2.2. List of the data sources used for the 2021 census
- 2.3. 'Data sources x topics' matrix
- 2.4. Adequacy of data sources: extent to which they meet the essential features (Article 4(4) of Regulation (EC) No 763/2008)
 - 2.4.1. *Individual enumeration;*
 - 2.4.2. *Simultaneity;*
 - 2.4.3. *Universality within the defined territory;*
 - 2.4.4. *Availability of small-area data;*
 - 2.4.5. *Defined periodicity.*

3. CENSUS LIFECYCLE**3.1. Reference date**

Member States shall provide the Commission (Eurostat) with the reference date according to Article 3 of Commission Regulation (EU) 2017/712.

3.2. Preparation and execution of data collection**3.2.1. Questionnaire-based data**

- design and testing of questionnaires (including copies of all final questionnaires),
- preparation of any address lists, preparation of the field work, mapping, publicity,
- data collection (including field work),
- legal obligation to collect information, incentives for providing truthful information or possible reasons for providing false information.

3.2.2. Register-based data

- creation of new registers from 2011 onwards (where applicable),
- redesign of existing registers from 2011 onwards (including changes in the contents of registers, adaptation of the census population, adaptation of definitions and/or technical specifications) (where applicable),

- maintenance of the registers (for each register used for the 2021 census), including
 - content of the register (statistical units and information on them, any record editing and/or item and record imputation in the register),
 - administrative responsibilities,
 - legal obligation to register information, incentives for providing truthful information and possible reasons for providing false information,
 - delays in reporting, in particular legal/official delays, data registration delays, late reporting,
 - evaluation of and clearance for non-registration, non-deregistration, multiple registration,
 - any major register revisions or updating of records that affects the 2021 census data, periodicity of register revisions,
 - usage, including ‘statistical usage of the register other than for the census’ and ‘usage of the register other than for statistical purposes (e.g. administrative purposes)’,
- matching and linking of registers (including unique identifier(s) used for record linkage),
- data extraction.

3.2.3. *Data collected by means of a sample*

For topics for which information has been collected by means of a sample, the metadata shall also contain descriptions of:

- the sampling design,
- methodologies used for any estimations, models or imputations,
- possible biases in the estimation due to methodologies applied,
- formulae and algorithms used to calculate the standard error.

3.2.4. *Data collected by combined methods (data based on more than one type of data source)*

For topics for which information has been collected by combined methods, the metadata shall also contain:

- a description of the methods (types of data sources used and how information from different sources was combined, how the different sources and methods used complement and support each other and, if applicable, which parts of the population were covered by which source),
- any other quality issues relating to the process of using combined methods.

3.3. **Processing and evaluation**

3.3.1. Data processing (including capturing, coding, identifying variable(s), record editing, record imputation, record deletion, estimation, record linkage including identifying variable(s) used for the record linkage, generation of households and families, measures to identify or limit unit-no-information);

3.3.2. Coverage assessment activities, methodology to treat non-response, post-enumeration survey(s) (where applicable), final data validation: method of assessing under- and over-coverage, including information on the quality of the under- and over-coverage estimates.

3.4. **Dissemination** (dissemination channels, ensuring statistical confidentiality including statistical disclosure control)

3.5. **Measures to ensure cost-effectiveness**

4. ASSESSMENT OF DATA QUALITY

4.1. Comparability

For each topic, Member States shall report on any deviation from the required concepts and definitions or any practice in the Member State that could impair the Union-wide comparability of the data.

For the topic 'Current Activity Status', Member States shall report on any estimation methods used to adjust data to meet more closely the definition set in the Annex to Commission Implementing Regulation (EU) 2017/543. Member States shall report on the extent to which the data sources and any estimation methods used result in deviation from the definition of 'Current Activity Status' set in that Regulation.

4.2. Timeliness and punctuality

The following information shall be provided at national level:

- date(s) of the transmission of data to the Commission (Eurostat), broken down by hypercubes,
- date(s) of major revision(s) of the transmitted data, broken down by hypercubes,
- date(s) of transmission of the metadata.

In the event of major revisions on or after 1 April 2024, Member States shall report the respective date(s) separately to the Commission (Eurostat) within a week.

4.3. Coherence

Member States shall report on any significant inconsistencies between the data transmitted in the different datasets defined in Commission Regulation (EU) 2017/712.

4.4. Coverage and accuracy

To indicate coverage, the following absolute values shall be provided for person counts at national level and shall be disaggregated by sex and broad age groups as defined in Commission Implementing Regulation (EU) 2017/543:

- (a) census population;
- (b) number of all record imputations;
- (c) number of all record deletions;
- (d) under-coverage (estimated);
- (e) over-coverage (estimated);
- (f) estimated target population.

For the assessment of accuracy the following **absolute values** shall be provided for person counts at national level and shall be disaggregated by sex and broad age groups as defined in Commission Implementing Regulation (EU) 2017/543:

- (a) census population;
- (b) number of observed data records on the topic derived from traditional census;
- (c) number of observed data records on the topic derived from administrative registers;
- (d) number of observed data records on the topic derived from sample surveys;
- (e) number of observed data records on the topic derived from multiple data sources;
- (f) complementary set of statistical units on the topic (for samples);
- (g) number of imputed observations on the topic;
- (h) number of records with missing information on the topic.

The above absolute values for the assessment of accuracy shall be provided for the following census topics:

- (a) Legal Marital status (LMS);
- (b) Family status (FST);
- (c) Household status (HST);
- (d) Current activity status (CAS);
- (e) Occupation (OCC);
- (f) Industry (IND);
- (g) Status in employment (SIE);
- (h) Location of place of work (LPW);
- (i) Educational attainment (EDU);
- (j) Country/Place of birth (POB);
- (k) Country of citizenship (COC);
- (l) Year of arrival in the country since 2010 (YAT);
- (m) Year of arrival in the country since 1980 (YAE);
- (n) Place of usual residence one year prior to the census (ROY);
- (o) Housing arrangements (HAR).

4.5. **Completeness**

Member States shall report on the degree of completeness of the data in terms of the requirements of Regulation (EC) No 763/2008. They shall give details of any census topics or associated breakdowns for which data are not supplied.

4.6. **Relevance**

Information on the following shall be provided at Union level:

- (a) actions taken to identify and fulfil user needs;
 - (b) monitoring of the extent of data extractions.
-

COMMISSION IMPLEMENTING REGULATION (EU) 2017/882**of 23 May 2017****on the derogations from the rules of origin laid down in Protocol 1 to the Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part, that apply within a quota for certain products from Namibia**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 58(1) thereof,

Whereas:

- (1) By Decision (EU) 2016/1623 ⁽²⁾, the Council authorised the signature, on behalf of the Union, of the Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part ⁽³⁾ ('the Agreement'). The SADC EPA States comprise Botswana, Lesotho, Mozambique, Namibia, Swaziland and South Africa. Pursuant to Decision (EU) 2016/1623, the Agreement is to be applied on a provisional basis, pending the completion of the procedures for its conclusion. The Agreement applies on a provisional basis from 10 October 2016.
- (2) Protocol 1 to the Agreement concerns the definition of the concept of 'originating products' and methods of administrative cooperation. For a specific product, namely prepared or preserved Albacore tuna (*Thunnus alalunga*) of HS Heading 1604, manufactured from non-originating Albacore tuna of HS Headings 0302 or 0303, Article 43 to that Protocol provides for an automatic derogation from the rules of origin set out in that Protocol in the framework of an annual quota granted to Namibia. It is therefore necessary to lay down the conditions for the application of those derogations for imports from Namibia.
- (3) The quota set out in Article 43(10) to Protocol 1 to the Agreement should be managed by the Commission on the basis of the chronological order of dates of acceptance of customs declarations for release for free circulation in accordance with Commission Implementing Regulation (EU) 2015/2447 ⁽⁴⁾.
- (4) Entitlement to benefit from the tariff concessions should be subject to the presentation of the relevant proof of origin to the customs authorities.
- (5) In order to ensure the smooth application of the quota system set up by the Protocol, this Regulation should apply from the same date as that of the provisional application of the Agreement.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The derogations from the rules of origin in favour of Namibia set out in Article 43(10) to Protocol 1 to the Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part ('the Agreement'), shall apply within the quota set out in the Annex to this Regulation.

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ Council Decision (EU) 2016/1623 of 1 June 2016 on the signing, on behalf of the European Union and provisional application of the Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part (OJ L 250, 16.9.2016, p. 1).

⁽³⁾ OJ L 250, 16.9.2016, p. 3.

⁽⁴⁾ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

Article 2

To benefit from the derogations set out in Article 1, the products listed in the Annex shall be accompanied by a proof of origin as set out in Annex III to Protocol 1 to the Agreement.

The following shall be entered in box 7 of movement certificate EUR.1 issued by the competent authorities of Namibia pursuant to this Regulation: 'Derogation — Regulation (EU) 2017/882'.

Article 3

The quota set out in the Annex shall be managed in accordance with Articles 49 to 54 of Implementing Regulation (EU) 2015/2447.

Article 4

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

It shall apply from 10 October 2016.

