

# Official Journal of the European Union

L 167



English edition

Legislation

Volume 57

6 June 2014

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## II

*(Non-legislative acts)*

## INTERNATIONAL AGREEMENTS

## COUNCIL DECISION

of 14 April 2014

**on the signing, on behalf of the European Union, and provisional application of the Agreement between the European Union and the Republic of the Seychelles on access for fishing vessels flying the flag of the Seychelles to waters and marine biological resources of Mayotte, under the jurisdiction of the European Union**

(2014/331/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 11 July 2012, the European Council adopted Decision 2012/419/EU <sup>(1)</sup> amending, with effect from 1 January 2014, the status of Mayotte with regard to the European Union. From that date, Mayotte ceased to be an overseas country or territory and became an outermost region of the Union within the meaning of Article 349 of the Treaty on the Functioning of the European Union (TFEU).
- (2) The Council authorised the Commission to negotiate, on behalf of the Union, an agreement with the Republic of the Seychelles relating to the access, for fishing vessels flying the flag of the Republic of Seychelles, to waters and marine biological resources of the Union in the exclusive economic zone off the coast of Mayotte.
- (3) As a result of those negotiations, the Agreement between the European Union and the Republic of the Seychelles on access for fishing vessels flying the flag of the Seychelles to waters and marine biological resources of Mayotte, under the jurisdiction of the European Union ('Agreement') was initialled on 15 November 2013.
- (4) In order for the authorities in Mayotte to implement the rules of the common fisheries policy (CFP) from the date on which Mayotte becomes an outermost region, it is necessary to set up the appropriate administrative framework, control activities and physical infrastructure, and to provide the appropriate capacity building. This will be of assistance with regard to the requirement to comply with the international reporting obligations of the Union.
- (5) The necessary financial means should be provided to the fisheries authorities in Mayotte through the use of the shipowners' fees to be paid directly to Mayotte. Such a solution is even more appropriate in view of the strong

<sup>(1)</sup> European Council Decision 2012/419/EU of 11 July 2012 amending the status of Mayotte with regard to the European Union (OJ L 204, 31.7.2012, p. 131).

relationship that has developed between the Seychelles fleet and the local community of the French outermost region of Mayotte. The fishing fleet flagged in the Seychelles has been operating in the Mayotte waters for several years through an arrangement between Mayotte and the vessel shipowners, whereby the shipowners pay a licence fee to Mayotte to fish in its waters. In order to maintain the continuity of fishing operations and subsequent benefits to Mayotte, it is appropriate that all payments related to authorisations and catches under this agreement benefit directly the local community in Mayotte.

- (6) The Agreement should be signed.
- (7) In order to allow, as soon as possible, the continuation of fishing activities by the vessels of the Republic of Seychelles, the Agreement should be applied on a provisional basis, pending the completion of the procedures for its conclusion,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The signing on behalf of the Union of the Agreement between the European Union and the Republic of the Seychelles on access for fishing vessels flying the flag of the Seychelles to waters and marine biological resources of Mayotte, under the jurisdiction of the European Union is hereby authorised, subject to the conclusion of the said Agreement.

The text of the Agreement is attached to this Decision.

#### *Article 2*

1. France shall be authorised to collect, for the account of its outermost region Mayotte, the payments related to authorisations and catches and other fees due by operators of fishing vessels flying the flag of the Seychelles in consideration of the granting of access to waters and marine biological resources within Union waters off the coast of Mayotte in accordance with the provisions of Chapter III, Section 1, paragraphs 8 and 9 and Section 2 of the Annex to the Agreement. Those revenues shall be used by France for the setting up of the appropriate administrative framework, control activities, physical infrastructure and for the provision of appropriate capacity building in order for the administration in Mayotte to meet the requirements of the CFP.

2. France shall provide details of that bank account to the Commission.

3. At the end of each year of implementation of the Agreement, France shall send to the Commission a detailed report on the payments made by the vessels authorised to fish and on the utilisation of those payments.

#### *Article 3*

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

#### *Article 4*

The Agreement shall be applied on a provisional basis as from the date of signature thereof, pending the completion of the procedures for its conclusion.

*Article 5*

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

Done at Luxembourg, 14 April 2014.