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

Done at Brussels, 23 May 2017.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording of the description of the products in the fifth column of this table is to be considered as having no more than an indicative value. The preferential scheme is determined, within the context of this Annex, by the CN codes applicable at the time of adoption of this Regulation.

Order No	CN code	TARIC sub-division	Description of products	Quota period	Quota volume (in tonnes net weight if not otherwise specified)
09.1600	ex 1604 14 41	30	Prepared or preserved Albacore tuna (<i>Thunnus alalunga</i>) of HS Heading 1604, manufactured from non-originating Albacore tuna of HS Headings 0302 or 0303	From 10.10 to 31.12.2016	178
	ex 1604 14 46	92, 97		From 1.1 to 31.12.2017 and for each period thereafter from 1.1 to 31.12.	800
	ex 1604 14 48	30			
	ex 1604 20 70	92, 97			

DECISIONS

COUNCIL DECISION (EU) 2017/883

of 11 May 2017

on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms (Budget Line 12.02.01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 in conjunction with Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area ⁽¹⁾, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on the European Economic Area ⁽²⁾ ('the EEA Agreement') entered into force on 1 January 1994.
- (2) Pursuant to Article 98 of the EEA Agreement, the EEA Joint Committee may decide to amend, inter alia, Protocol 31 to the EEA Agreement.
- (3) Protocol 31 to the EEA Agreement contains provisions on cooperation in specific fields outside the four freedoms.
- (4) It is appropriate to continue the cooperation of the Contracting Parties to the EEA Agreement in Union actions funded from the general budget of the European Union regarding financial services.
- (5) Protocol 31 to the EEA Agreement should therefore be amended in order to allow for this extended cooperation to take place from 1 January 2017.
- (6) The position of the Union within the EEA Joint Committee should be based on the attached draft decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted, on behalf of the Union, within the EEA Joint Committee on the proposed amendment to Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms, shall be based on the draft decision of the EEA Joint Committee attached to this Decision.

⁽¹⁾ OJ L 305, 30.11.1994, p. 6.

⁽²⁾ OJ L 1, 3.1.1994, p. 3.

Article 2

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

Done at Brussels, 11 May 2017.

For the Council
The President
R. GALDES

DRAFT

DECISION OF THE EEA JOINT COMMITTEE No .../2017

of ...

amending Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ('the EEA Agreement'), and in particular Articles 86 and 98 thereof,

Whereas:

- (1) It is appropriate to continue the cooperation of the Contracting Parties to the EEA Agreement in Union actions funded from the general budget of the European Union regarding the implementation and development of the single market for financial services.
- (2) Protocol 31 to the EEA Agreement should therefore be amended in order to allow for this extended cooperation to take place from 1 January 2017,

HAS ADOPTED THIS DECISION:

Article 1

In Article 7(11) of Protocol 31 to the EEA Agreement, the words 'the financial year 2016' are replaced by the words 'the financial years 2016 and 2017'.

Article 2

This Decision shall enter into force on the day following the last notification under Article 103(1) of the EEA Agreement (*).

It shall apply from 1 January 2017.

Article 3

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels,

For the EEA Joint Committee

The President

The Secretaries to the EEA Joint Committee

(*) [No constitutional requirements indicated.] [Constitutional requirements indicated.]

COUNCIL DECISION (EU) 2017/884**of 22 May 2017****appointing a member, proposed by the Kingdom of Sweden, of the Committee of the Regions**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

Having regard to the proposal of the Swedish Government,

Whereas:

- (1) On 26 January 2015, 5 February 2015 and 23 June 2015, the Council adopted Decisions (EU) 2015/116 ⁽¹⁾, (EU) 2015/190 ⁽²⁾ and (EU) 2015/994 ⁽³⁾ appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020. On 20 July 2015, by Council Decision (EU) 2015/1203 ⁽⁴⁾, Ms Lotta HÅKANSSON HARJU was replaced by Ms Anna LJUNGDELL as a member.
- (2) A member's seat on the Committee of the Regions has become vacant following the end of the term of office of Ms Anna LJUNGDELL,

HAS ADOPTED THIS DECISION:

Article 1

The following is hereby appointed as a member of the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2020:

— Ms Camilla JANSON, *Ledamot i kommunfullmäktige, Upplands-Bro kommun.*

Article 2

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

Done at Brussels, 22 May 2017.

For the Council
The President
E. BARTOLO

⁽¹⁾ Council Decision (EU) 2015/116 of 26 January 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 20, 27.1.2015, p. 42).

⁽²⁾ Council Decision (EU) 2015/190 of 5 February 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 31, 7.2.2015, p. 25).

⁽³⁾ Council Decision (EU) 2015/994 of 23 June 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 159, 25.6.2015, p. 70).

⁽⁴⁾ Council Decision (EU) 2015/1203 of 20 July 2015 appointing three Swedish members and six Swedish alternate members of the Committee of the Regions (OJ L 195, 23.7.2015, p. 44).

COUNCIL DECISION (EU) 2017/885**of 22 May 2017****appointing an alternate member, proposed by the Federal Republic of Germany, of the Committee of the Regions**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

Having regard to the proposal of the German Government,

Whereas:

- (1) On 26 January 2015, 5 February 2015 and 23 June 2015, the Council adopted Decisions (EU) 2015/116 ⁽¹⁾, (EU) 2015/190 ⁽²⁾ and (EU) 2015/994 ⁽³⁾ appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020.
- (2) An alternate member's seat on the Committee of the Regions has become vacant following the end of the term of office of Mr Nils WIECHMANN,

HAS ADOPTED THIS DECISION:

Article 1

The following is hereby appointed as an alternate member of the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2020:

— Ms Heike SCHARFENBERGER, *Mitglied des Landtags Rheinland-Pfalz*.

Article 2

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

Done at Brussels, 22 May 2017.

For the Council
The President
E. BARTOLO

⁽¹⁾ Council Decision (EU) 2015/116 of 26 January 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 20, 27.1.2015, p. 42).

⁽²⁾ Council Decision (EU) 2015/190 of 5 February 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 31, 7.2.2015, p. 25).

⁽³⁾ Council Decision (EU) 2015/994 of 23 June 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 159, 25.6.2015, p. 70).

COUNCIL DECISION (EU) 2017/886**of 22 May 2017****appointing three members and six alternate members, proposed by the Czech Republic, of the Committee of the Regions**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

Having regard to the proposal of the Czech Government,

Whereas:

- (1) On 26 January 2015, 5 February 2015 and 23 June 2015, the Council adopted Decisions (EU) 2015/116 ⁽¹⁾, (EU) 2015/190 ⁽²⁾ and (EU) 2015/994 ⁽³⁾ appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020.
- (2) Two members' seats on the Committee of the Regions have become vacant following the end of the terms of office of Mr Josef NOVOTNÝ and Ms Jana VAŇHOVÁ,
- (3) A member's seat on the Committee of the Regions has become vacant following the end of the mandate on the basis of which Mr Ondřej BENEŠÍK (*Councillor of Strání municipality*) was proposed.
- (4) Five alternate members' seats on the Committee of the Regions have become vacant following the end of the terms of office of Mr Jiří BĚHOUNEK, Mr Jan BIRKE, Mr Stanislav MIŠÁK, Mr Martin NETOLICKÝ and Mr Jiří ROZBOŘIL.
- (5) An alternate member's seat has become vacant following the appointment of Mr Pavel BRANDA as a member of the Committee of the Regions,

HAS ADOPTED THIS DECISION:

Article 1

The following are hereby appointed to the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2020:

(a) as members:

- Ms Jaroslava POKORNÁ JERMANOVÁ, *Zastupitelka Středočeského kraje*,
- Mr Ondřej BENEŠÍK, *Zastupitel Zlínského kraje (change of mandate)*,
- Mr Pavel BRANDA, *Zastupitel obce Rádlo*;

and

(b) as alternate members:

- Mr Zdeněk KARÁSEK, *Zastupitel Moravskoslezského kraje*,
- Mr Pavel PACAL, *Zastupitel Kraje Vysočina*,
- Mr Miroslav KUBÁSEK, *Zastupitel Jihomoravského kraje*,

⁽¹⁾ Council Decision (EU) 2015/116 of 26 January 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 20, 27.1.2015, p. 42).

⁽²⁾ Council Decision (EU) 2015/190 of 5 February 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 31, 7.2.2015, p. 25).

⁽³⁾ Council Decision (EU) 2015/994 of 23 June 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 159, 25.6.2015, p. 70).

- Radim SRŠEŇ, *Zastupitel Olomouckého kraje*,
- Mr Věslav MICHALIK, *Zastupitel Středočeského kraje*,
- Mr František JOHN, *Zastupitel města Zábřeh*.

Article 2

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

Done at Brussels, 22 May 2017.

For the Council
The President
E. BARTOLO

COMMISSION IMPLEMENTING DECISION (EU) 2017/887**of 22 May 2017****on measures to prevent the introduction into the Union of the foot-and-mouth disease virus from Tunisia and amending Implementing Decision (EU) 2017/675***(notified under document C(2017) 3221)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC ⁽¹⁾, and in particular Article 18(6) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries ⁽²⁾, and in particular Article 22(5) thereof,

Whereas:

- (1) Directive 91/496/EEC lays down the principles of veterinary checks on animals entering the Union from third countries. It lays down the measures which can be adopted by the Commission, if a disease liable to present a serious threat to animal or public health manifests itself or spreads in the territory of a third country.
- (2) Directive 97/78/EC lays down the principles of veterinary checks on products entering the Union from third countries. It lays down the measures which can be adopted by the Commission, if a disease liable to present a serious threat to animal or public health manifests itself or spreads in the territory of a third country.
- (3) Foot-and-mouth disease is one of the most contagious diseases of cattle, sheep, goats and pigs. The virus causing the disease has the potential for rapid spread, notably through products obtained from infected animals and contaminated inanimate objects including means of transport like livestock vehicles. The virus can also persist in a contaminated environment outside the host animal for several weeks depending on the temperature.
- (4) Commission Implementing Decision (EU) 2017/675 ⁽³⁾ was adopted following outbreaks of Foot-and-mouth disease in Algeria and established protection measures at Union level which take into account the survival of the foot-and-mouth disease virus in the environment and potential transmission routes of that virus.
- (5) Those measures provided for appropriate cleansing and disinfection of livestock vehicles and vessels from Algeria entering the Union territory either directly or transiting through Morocco or Tunisia, as this is the most appropriate way to reduce the risk of rapid virus transmission over large distances.
- (6) Tunisia notified on 28 April 2017 the confirmation of an outbreak of Foot-and-mouth disease serotype A in its territory. The same protective measures applied to Algeria should therefore be applied also to Tunisia.
- (7) Any livestock vehicle from Algeria and Tunisia should be covered by the measures even if they reach the Union territory transiting through any third country.

⁽¹⁾ OJ L 268, 24.9.1991, p. 56.

⁽²⁾ OJ L 24, 30.1.1998, p. 9.

⁽³⁾ Commission Implementing Decision (EU) 2017/675 of 7 April 2017 on measures to prevent the introduction into the Union of the foot-and-mouth disease virus from Algeria (OJ L 97, 8.4.2017, p. 31).

- (8) Implementing Decision (EU) 2017/675 should be amended accordingly.
- (9) The measures provided for by this Decision should apply for a period of time which allows a full evaluation of the evolution of the foot-and-mouth disease in the affected areas.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2017/675 shall be amended as follows:

- (1) the title is replaced by the following:

‘on measures to prevent the introduction into the Union of the foot-and-mouth disease virus from Algeria and Tunisia’;

- (2) in Articles 2(1) and 3(1), the words:

‘from Algeria, either directly or after transiting through Morocco or Tunisia’,

are replaced by the words:

‘from Algeria and Tunisia either directly or transiting through any other third country’;

- (3) in Article 3(2) and Article 4, the word ‘Algeria’ is replaced by ‘Algeria and Tunisia’;

- (4) in the title of Annex I and the title of Annex II the words:

‘from Algeria and from Algeria passing through Morocco or Tunisia’,

are replaced by the words:

‘from Algeria and Tunisia either directly or transiting through any other third country’.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 22 May 2017.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

COMMISSION IMPLEMENTING DECISION (EU) 2017/888**of 22 May 2017**

amending Decision 2003/467/EC as regards the official tuberculosis-free status of the region of Umbria of Italy and of the enzootic-bovine-leukosis-free status of Poland, amending Decision 2004/558/EC as regards the infectious bovine rhinotracheitis-free status of Germany, and amending Decision 2008/185/EC as regards the Aujeszky's disease-free status of certain regions of Poland and the approval of the eradication programme for Aujeszky's disease for the region of Veneto of Italy

(notified under document C(2017) 3239)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine ⁽¹⁾, and in particular Articles 9(2) and 10(2) thereof, and paragraph 4 of Annex A.I and Section E of Chapter I of Annex D thereto,

Whereas:

- (1) Directive 64/432/EEC lays down rules for trade within the Union in bovine and porcine animals, and the conditions whereby a Member State or a region thereof may be declared officially tuberculosis-free or officially enzootic-bovine-leukosis-free as regards bovine herds.
- (2) Commission Decision 2003/467/EC ⁽²⁾ provides that the regions of the Member States listed in Chapter 2 of Annex I thereto are declared officially free of tuberculosis as regards bovine herds. Italy has submitted to the Commission documentation demonstrating that the region of Umbria complies with the conditions laid down in Directive 64/432/EEC in order to be recognised as an officially tuberculosis-free region as regards bovine herds. Consequently, the region of Umbria should be listed in Chapter 2 of Annex I to Decision 2003/467/EC. Annex I to Decision 2003/467/EC should therefore be amended accordingly.
- (3) In addition, Decision 2003/467/EC provides that the Member States and the regions thereof listed respectively in Chapters 1 and 2 of Annex III thereto are declared officially enzootic-bovine-leukosis-free as regards bovine herds. All regions of Poland, with the exception of nine poviats of the Zachodniopomorskie voivodship, are currently listed in that Decision as officially enzootic-bovine-leukosis-free regions. Poland has now submitted to the Commission documentation demonstrating that those remaining nine poviats comply with the conditions laid down in Directive 64/432/EEC in order to be recognised as officially enzootic-bovine-leukosis-free regions as regards bovine herds. Poland has accordingly applied for its entire territory to be recognised as officially enzootic-bovine-leukosis-free.
- (4) Therefore, Poland should be listed as an officially enzootic-bovine-leukosis-free Member State in Chapter 1 of Annex III to Decision 2003/467/EC, and the entry for that Member State in Chapter 2 of that Annex should be deleted. Annex III to Decision 2003/467/EC should therefore be amended accordingly.
- (5) Article 9 of Directive 64/432/EEC provides that a Member State which has a compulsory national control programme for infectious bovine rhinotracheitis or Aujeszky's disease may submit its programme to the Commission for approval. It also provides that additional guarantees may be required for intra-Union trade in bovine and porcine animals.
- (6) Article 10 of Directive 64/432/EEC provides that where a Member State considers that its territory or part thereof is free of infectious bovine rhinotracheitis or Aujeszky's disease, it is to present appropriate supporting documentation to the Commission. It also provides that additional guarantees may be required for intra-Union trade in bovine and porcine animals.

⁽¹⁾ OJ L21, 29.7.1964, p. 1977/64.

⁽²⁾ Commission Decision 2003/467/EC of 23 June 2003 establishing the official tuberculosis, brucellosis and enzootic-bovine-leukosis-free status of certain Member States and regions of Member States as regards bovine herds (OJ L 156, 25.6.2003, p. 74).

- (7) Commission Decision 2004/558/EC ⁽¹⁾ approves the programmes for the control and eradication of infectious bovine rhinotracheitis caused by the bovine herpesvirus type 1 (BHV1) presented by the Member States listed in Annex I thereto, for the regions of those Member States listed in that Annex, and for which additional guarantees for infectious bovine rhinotracheitis apply in accordance with Article 9 of Directive 64/432/EEC. In addition, Annex II to Decision 2004/558/EC lists the regions of the Member States that are considered free of BHV1, and for which additional guarantees for infectious bovine rhinotracheitis apply in accordance with Article 10 of Directive 64/432/EEC.
- (8) The Regierungsbezirke Köln and Düsseldorf of the Federal State of North Rhine-Westphalia of Germany are currently listed in Annex I to Decision 2004/558/EC. Those two regions are the last remaining regions of Germany which have not yet been recognised as being free of BHV1.
- (9) Germany has now submitted to the Commission supporting documentation in order for the Regierungsbezirke Köln and Düsseldorf to be considered as being free of BHV1. Germany has accordingly applied for its entire territory to be considered free of BHV1 and for the additional guarantees for infectious bovine rhinotracheitis to apply to it in accordance with Article 10 of Directive 64/432/EEC.
- (10) Following the evaluation of the supporting documentation submitted by Germany, the Regierungsbezirke Köln and Düsseldorf should no longer be listed in Annex I to Decision 2004/558/EC, and the entry for Germany in Annex II thereto should be amended so as to cover all regions of that Member State. Annexes I and II to Decision 2004/558/EC should therefore be amended accordingly.
- (11) Commission Decision 2008/185/EC ⁽²⁾ lays down additional guarantees for movements of porcine animals between Member States. Those guarantees are linked to the classification of the Member States according to their disease status for Aujeszky's disease. Annex I to Decision 2008/185/EC lists the Member States or regions thereof that are free of Aujeszky's disease and where vaccination is prohibited, and Annex II thereto lists the Member States or regions thereof where approved national control programmes for the eradication of Aujeszky's disease are in place.
- (12) Italy has submitted to the Commission supporting documentation for the approval of its control programme for the eradication of Aujeszky's disease for the region of Veneto and for this region to be duly listed in Annex II to Decision 2008/185/EC. Following the evaluation of that supporting documentation, the region of Veneto should be listed in Annex II to Decision 2008/185/EC. Annex II to Decision 2008/185/EC should therefore be amended accordingly.
- (13) The whole territory of Poland is currently listed in Annex II to Decision 2008/185/EC. Poland has now submitted to the Commission supporting documentation for the regions augustowski, białostocki, Białystok, bielski, hajnowski, moniecki, sejneński, siemiatycki, sokólski, suwalski and Suwałki to be considered free of Aujeszky's disease, and for those regions to be duly listed in Annex I to Decision 2008/185/EC. Following the evaluation of that supporting documentation, those regions should no longer be listed in Annex II to Decision 2008/185/EC, but instead they should be listed in Annex I thereto. Annexes I and II to Decision 2008/185/EC should therefore be amended accordingly.
- (14) Decisions 2003/467/EC, 2004/558/EC and 2008/185/EC should therefore be amended accordingly.
- (15) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

Annexes I and III to Decision 2003/467/EC are amended in accordance with Annex I to this Decision.