*For the Council*  
*The President*  
A. TSAFTARIS

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**AGREEMENT****between the European Union and the Republic of the Seychelles on access for fishing vessels flying the flag of the Seychelles to waters and marine biological resources of Mayotte, under the jurisdiction of the European Union**

THE EUROPEAN UNION, hereinafter referred to as the 'EU',

and

THE REPUBLIC OF THE SEYCHELLES, hereinafter referred to as the 'Seychelles',

Hereinafter referred to as 'the Parties',

CONSIDERING the close working relationship that has developed between the EU and the Seychelles, particularly in the context of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States of the other part (Cotonou Agreement), and their mutual desire to intensify that relationship,

NOTING that the EU and the Seychelles have enjoyed a strong relationship in fisheries following the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles concluded in 1987. That Agreement was reinforced through the conclusion of a Fisheries Partnership Agreement between the Parties in 2006 which is still in force and implemented through the appropriate Protocol to that Agreement,

HAVING REGARD to the United Nations Convention on the Law of the Sea,

AWARE of the importance of the principles established by the code of conduct for responsible fisheries adopted at the FAO Conference of 1995,

FURTHER NOTING that the EU and the Seychelles are both Parties to the Indian Ocean Tuna Commission (IOTC), the intergovernmental organization mandated to manage tuna and tuna-like species in the Indian Ocean and adjacent seas,

DETERMINED to cooperate, in their mutual interest, in promoting the introduction of responsible fisheries to ensure the long-term conservation and sustainable exploitation of marine living resources,

CONVINCED that such cooperation must take the form of initiatives and measures which, whether taken jointly or individually, are complementary, consistent with policy and ensure synergy of efforts,

DESIROUS of establishing terms and conditions governing the fishing activities of Seychelles vessels in the waters of the EU and the Seychelles in support of the introduction of responsible fishing in those waters,

HEREBY AGREE AS FOLLOWS:

*Article 1***Scope**

This Agreement establishes the principles, rules and procedures governing:

- economic, financial, technical and scientific cooperation in the fisheries sector with a view to ensuring responsible fishing in EU waters to guarantee the conservation and sustainable exploitation of fisheries resources,
- the conditions governing access by Seychelles fishing vessels to EU waters, as defined in the Annex,
- the arrangements for policing fisheries in EU waters with a view to ensuring that the above rules and conditions are complied with, the measures for the conservation and management of fish stocks are effective, and that illegal, unreported and unregulated fishing is prevented.

*Article 2***Definitions**

For the purposes of this Agreement:

- (a) 'Seychelles authorities', means the Seychelles Fishing Authority;
- (b) 'Seychelles vessels' means vessels flying the flag and registered in Seychelles;
- (c) 'EU authorities' means the European Commission;
- (d) 'EU waters' are defined as the waters of Mayotte under the jurisdiction of the EU;
- (e) 'Joint Committee' means a committee made up of representatives of the European Union and the Seychelles, whose functions are described in Article 8 of this Agreement.

*Article 3***Principles and objectives underlying the implementation of this Agreement**

- 1. The Parties hereby undertake to promote responsible fishing in EU waters based on the principle of non-discrimination between the different fleets fishing in those waters, without prejudice to the agreements concluded between developing countries within a geographical region, including reciprocal fisheries agreements.
- 2. Rules for the exercise for fishing under this Agreement shall comply with the resolutions of the Indian Ocean Tuna Commission (IOTC).
- 3. The Parties hereby undertake to ensure that this Agreement is implemented in accordance with the principles of the Common Fisheries Policy of the EU, and good economic and social governance.

*Article 4***Statistical and Scientific cooperation on responsible fishing**

- 1. During the period covered by this Agreement, the EU and the Seychelles shall monitor the evolution of resources in EU waters. A joint scientific meeting shall be held, where necessary, on the request of either of the Parties.
- 2. The Parties shall also exchange relevant statistical, biological, conservation and environmental information and cooperate in the relevant scientific meetings, as may be required for the purpose of managing and conserving the living resources.
- 3. On the basis of the best available scientific advice provided by the IOTC, the two Parties may consult with each other within the Joint Committee provided for in Article 8 of this Agreement and, where necessary, agree to take measures to ensure sustainable management of EU marine biological resources.

*Article 5***Access by Seychelles vessels to the fisheries in EU waters**

- 1. The EU hereby undertakes to authorise Seychelles vessels to engage in fishing activities in EU waters in accordance with this Agreement and the Annex thereto.
- 2. The Seychelles shall ensure that its vessels comply with this Agreement and the legislation governing fisheries in the EU.

*Article 6***Fishing authorisations**

- 1. Seychelles fishing vessels may fish in EU waters only if they are in possession of a fishing authorisation on board, or a copy thereof, issued under this Agreement.
- 2. The procedure for obtaining a fishing authorisation for a vessel, the fees applicable and the method of payment to be used by shipowners shall be as set out in the Annex.

*Article 7***Species Coverage**

Fishing authorisations will be provided solely for the exploitation of highly migratory species (species listed in Annex 1 of the UN Convention on the Law of the Sea, 1982), with the exclusion of the family *Alopiidae*, the family *Sphyrnidae* and the following species: *Cetorhinus maximus*, *Rhincodon typus*, *Carcharodon carcharias*, *Carcharhinus falciformis* and *Carcharhinus longimanus*.