⁽¹⁾ Commission Decision 2004/558/EC of 15 July 2004 implementing Council Directive 64/432/EEC as regards additional guarantees for intra-Community trade in bovine animals relating to infectious bovine rhinotracheitis and the approval of the eradication programmes presented by certain Member States (OJ L 249, 23.7.2004, p. 20).

⁽²⁾ Commission Decision 2008/185/EC of 21 February 2008 on additional guarantees in intra-Community trade of pigs relating to Aujeszky's disease and criteria to provide information on this disease (OJ L 59, 4.3.2008, p. 19).

Article 2

Annexes I and II to Decision 2004/558/EC are amended in accordance with Annex II to this Decision.

Article 3

Annexes I and II to Decision 2008/185/EC are amended in accordance with Annex III to this Decision.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 22 May 2017.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX I

Annexes I and III to Decision 2003/467/EC are amended as follows:

(1) In Annex I, in Chapter 2, the entry for Italy is replaced by the following:

‘In Italy:

- Region Abruzzo: Province of Pescara,
- Province of Bolzano,
- Region Emilia-Romagna,
- Region Friuli-Venezia Giulia,
- Region Lazio: Provinces of Rieti, Viterbo,
- Region Liguria,
- Region Lombardia,
- Region Marche: Province of Ancona, Ascoli Piceno, Fermo, Pesaro-Urbino,
- Region Piemonte,
- Region Sardegna: Provinces of Cagliari, Medio-Campidano, Ogliastra, Olbia-Tempio, Oristano,
- Region Toscana,
- Province of Trento,
- Region Umbria,
- Region Veneto.’

(2) Annex III is amended as follows:

(a) Chapter 1 is replaced by the following:

‘CHAPTER 1

Officially enzootic-bovine-leukosis-free Member States

ISO code	Member State
BE	Belgium
CZ	Czech Republic
DK	Denmark
DE	Germany
EE	Estonia
IE	Ireland
ES	Spain
CY	Cyprus
LV	Latvia
LT	Lithuania
LU	Luxembourg
NL	Netherlands
AT	Austria
PL	Poland

ISO code	Member State
SI	Slovenia
SK	Slovakia
FI	Finland
SE	Sweden
UK	United Kingdom'

(b) in Chapter 2, the entire entry for Poland is deleted.

ANNEX II

Annexes I and II to Decision 2004/558/EC are replaced by the following:

'ANNEX I

Member States	Regions of Member States to which the additional guarantees for infectious bovine rhinotracheitis apply in accordance with Article 9 of Directive 64/432/EEC
Belgium	All regions
Czech Republic	All regions
Italy	Region Friuli-Venezia Giulia Autonomous Province of Trento
Luxembourg	All regions

ANNEX II

Member States	Regions of Member States to which the additional guarantees for infectious bovine rhinotracheitis apply in accordance with Article 10 of Directive 64/432/EEC
Denmark	All regions
Germany	All regions
Italy	Region Valle d'Aosta Autonomous Province of Bolzano
Austria	All regions
Finland	All regions
Sweden	All regions
United Kingdom	Jersey'

ANNEX III

Annexes I and II to Decision 2008/185/EC are replaced by the following:

‘ANNEX I

Member States or regions thereof free of Aujeszky's disease and where vaccination is prohibited

ISO code	Member State	Regions
BE	Belgium	All regions
CZ	Czech Republic	All regions
DK	Denmark	All regions
DE	Germany	All regions
IE	Ireland	All regions
FR	France	The departments of Ain, Aisne, Allier, Alpes-de-Haute-Provence, Alpes-Maritimes, Ardèche, Ardennes, Ariège, Aube, Aude, Aveyron, Bas-Rhin, Bouches-du-Rhône, Calvados, Cantal, Charente, Charente-Maritime, Cher, Corrèze, Côte-d'Or, Côtes-d'Armor, Creuse, Deux-Sèvres, Dordogne, Doubs, Drôme, Essonne, Eure, Eure-et-Loir, Finistère, Gard, Gers, Gironde, Hautes-Alpes, Hauts-de-Seine, Haute Garonne, Haute-Loire, Haute-Marne, Hautes-Pyrénées, Haut-Rhin, Haute-Saône, Haute-Savoie, Haute-Vienne, Hérault, Indre, Ile-et-Vilaine, Indre-et-Loire, Isère, Jura, Landes, Loire, Loire-Atlantique, Loir-et-Cher, Loiret, Lot, Lot-et-Garonne, Lozère, Maine-et-Loire, Manche, Marne, Mayenne, Meurthe-et-Moselle, Meuse, Morbihan, Moselle, Nièvre, Nord, Oise, Orne, Paris, Pas-de-Calais, Pyrénées-Atlantiques, Pyrénées-Orientales, Puy-de-Dôme, Réunion, Rhône, Sarthe, Saône-et-Loire, Savoie, Seine-et-Marne, Seine-Maritime, Seine-Saint-Denis, Somme, Tarn, Tarn-et-Garonne, Territoire de Belfort, Val-de-Marne, Val-d'Oise, Var, Vaucluse, Vendée, Vienne, Vosges, Yonne, Yvelines
IT	Italy	Autonomous Province of Bolzano
CY	Cyprus	All regions
LU	Luxembourg	All regions
HU	Hungary	All regions
NL	Netherlands	All regions
AT	Austria	All regions
PL	Poland	Voivodship podlaskie the following powiaty: augustowski, białostocki, Białystok, bielski, hajnowski, moniecki, sejneński, siemiatycki, sokólski, suwalski, Suwałki
SI	Slovenia	All regions
SK	Slovakia	All regions
FI	Finland	All regions
SE	Sweden	All regions
UK	United Kingdom	All regions

ANNEX II

Member States or regions thereof where approved national control programmes for the eradication of Aujeszky's disease are in place

ISO code	Member State	Regions
ES	Spain	All regions
IT	Italy	Region Friuli-Venezia Giulia Region Veneto
LT	Lithuania	All regions
PL	Poland	Voivodship dolnośląskie: all powiaty; Voivodship kujawsko-pomorskie: all powiaty; Voivodship lubelskie: all powiaty; Voivodship lubuskie: all powiaty; Voivodship łódzkie: all powiaty; Voivodship małopolskie: all powiaty; Voivodship mazowieckie: all powiaty; Voivodship opolskie: all powiaty; Voivodship podkarpackie: all powiaty; Voivodship podlaskie the following powiaty: grajewski, kolneński, łomżyński, Łomża, wysokomazowiecki, zambrowski. Voivodship pomorskie: all powiaty; Voivodship śląskie: all powiaty; Voivodship świętokrzyskie: all powiaty; Voivodship warmińsko-mazurskie: all powiaty; Voivodship wielkopolskie: all powiaty; Voivodship zachodniopomorskie: all powiaty.'

COMMISSION IMPLEMENTING DECISION (EU) 2017/889**of 23 May 2017****identifying the Union of the Comoros as a non-cooperating third country in fighting illegal, unreported and unregulated fishing**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 ⁽¹⁾, and in particular Article 31 thereof,

Whereas:

1. INTRODUCTION

- (1) Regulation (EC) No 1005/2008 (the IUU Regulation) establishes a Union system to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing.
- (2) Chapter VI of the IUU Regulation lays down the procedure with respect to the identification of non-cooperating third countries, démarches in respect of countries identified as non-cooperating third countries, the establishment of a list of non-cooperating countries, removal from the list of non-cooperating countries, publicity of the list of non-cooperating countries and any emergency measures.
- (3) Pursuant to Article 31 of the IUU Regulation, the Commission is to identify third countries that it considers as non-cooperating countries in fighting IUU fishing. A third country may be identified as a non-cooperating third country if it fails to discharge the duties incumbent upon it under international law as flag, port, coastal or market State, to take action to prevent, deter and eliminate IUU fishing.
- (4) The identification of non-cooperating third countries shall be based on the review of all information as set out under Article 31(2) of the IUU Regulation.
- (5) In accordance with Article 33 of the IUU Regulation, the Council is to establish a list of non-cooperating countries. The measures set out in Article 38 of the IUU Regulation apply to those countries.
- (6) According to Article 12(2) of the IUU Regulation, fishery products may only be imported into the Union when accompanied by a catch certificate in conformity with that Regulation.
- (7) Pursuant to Article 20(1)(a) of the IUU Regulation, catch certificates validated by a given flag State may only be accepted if that State notifies the Commission of its arrangements for the implementation, control and enforcement of laws, regulations and conservation and management measures which must be complied with by its fishing vessels.
- (8) The Union of the Comoros (hereinafter 'the Comoros') has not submitted to the Commission its notification as a flag State pursuant to Article 20 of the IUU Regulation.
- (9) Pursuant to Article 20(4) of the IUU Regulation, the Commission cooperates administratively with third countries in areas pertaining to the implementation of the catch certification provisions of that Regulation.
- (10) Based on the information referred to in Article 31(2) of the IUU Regulation, the Commission considered that there were strong indications that the Union of the Comoros had failed to discharge the duties, incumbent upon it under international law as flag, port, coastal or market State, to take action to prevent, deter or eliminate IUU fishing.
- (11) In accordance with Article 32 of the IUU Regulation, the Commission therefore decided, by Decision of 1 October 2015 ⁽²⁾, to notify the Comoros of the possibility of being identified as a non-cooperating third country pursuant to the IUU Regulation.

⁽¹⁾ OJ L 286, 29.10.2008, p. 1.

⁽²⁾ Commission Decision of 1 October 2015 on notifying a third country of the possibility of being identified as a non-cooperating third country in fighting illegal, unreported and unregulated fishing (OJ C 324, 2.10.2015, p. 6).

- (12) The Decision of 1 October 2015 included information concerning the essential facts and considerations underlying such possible identification.
- (13) The Decision was notified to the Comoros together with a letter inviting the Comoros to implement, in close cooperation with the Commission, an action plan to rectify the identified shortcomings.
- (14) The Commission invited the Comoros in particular: (i) to take all necessary measures to implement the actions contained in the action plan suggested by the Commission; (ii) to assess the implementation of the actions contained in the action plan suggested by the Commission; and (iii) to send every 6 months a detailed report to the Commission assessing the implementation of each action as regards, inter alia, its individual and/or overall effectiveness in ensuring a fisheries control system compliant with duties incumbent upon the country under international law as flag, port, coastal or market State to prevent, deter and eliminate IUU fishing.
- (15) The Comoros was given the opportunity to respond in writing and orally to issues explicitly indicated in the Decision of 1 October 2015 as well as to other relevant information communicated by the Commission, allowing it to submit evidence refuting or completing the facts stated in the Decision of 1 October 2015. The Comoros was assured of its right to ask for, or to provide, additional information.
- (16) By its Decision and its letter of 1 October 2015, the Commission opened a dialogue process with the Comoros and indicated that it considered a period of 6 months as being in principle sufficient for reaching expected results.
- (17) The Commission continued to seek and verify all information it deemed necessary. The oral and written comments submitted by the Comoros following the Decision of 1 October 2015 were considered and taken into account. The Comoros was kept informed, either orally or in writing, of the Commission's considerations.
- (18) In the light of the elements gathered, as shown in recitals 37 to 93, the Commission believes that the Comoros has not sufficiently addressed the areas of concern and shortcomings described in the Decision of 1 October 2015. Nor has the Comoros fully implemented the measures suggested in the accompanying action plan.

2. PROCEDURE WITH RESPECT TO THE COMOROS

- (19) On 1 October 2015, the Commission notified the Comoros pursuant to Article 32 of the IUU Regulation that it considered the possibility of identifying the Comoros as a non-cooperating third country ⁽¹⁾.
- (20) The Commission suggested the Comoros to implement, in close cooperation with its services, an action plan to rectify the shortcomings identified in its Decision of 1 October 2015.
- (21) The main shortcomings identified by the Commission were related to several failures to implement international law obligations, linked in particular to the adoption of an adequate legal framework and registration and licensing procedures, management of the Comorian register, lack of cooperation and information sharing within the Comorian administration and with third countries where Comorian vessels operate, lack of adequate and efficient monitoring and lack of a deterrent sanctioning system. Other identified shortcomings relate, more generally, to the compliance with international obligations including recommendations and resolutions of Regional Fisheries Management Organisations (RFMOs). A lack of consistency with recommendations and resolutions from relevant bodies such as the International Plan of Action against Illegal, Unreported and Unregulated fishing of the United Nations (IPOA IUU) and the FAO Voluntary Guidelines for Flag State Performance were also identified. However, the lack of consistency with non-binding recommendations and resolutions was considered only as supporting evidence and not as a basis for the identification.
- (22) On 5 January 2016, the Commission organised a conference call with the Comorian authorities to stress the importance for the Comoros to react to the Decision of 1 October 2015.
- (23) Through its letter dated 6 January 2016 transmitted to the Commission on 29 January 2016, the Comoros informed the Commission of institutional arrangements set up in order to address the shortcomings identified in the Decision of 1 October 2015. This letter was accompanied by supporting documentation.

⁽¹⁾ Letter to the Minister of Production, Environment, Energy, Industry and Handicrafts of the Comoros of 1 October 2015.

- (24) Consultations between the Commission and the Comoros took place on 16 March 2016 in Brussels. During that meeting, the Comoros notably expressed their commitment to resolve the issues related to the management of the Comorian register. In the course of this meeting, the Comoros provided a list of fishing and fishing-related vessels purported to be flying the flag of the Comoros.
- (25) The Comorian authorities provided on 31 March 2016 a ministerial order establishing a joint committee between the authorities in charge of registration of vessels and those in charge of fisheries. The Comoros provided a draft circular note on the management of the Comorian register on 2 April 2016 to which the Commission reacted by letter of 13 April 2016.
- (26) On 30 April 2016 and 2 May 2016, the Comoros submitted by electronic means the following documents: (i) a letter presenting the preliminary measures taken regarding the management of the Comorian register and the Comorian fishing and fishing-related fleet; (ii) an amended circular note signed 25 April 2016 notably suspending the registration of fishing and fishing-related vessels under the Comorian flag; (iii) a list of fishing and fishing-related vessels purported to be flying the flag of the Comoros, different from the one provided on 16 March 2016; (iv) copies of letters sent to three regional fishery bodies which cover areas where Comorian fishing and fishing-related vessels were operating; and (v) a copy of a letter of legal assistance sent to a third country. This transmission was followed by the reception on 18 May 2016 of paper versions of some of the documents. This latter transmission also included the following documents: (i) a cover and explanatory letter; (ii) a new list of fishing and fishing-related vessels purported to be flying the flag of the Comoros different from the ones mentioned above; and (iii) an unsigned provisional registration certificate. The Commission reacted to these submissions by electronic means on 31 May 2016 and by letter of 13 June 2016. In these communications, the Commission notably stressed the need for the Comoros to take appropriate additional measures with respect to the Comorian fishing and fishing-related fleet, in particular in terms of enforcement measures and cooperation with the Member States, coastal and port competent authorities of third countries as well as regional fishery bodies. The Commission also highlighted that a number of fishing and fishing-related vessels may have been entitled to fly the flag of the Comoros after the suspension of registration endorsed by the circular note signed 25 April 2016.
- (27) The Comoros provided the following documents on 31 May 2016: (i) an action plan based on the one suggested by the Commission; (ii) draft amendments to the legal framework governing fisheries including to the sanctioning system; and (iii) a summary of the duties of the Comoros under international law as a flag State.
- (28) The Commission explained to the Comoros the importance to obtain a reaction to its communications dated 31 May 2016 and 13 June 2016 on multiple occasions, notably on 8 June 2016, 21 June 2016, 28 June 2016 and 29 June 2016, both orally and in writing.
- (29) The Commission was also made aware by the Comoros of further exchanges between the Comorian authorities and a regional fishery body on the status of the Comorian fishing and fishing-related fleet on 7 July 2016 and 11 July 2016. On this occasion, the Comoros provided a new list of fishing and fishing-related vessels purported to be flying the flag of the Comoros which differed from the ones mentioned above.
- (30) By letter of 20 July 2016 the Commission proposed to the Comorian authorities to conduct a visit to the Comoros.
- (31) The Comorian authorities reacted to the communications of the Commission dated 31 May 2016 and 13 June 2016 by letter of 20 July 2016 recalling that, in accordance with the provisions of the Fisheries and Aquaculture Code established by Act No 07-011/AU of 29 August 2007 and of the Decree No 15-050/PR of 15 April 2015, no Comorian vessels should be operating outside the Comorian Exclusive Economic Zone (EEZ) without an authorisation from the Comorian authorities and no Comorian fishing or fishing-related vessels should be conducting fishing or fishing-related activities outside the area of competence of the Indian Ocean Tuna Commission (IOTC). The Comoros also requested the assistance of the Commission to, inter alia, inform the competent authorities of the Member States of the status of the Comorian fishing and fishing-related fleet and request them to convey to the Comorian authorities any relevant information on the activities of these vessels at their disposal. The Commission replied to the Comoros on 27 July 2016 and 28 July 2016 providing the information requested as well as requesting clarifications. The Commission also conveyed the information the Comoros provided to the competent authorities of the Member States in writing on 5 August 2016.