*Article 8***Joint Committee**

1. A Joint Committee shall be set up to monitor the application of this Agreement. The Joint Committee shall perform the following functions:

- (a) monitoring the performance, interpretation and application of this Agreement;
- (b) providing the necessary liaison for matters of mutual interest relating to fisheries;
- (c) acting as a forum for the amicable settlement of any disputes regarding the interpretation or application of this Agreement;
- (d) reassessing, where necessary, the level of fishing opportunities, based on scientific advice, and, consequently, of the financial contribution;
- (e) decide, as necessary, to revise the technical provisions of this Agreement and the Annex thereto;
- (f) any other function which the Parties may decide.

2. The Joint Committee shall meet at least once a year, alternately in the EU and in the Seychelles, and shall be chaired by the Party hosting the meeting. It shall hold a special meeting at the request of either of the Parties.

*Article 9***Adjustment of fishing opportunities by decision of the Joint Committee**

As provided for in Article 8 of this Agreement, the Joint Committee may reassess the fishing opportunities referred to in Chapter II of the Annex and these may be adjusted by decision of the Joint Committee insofar as the recommendations and resolutions of the IOTC support the assessment that such an adjustment will secure the sustainable management of tuna and tuna-like species in the Indian Ocean.

*Article 10***Suspension of the implementation of this Agreement**

1. Implementation of this Agreement shall be suspended at the initiative of either of the Parties, subject to consultations between and agreement of the Parties within the Joint Committee provided for in Article 8 of this Agreement:

- (a) if exceptional circumstances, other than natural phenomena, prevent fishing activities in fishing areas within the EU waters;
- (b) where a dispute arises between the Parties over the interpretation and implementation of this Agreement and the Annex thereto which cannot be settled;
- (c) if either of the Parties does not respect the provisions laid out by this Agreement and the Annex thereto;
- (d) following significant changes in the policy guidelines of either of the Parties affecting the relevant provisions of this Agreement;
- (e) in case of non-compliance with the general obligations as provided for in the Annex;
- (f) if either of the Parties ascertains a breach of essential and fundamental elements on human rights as set out in Article 9 of the Cotonou Agreement, and following the procedure set out in Articles 8 and 96 thereof;
- (g) in case of non-compliance with the International Labour Organisation Declaration on Fundamental Principles and Rights at Work as provided in Article 3 of this Agreement and point 3 of Chapter I of the Annex.



2. Suspension of implementation of this Agreement shall require the Party concerned to notify its intention in writing at least three months before the date on which the suspension is due to take effect.

3. In the event of suspension of implementation, the Parties shall continue to consult each other with a view to finding an amicable settlement to their dispute. Where such settlement is reached, implementation of this Agreement shall resume and the amount of the financial contribution shall be reduced proportionately and *pro rata temporis* in accordance with the period during which implementation of this Agreement was suspended.

#### Article 11

##### Termination

1. This Agreement may be terminated by either Party in the event of serious circumstances such as the degradation of the stocks concerned, or failure to comply with undertakings made by the Parties with regard to combating illegal, unreported and unregulated fishing.

2. For termination of this Agreement, the Party concerned shall notify the other Party in writing of its intention to terminate it at least six months before the date on which such termination should take effect.

3. Dispatch of the notification referred to in the previous paragraph shall open consultations by the Parties. In the case, when following these consultations, a decision is taken to withdraw the termination request, this Agreement shall continue to be implemented in its entirety.

#### Article 12

##### Applicable law

1. The activities of Seychelles fishing vessels in EU waters are subject to the laws and regulations of the EU unless otherwise provided under this Agreement and the Annex thereto.

2. The EU shall forthwith notify the Seychelles of any changes in its Common Fisheries Policy or legislation.

#### Article 13

##### Confidentiality

Both Parties shall ensure that only aggregated data related to fishing activities in the EU waters shall be made available to the public domain, in conformity with the provision of the appropriate IOTC resolution. Data which may be considered as otherwise confidential shall only be used exclusively for the implementation of this Agreement and for the purposes of fisheries management, monitoring, control and surveillance with the relevant competent authorities.

#### Article 14

##### Electronic exchanges of data

1. The Seychelles and the EU will undertake to implement the necessary systems for the electronic exchange of all information and documents related to the implementation of this Agreement and the Annex thereto.

2. Both Parties will immediately notify the other Party of any disruption of a computer system impeding such exchanges. In these circumstances, the information and documents related to the implementation of this Agreement and the Annex thereto shall be automatically replaced by their paper version in the manner defined in the Annex.