- (32) The Comoros submitted on 11 August 2016 the minutes of the first meeting of the joint committee between the authorities in charge of registration of vessels and those in charge of fisheries held on 2 August 2016. The main recommendation of this meeting was to grant a 6-month grace period to fishing and fishing-related vessels flying the Comorian flag operating outside the Comorian EEZ without an authorisation from the Comorian authorities as well as outside the area of competence of the IOTC. The objective of the grace period was to inform the operators of these vessels of their obligations under the Comorian legal framework governing fisheries.
- (33) The Commission was also informed by the competent authorities of a Member State on 18 August 2016 of the existence of a circular note signed on 8 August 2016 by the Comorian administration in charge of registration of vessels. This circular note, *inter alia*, repealed the suspension of the registration of fishing and fishing-related vessels under the Comorian flag.
- (34) Starting from May 2016, the Commission has also been fully informed of the requests for mutual assistance sent, in the framework of Article 51 of the IUU Regulation, from the competent authorities of Member States to the Comorian authorities and of other third countries regarding the status and activities of Comorian fishing and fishing-related vessels as well as of the replies from these authorities. The Commission also received information on the status and activities of this fleet from other sources including third countries. This information was considered as supporting evidence.
- (35) The Commission visited the Comorian authorities concerned from 23 to 26 August 2016. During the Commission's visit, the Comorian authorities had the opportunity to inform the Commission of the latest developments. On 30 August 2016 and 2 September 2016, the Commission sent to the Comoros follow-up information and additional requests for information and documents. The Comorian authorities acknowledged receipt of these communications respectively on 2 September 2016 and 4 September 2016.
- (36) By letter of 28 October 2016 the Commission conveyed to the Comorian authorities information on up to 21 at-sea transshipments involving Comorian fishing and fishing-related vessels that took place between April and June 2016 off the West African coast. In its communication, the Commission recalled its concerns with respect to the issues related to the management of the Comorian register.

3. IDENTIFICATION OF THE COMOROS AS A NON-COOPERATING THIRD COUNTRY

- (37) Pursuant to Article 31(3) of the IUU Regulation, the Commission has reviewed the compliance of the Comoros with its international obligations as flag, port, coastal or market State, in line with the findings of the Decision of 1 October 2015 and with relevant information provided by the Comoros, with the proposed plan of action as well as with the measures taken to rectify the situation. For the purpose of this review the Commission has taken into account the parameters listed in Article 31(4) to (7) of the IUU Regulation.

3.1. Measures taken in respect of the recurrence of IUU Vessels and trade flows (Article 31(4) of the IUU Regulation)

- (38) As highlighted in recital 36 of the Decision of 1 October 2015, the Commission established that the Comoros has failed to discharge its duties under international law as a flag, port, coastal and market State in respect of IUU vessels and IUU fishing carried out or supported by vessels flying its flag or by its nationals and to prevent access of fisheries products stemming from IUU fishing to its market.
- (39) Recitals 20 to 23 of the Decision of 1 October 2015 established that around 20 Comorian fishing and fishing-related vessels have been involved in IUU fishing activities during the period 2010 to 2015. The Commission notably established that these vessels were operating outside the Comorian EEZ without an authorisation from and control by the Comorian authorities as well as outside the area of competence of the IOTC, in particular in the eastern Atlantic. This situation goes against the recommendations as set out in point 45 of the IPOA IUU and paragraph 8(2)(2) of the FAO Code of Conduct for Responsible Fisheries (FAO Code of Conduct) that provide that flag States should ensure that each of the vessels entitled to fly their flag operating outside their waters holds a valid authorisation. It also constitutes a failure to follow the recommendations of points 29 and 30 of the FAO Voluntary Guidelines for Flag State Performance. As explained in recital 31, the Comorian authorities acknowledged that no Comorian vessels should be operating outside the Comorian EEZ without an authorisation from the Comorian authorities and no Comorian fishing or fishing-related vessels should be conducting fishing or fishing-related activities outside the area of competence of the IOTC.
- (40) Evidence gathered by the Commission since the Decision of 1 October 2015 indicates no change in the situation described in recital 39.

- (41) From the information gathered by the Commission, notably from the Member States as well as coastal and port competent authorities of third countries, the Commission found several occurrences of at-sea transshipments involving the vessels referred to in recital 39 while, as described in recital 60 the Comoros provided written statements certifying that at-sea transshipments are prohibited by the Comorian authorities. Therefore, these operations took place without authorisation from the Comorian authorities. This contravenes point 49 of IPOA IUU which provides that flag States should ensure that all of their vessels involved in transshipments have a prior authorisation issued by the flag State, and report to the national authorities.
- (42) Under Article 31(4)(b) of the IUU Regulation, the Commission also examined the measures taken by the Comoros in respect of access of fisheries products stemming from IUU fishing to its market. The IPOA IUU provides guidance on internationally agreed market-related measures which support reduction or elimination of trade in fish and fish products derived from IUU fishing. It also suggests at point 71 that States should take steps to improve the transparency of their markets in order to allow the traceability of fish or fish products. Equally, the FAO Code of Conduct outlines, in particular in its Article 11, good practices for post-harvest activities and responsible international trade. Article 11.1.11 of that Code of Conduct requests States to ensure that fish and fishery products are traded internationally and domestically in accordance with sound conservation and management practices through improving the identification of the origin of fish and fishery products.
- (43) As established in recital 23 of the Decision of 1 October 2015, the Comoros is not in a position to provide information on the species caught by the Comorian fishing fleet and the trade flows of the products caught. The Commission considered on the basis of the information gathered from the Comorian authorities that no progress has been made as regards the facts described in recitals 23 and 33 of the Decision of 1 October 2015, concerning the lack of control by the Comorian authorities on the Comorian vessels operating outside the Comorian EEZ regarding their fishing activities, landings and transshipments. The Comoros was therefore not in a position to guarantee the transparency of its markets to allow the traceability of fish or fish products as established in point 71 of the IPOA IUU.
- (44) In that respect it is noted that the traceability of products is also hindered by a lack of transparency in the Comoros' registration and licensing procedures and a lack of internal cooperation and information sharing as described in recital 24 of the Decision of 1 October 2015.
- (45) That lack of data by the Comoros does not allow it to properly follow the traceability of fish products and undermines its capability to prevent IUU fishing products being traded. Given the established lack of traceability and lack of information available to the Comorian authorities on the fish landed or transhipped by its flagged vessels, the Comoros failed to prevent fishery products stemming from IUU fishing from being landed in its ports, with the consequent risk that those products be granted access to the market. The Commission therefore cannot ensure that trade of fishery products conducted in this country do not stem from IUU fishing. In that regard, the Comoros failed to take into consideration the recommendations in point 24 of the IPOA IUU which advises flag States to ensure comprehensive and effective monitoring, control and surveillance of fishing from its commencement, through the point of landing to final destination.
- (46) Since the Decision of 1 October 2015, the Comoros has not introduced any appropriate corrective measure to rectify the situation described above. The Comoros therefore is not in a position to guarantee the transparency of its markets in a way to allow the traceability of fish or fish products as required in Point 71 of the IPOA IUU and Article 11.1.11 of the FAO Code of Conduct.
- (47) In view of recitals 20 to 35 of the Decision of 1 October 2015 and the developments after 1 October 2015, the Commission considers, pursuant to Article 31(3) and Article 31(4)(a) and (b) of the IUU Regulation, that the Comoros has failed to discharge their duties under international law as a flag, port, coastal and market State in respect of IUU vessels and IUU fishing carried out or supported by vessels flying its flag or by its nationals and has not taken sufficient action to prevent access of fisheries products stemming from IUU fishing to its market.

3.2. Failure to cooperate and to enforce (Article 31(5) of the IUU Regulation)

- (48) As described in recitals 37 to 41 of the Decision of 1 October 2015, the Commission analysed whether the Comoros cooperated effectively with the Commission on investigations and associated activities.

- (49) After the Decision of 1 October 2015, the Commission encountered difficulties in establishing cooperation with the Comorian authorities. The reliability of their replies was also compromised by the transmission of partial replies containing contradictory information and also demonstrating a low level of responsiveness.
- (50) In addition, the Commission took the opportunity of its visit to the Comoros in August 2016 to invite the Comorian authorities to provide a number of documents. Up till this Decision and despite a follow-up request for information sent to the Comorian authorities on 2 September 2016, the Commission did not receive these documents.
- (51) Furthermore, the documents submitted to the Commission in relation to the action plan following the Decision of 1 October 2015 did not translate into any concrete action.
- (52) In light of the situation described in recitals 33, 34 and 50, the Commission also established that crucial information had not been shared with the Commission.
- (53) This failure to cooperate is aggravated by the lack of internal coordination within the Comorian administration, between the authority in charge of registration of vessels and that in charge of fisheries, which has been acknowledged by the Comorian authorities during the visit of the Commission in August 2016. In that respect, the Commission established that little or no progress has been achieved on this critical weakness since the Decision of 1 October 2015 and that crucial information had not been shared within the Comorian administration.
- (54) In addition, in the context of the overall assessment of the fulfilment of the Comoros' duties to discharge its obligations as a flag port, coastal and market State, the Commission, as stated in recital 42 of the Decision of 1 October 2015, also analysed whether the Comoros cooperates with other States in the fight against IUU fishing.
- (55) As highlighted in recitals 39 to 41, the Commission established that Comorian flagged fishing and fishing-related vessels are operating outside the Comorian EEZ and the area of competence of the IOTC, in particular in the eastern Atlantic. The Commission acknowledges the attempts of the Comoros to establish channels of cooperation with eastern Atlantic countries through regional fishery bodies which cover areas where Comorian vessels are operating. The Comoros explained that initiatives have been taken to enter into direct contact with third countries where Comorian vessels are operating and the Commission has offered solutions to facilitate such contacts. The Commission has however not yet been provided with any information on possible exchanges.
- (56) It is recalled that recital 34 explains that requests for mutual assistance have been sent from the competent authorities of Member States to the Comorian authorities regarding the status and activities of Comorian fishing and fishing-related vessels. The Commission has also been informed that third countries also took similar initiatives. The Commission however found that the inadequate level of cooperation forthcoming from the Comorian authorities in its exchanges with the Commission also affected these requests for mutual assistance. This situation compromised the actions initiated by the competent authorities of the countries concerned towards a number of Comorian vessels on the basis of information provided by the Comorian authorities.
- (57) The situation described in recitals 54 to 56 indicates that the Comoros failed to effectively cooperate and coordinate activities with States where Comorian vessels are operating in preventing, deterring and eliminating IUU fishing in line with point 28 of the IPOA IUU. In particular, as established in point 31 of the IPOA IUU, the Comoros as flag State should enter into agreements or arrangements with other States and otherwise cooperate for the enforcement of applicable laws and conservation and management measures or provisions adopted at a national, regional or international level.
- (58) As highlighted in recital 44 of the Decision of 1 October 2015, the Commission also analysed whether the Comoros had taken effective enforcement measures in respect of operators responsible for IUU fishing and whether sanctions of sufficient severity to deprive the offenders of the benefits accruing from IUU fishing had been applied.
- (59) Available evidence confirms that the Comoros has not fulfilled its obligations under international law with respect to effective enforcement measures.
- (60) As explained in recital 31, the Comorian authorities acknowledged that no Comorian vessels should be operating outside the Comorian EEZ without an authorisation from the Comorian authorities and no Comorian fishing or

fishing-related vessels should be conducting fishing or fishing-related activities outside the area of competence of the IOTC. It is also noted that in the course of exchanges that took place in the context of requests for assistance that concerned up to 12 Comorian vessels active in at-sea transshipments and joint operations, the Comorian authorities provided the Commission and Member States written statements certifying that at-sea transshipments are prohibited by the Comorian authorities, and that consequently, these vessels are conducting IUU fishing activities.

- (61) The Commission however established that, after the Decision of 1 October 2015 the Comorian authorities did not report taking any enforcement measures against the vessels operating outside the Comorian EEZ, without an authorisation from the Comorian authorities, as well as outside the area of competence of the IOTC.
- (62) Moreover, as described in recital 32, it is noted that a 6-month grace period starting from August 2016 had been effectively granted to fishing and fishing-related vessels flying the Comorian flag operating in breach of Comorian law and requirements. This decision, along with the situation described in recital 56, has compromised the actions initiated by the competent authorities of Member States towards a number of Comorian vessels on the basis of information provided by the Comorian authorities. The Commission has been informed by the Comorian authorities about the possible deregistration of vessels which would not regularise their situation by the end of the 6-month grace period. It is however noted that deregistration of vessels does not ensure that offenders of infringement are adequately sanctioned in severity and deprived of the benefits accruing from their illegal activities.
- (63) Moreover, the Commission also found, during its visit in August 2016, that no concrete decision on deregistration was adopted by the authorities. In any case, such theoretical deregistration would not entail the conduct of investigations of IUU fishing activities carried out by vessels or the imposition of sanctions for established infringements.
- (64) On the basis of the information gathered during its visit in August 2016, the Commission found that the Comorian authorities in charge of fisheries had elaborated a check list enumerating the conditions for the granting of fishing authorisations in support of the regularisation during the 6-month grace period referred to under recital 62. This document has been transmitted to the Comorian authorities in charge of registration of vessels. The objective was to transmit the document to private legal persons located outside the Comoros to whom the management of the register of the Comorian fishing and fishing-related fleet has been partly delegated. These private legal persons were entrusted to transmit the said document to economic operators. The Commission established that this document is of a very theoretical nature and does not reflect the necessary technical elements allowing for the economic operators to comply with the Comorian law and the Comorian authorities to monitor the activities of the Comorian vessels concerned.
- (65) In light of the situation referred to in recitals 62 to 64 the Commission established that the Comorian authorities have not taken any appropriate precautionary measures in relation to the fishing and fishing-related vessels flying the Comorian flag operating in breach of the Comorian law and requirements.
- (66) Moreover, it is recalled that, as indicated in recital 46 of the Decision of 1 October 2015, the Comorian authorities were prior to this Decision already aware that vessels flying their flag were, in breach of the Comorian law and requirements, operating outside the Comorian EEZ and had not taken enforcement measures in respect of those vessels.
- (67) The situation referred to in recitals 58 to 66 contravenes Article 94 of UNCLOS concerning the obligations of the flag State to effectively exercise its jurisdiction and control over ships flying its flag and its masters, officers and crews. It also contravenes the recommendations to take enforcement measures in respect of IUU fishing activities and to sanction such activities with sufficient severity to effectively prevent, deter and eliminate IUU fishing and to deprive offenders of the benefits accruing from such fishing, as set out in paragraph 8(2)(7) of the FAO Code of Conduct, point 21 of the IPOA IUU and points 31 to 33, 35 and 38 of the FAO Voluntary Guidelines for Flag State Performance.
- (68) It is noted that the Comorian fisheries legal framework is still based on the Fisheries and Aquaculture Code established by Act No 07-011/AU of 29 August 2007 and the Decree No 15-050/PR of 15 April 2015 in force at the time of Decision of 1 October 2015. It is also recalled that recitals 49 and 50 of that Decision established that: (i) the Comorian authorities acknowledged that further implementing texts of the Fisheries and Aquaculture Code needed to be elaborated to ensure consistency between national law and international and regional

applicable rules; (ii) the Comorian Fisheries and Aquaculture Code does not include vessels conducting fishing related activities in the definition of fishing vessels; and (iii) while the Comorian legal framework covers serious violations as defined under international law, it does not explicitly define IUU fishing and does not expressly foresee enforcement measures and sanctions for nationals supporting or engaged in IUU fishing as outlined in points 18 and 21 of the IPOA IUU.

- (69) It is also recalled that recital 50 of the Decision of 1 October 2015 established that, as regards the sanctioning system, fines foreseen in the context of industrial fishing activities are based on the value of the licences fees. Nevertheless, the categories of fishing licences defined in the Comorian law are limited only to tuna species. Consequently, in cases of infringements of industrial fleet targeting other species there are no corresponding fines, in view of the lack of corresponding licencing fees. This situation reduces the level of deterrence of the Comorian sanctioning system and does not allow the Comorian authorities to sanction IUU fishing activities with sufficient severity to effectively prevent, deter and eliminate these activities and to deprive offenders of the benefits accruing from their illegal activities.
- (70) It is noted that the Comorian authorities in charge of fisheries presented to the Commission draft amendments to the provisions of the Fisheries and Aquaculture Code established by Act No 07-011/AU of 29 August 2007 and of the Decree No 15-050/PR of 15 April 2015. During its visit in August 2016, the Commission however established the revision process is affected by the inadequate administrative environment. The Commission also found part of the Comorian administration considered the revision process as an opportunity to bolster the flag of convenience policy of the Comoros. Therefore, the Commission finds that the legal framework is still inadequate in terms of compliance with international and regional applicable rules.
- (71) On the basis of the information gathered from the Comorian authorities as well as during its visit in August 2016, the Commission found that many obligations foreseen under Comorian law are still not implemented and enforced by the Comoros (e.g. obligation to transmit vessel monitoring system information and report catch data, restrictions on the area of operation of Comorian vessels, etc.). As stated in recital 47 of the Decision of 1 October 2015, this situation highlights the authorities' inability to monitor the operations of Comorian vessels and undermines the authorities' ability to effectively enforce rules applicable to the different areas concerned.
- (72) Furthermore, no progress has been made as regards the facts described in recital 51 of the Decision of 1 October 2015, concerning the lack of a national inspection plan to ensure a coherent policy on control of the Comorian fleet operations, and the insufficient number of observers.
- (73) During its visit in August 2016, the Commission found that, notwithstanding an admission from the Comorian authorities regarding their lack of capacity to monitor and control the fishing and fishing-related activities of the Comorian fleet wherever it operates and the foreign fleet operating within the Comorian EEZ, there was still an intention to pursue an expansion of the fleet strategy.
- (74) As highlighted in recitals 67 to 72 of the Decision of 1 October 2015, the level of development of Comoros cannot be considered as a factor undermining the capacity of the competent authorities to cooperate with other countries and pursue enforcement actions. The evaluation of the specific constraints emanating from the Comorian level of development is further described in recitals 88 to 93 of the present Decision.
- (75) In view of recitals 37 to 54 of the Decision of 1 October 2015 and the developments after 1 October 2015, the Commission takes the view, pursuant to Article 31(3) and Article 31(5)(a), (b), (c) and (d) of the IUU Regulation, that the Comoros has failed to discharge the duties incumbent upon it under international law as a flag, coastal, port and market State in respect of cooperation and enforcement efforts.

3.3. Failure to implement international rules (Article 31(6) of the IUU Regulation).

- (76) As described in the recitals 57 to 60 of the Decision of 1 October 2015, the Commission analysed information deemed relevant from available data published by Regional Fisheries Management Organizations (RFMOs), in particular the IOTC and the Southwest Indian Ocean Fisheries Commission (SWIOFC). In addition, the Commission carried out an analysis on the information deemed relevant with respect to the status of the Comoros as contracting party to the IOTC and the SWIOFC following the Decision of 1 October 2015.

- (77) It is recalled that recitals 57 and 58 of the Decision of 1 October 2015 described the repeated and non-repeated compliance issues of the Comoros with IOTC Resolutions identified for 2014 in the IOTC Compliance Report for the Comoros produced on 25 March 2015 ⁽¹⁾.
- (78) According to information derived from the IOTC Compliance Report for the Comoros produced on 16 April 2016 ⁽²⁾, several repeated compliance issues were identified in 2015. In particular, the Comoros only partially complied with the requirements to: (i) provide aggregated statistics on nominal catch for sharks, as required by Resolution 05/05; (ii) provide aggregated statistics on catch and effort for sharks, as required by Resolution 05/05; and (iii) provide aggregated statistics on size frequency for sharks, as required by Resolution 05/05. The Comoros has also not provided any information on coverage by gear for artisanal landings, as required by Resolution 11/04.
- (79) Non-repeated compliance issues were also identified in the same report. The Comoros has not provided any information on the ban on oceanic whitetip sharks, as required by Resolution 13/06 and has not provided any information on the implementation of FAO guidelines on marine turtles, as required by Resolution 12/04.
- (80) The compliance issues of the Comoros with IOTC Resolutions demonstrates the failure of the Comoros to fulfil its obligations as flag State laid down in Article 94 of Unclos. They also show that the Comoros is not following the recommendations of points 31 to 33, 35 and 38 of FAO Voluntary Guidelines for Flag States Performance and of point 24 of the IPOA IUU.
- (81) With the exception of IOTC and SWIOFC, the Comoros is not a contracting party to other RFMOs. Considering the structure of the Comorian fleet, which operates not only in the Indian Ocean region, this finding undermines the Comorian efforts to fulfil obligations under Unclos, in particular Articles 117 and 118 thereof.
- (82) Moreover, with the exception of Unclos, the Comoros has not ratified other international legal instruments related to fisheries management. Considering the importance of straddling and highly migratory fish stocks for the Comoros, this finding undermines the Comorian efforts to fulfil its duties as flag, coastal, port and market State under Unclos, in particular Articles 63 and 64 thereof.
- (83) The performance of the Comoros in implementing international instruments is also not in accordance with the recommendations of point 11 of the IPOA IUU which encourages States, as a matter of priority, to ratify, accept or accede to the United Nations Agreement for the Implementation of the Provisions of Unclos relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA) and the FAO Compliance Agreement. It also fails to follow point 14 that provides that States should fully and effectively implement the Code of Conduct and its associated International Plans of Action.
- (84) The Comoros also has not ratified the 2009 FAO Port State Measures Agreement.
- (85) Contrary to the recommendations of points 25 to 27 of the IPOA IUU, the Comoros has, to date, not developed a national plan of action against IUU fishing.
- (86) From the information gathered from the Comorian authorities, the Commission found that the management of the register of the Comorian fishing and fishing-related fleet remains partly delegated to private legal persons located outside the Comoros. Based on the information gathered by the Commission as well as statements made by the Comoros, it was established that the Comoros failed to ensure that vessels flying its flag have a genuine link with the country. This contravenes Article 91 of Unclos which provides that a genuine link must exist between the flag State and its ships.
- (87) In view of the recitals 55 to 65 of the Decision of 1 October 2015 and the developments after 1 October 2015, the Commission takes the view, pursuant to Article 31(3) and (6) of the IUU Regulation, that the Comoros has failed to discharge the duties incumbent upon it under international law with respect to international rules, regulations as well as conservation and management measures.

⁽¹⁾ Information retrieved from: <http://www.iotc.org/sites/default/files/documents/2015/04/IOTC-2015-CoC12-CR04E-Comoros.pdf>

⁽²⁾ Information retrieved from: <http://www.iotc.org/compliance/monitoring>

3.4. Specific constraints of developing countries (Article 31(7) of the IUU Regulation)

- (88) It is recalled that the Comoros has a low human development index and was ranked 159 out of 188 countries in 2014 ⁽¹⁾ according to the United Nations Human Development Index (UNHDI). It is also recalled that Regulation (EC) No 1905/2006 of the European Parliament and of the Council ⁽²⁾ listed the Comoros in the category of least developed countries ⁽³⁾.
- (89) No corroborating evidence has been found to suggest that the failure of the Comoros to discharge its duties under international law is the result of development constraints. Although specific capacity constraints may exist in general with respect to monitoring, control and surveillance, the specific constraints of the Comoros derived from its level of development cannot justify the deficiencies identified in the previous sections. This concerns especially the status of the Comorian register and the total absence of control of a part of the Comorian fleet.
- (90) As stated in recital 69 of the Decision of 1 October 2015, it appears that the shortcomings identified result primarily from the inadequate administrative environment and lack of cooperation and information sharing within the Comorian administration to ensure the efficient and effective performance of the Comorian duties as flag, coastal, port and market State. This situation is aggravated by the imbalanced size of the Comorian fishing and fishing-related fleet and its area of operation.
- (91) It is also recalled that the European Union and the Comoros have signed a Fisheries Partnership Agreement ⁽⁴⁾. The last protocol ⁽⁵⁾ of this agreement included sectoral financial support in the financial contribution paid to the Comoros. The sectoral financial support aimed to promote sustainable fisheries development by strengthening administrative and scientific capacity through a focus on sustainable fisheries management, monitoring, control and surveillance. This should have contributed to helping the Comoros to meet its duties under international law as flag, port, coastal and market State and to fight IUU fishing.
- (92) Moreover, the Comoros also gets support from regional initiatives such as the project SmartFish which is funded by the European Union and which is implemented by the Indian Ocean Commission (IOC) and aims, inter alia, to fight IUU fishing through shared resources; information exchange; training and the development of operational schemes for monitoring, control and surveillance; and the First South West Indian Ocean Fisheries Governance and Shared Growth Project of the World Bank which aims to improve the management effectiveness of selected priority fisheries at the regional, national and community level.
- (93) In view of the considerations presented in this Section made on the basis of all factual elements gathered by the Commission as well as the information submitted by the Comoros, the Commission has established that, pursuant to Article 31(7) of the IUU Regulation, it appears appropriate to take into account the specific constraints of the Comoros in view of its development status, which may impair the Comoros' overall performance in fisheries management. However, account taken of the nature of the established shortcomings of the Comoros, it has been established that the development level of Comoros cannot fully excuse or otherwise justify its overall performance as flag, port, coastal or market State with respect to fisheries and the insufficiency of its actions to prevent, deter and eliminate IUU fishing.

4. CONCLUSION ON THE IDENTIFICATION OF A NON-COOPERATING THIRD COUNTRY

- (94) In view of the conclusions reached with regard to the Comoros' failure to discharge its duties under international law as flag, port, coastal or market State and to take action to prevent, deter and eliminate IUU fishing, that country should be identified, in accordance with Article 31 of the IUU Regulation, as non-cooperating in the fight against IUU fishing.

⁽¹⁾ Information retrieved from: <http://hdr.undp.org/en/composite/HDI>

⁽²⁾ Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation (OJ L 378, 27.12.2006, p. 41).

⁽³⁾ Information retrieved from: <http://www.oecd.org/dac/stats/documentupload/DAC%20List%20of%20ODA%20Recipients%202014%20final.pdf>

⁽⁴⁾ Council Regulation (EC) No 1563/2006 of 5 October 2006 concerning the conclusion of the Partnership Agreement in the fisheries sector between the European Community and the Union of the Comoros (OJ L 290, 20.10.2006, p. 6).

⁽⁵⁾ Council Decision 2013/786/EU of 16 December 2013 on the signing, on behalf of the European Union, and the provisional application of the Protocol between the European Union and the Union of the Comoros setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement currently in force between the two parties (OJ L 349, 21.12.2013, p. 4) and Protocol between the European Union and the Union of the Comoros setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the two parties currently in force (OJ L 349, 21.12.2013, p. 5).

- (95) Having regard to Article 18(1)(g) of the IUU Regulation, the competent authorities of the Member States are bound to refuse the importation into the Union of fishery products without having to request any additional evidence or send a request for assistance to the flag State where they become aware that the catch certificate has been validated by the authorities of a flag State identified as a non-cooperating State in accordance with Article 31 of that Regulation.
- (96) It should be stated that the identification of the Comoros as a country the Commission considers to be non-cooperating does not preclude any possible subsequent step that can be taken by the Commission or the Council for the purpose of establishing a list of non-cooperating countries.

5. COMMITTEE PROCEDURE

- (97) The measures provided for in this Decision are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS DECISION:

Article 1

The Comoros is identified as a third country that the Commission considers as a non-cooperating third country in fighting illegal, unreported and unregulated fishing.

Article 2

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

Done at Brussels, 23 May 2017.

For the Commission
The President
Jean-Claude JUNCKER