3. The electronic form of a document and the paper version are to be considered equivalent.

#### Article 15

##### Mid-term Review

The Parties agree that in order to evaluate the functioning and effectiveness of this Agreement, a mid-term review will be held three years following the date of the start of the provisional application of this Agreement.

*Article 16***Obligation on Expiry of this Agreement or its Termination**

In the case of the expiry of this Agreement or its termination as provided by Article 11, Seychelles vessel owners shall continue to be liable for any breach of the provisions of this Agreement or any laws of the EU which occurred before the expiry or termination of this Agreement, or for any authorisation fee or any outstanding dues not paid at the time of expiry or termination.

*Article 17***Duration**

This Agreement shall apply for six years from the date of its provisional application. It shall be renewed for additional periods of six years, unless notice of termination is given in accordance with Article 11.

*Article 18***Provisional Application**

This Agreement shall be applied provisionally from the date of its signature.

*Article 19***Entry into force**

This Agreement shall enter into force on the date on which the Parties notify each other of the completion of the procedures necessary for that purpose.

Съставено в Брюксел на двадесети май две хиляди и четиринадесета година.

Hecho en Bruselas, el veinte de mayo de dos mil catorce.

V Bruselu dne dvacátého května dva tisíce čtrnáct.

Udfærdiget i Bruxelles den tyvende maj to tusind og fjorten.

Geschehen zu Brüssel am zwanzigsten Mai zweitausendvierzehn.

Kahe tuhande neljateistkümnenda aasta maikuu kahekümnendal päeval Brüsselis.

Έγινε στις Βρυξέλλες, στις είκοσι Μαΐου δύο χιλιάδες δεκατέσσερα.

Done at Brussels on the twentieth day of May in the year two thousand and fourteen.

Fait à Bruxelles, le vingt mai deux mille quatorze.

Sastavljeno u Bruxellesu dvadesetog svibnja dvije tisuće četrnaeste.

Fatto a Bruxelles, addì venti maggio duemilaquattordici.

Briselē, divi tūkstoši četrpadsmitā gada divdesmitajā maijā.

Priimta du tūkstančiai keturioliktą metų gegužės dvidešimtą dieną Briuselyje.

Kelt Brüsszelben, a kétezer-tizennegyedik év május havának huszadik napján.

Magħmul fi Brussell, fl-ghoxrin jum ta' Mejju tas-sena elfejn u erbatax.

Gedaan te Brussel, de twintigste mei tweeduizend veertien.

Sporządzono w Brukseli dnia dwudziestego maja roku dwa tysiące czternastego.

Feito em Bruxelas, em vinte de maio de dois mil e catorze.

Întocmit la Bruxelles la douăzeci mai două mii paisprezece.

V Bruseli dvadsiateho mája dvetisícštrnásť.

V Bruslju, dne dvajsetega maja leta dva tisoč štirinajst.

Tehty Brysselissä kahdentenäkymmenentenä päivänä toukokuuta vuonna kaksituhattaneljätoista.

Som skedde i Bryssel den tjugonde maj tjugohundrafjorton.



## ANNEX

**Conditions for the exercise of fishing activities by Seychelles vessels**

## CHAPTER I

**GENERAL PROVISIONS**

## 1. General Obligations

Seychelles vessels for which a fishing authorisation has been issued in accordance with this Agreement shall comply with the provisions of the EU Common Fisheries Policy (CFP) concerning the conservation and control measures and other provisions governing fishing by EU fishing vessels in the fishing area in which they operate, and the provisions laid down in this Agreement.

## 2. Fishing Areas

- (a) The EU shall provide the Seychelles with the geographic coordinates of the area in which Seychelles vessels may operate before the provisional application of this Agreement
- (b) Seychelles vessels shall be prohibited from using any purse-seine on tuna and tuna-like schools of fish inside the areas within 24 miles of the coasts of the island of Mayotte, measured from the baselines from which territorial waters are measured.
- (c) Any modification to the fishing areas will be communicated, to the Seychelles authorities, 4 weeks in advance of the modification before entry into force.

## 3. Labour Conditions

The employment of fishermen on board vessels authorised under this Agreement shall be governed by the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work.

## CHAPTER II

**PERIOD OF APPLICATION AND FISHING OPPORTUNITIES**

## 1. For a period of 6 years, the fishing opportunities granted under Article 5 of this Agreement shall be as follows:

- 8 tuna purse-seiners, and
- 2 supply vessels.

## 2. Seychelles vessels may only engage in fishing activities in EU waters if they are on the list of authorized fishing vessels of the IOTC and in possession of a fishing authorisation issued under the provisions of Article 6 and the conditions established in this Agreement in accordance with the Annex thereto.

## CHAPTER III

**FISHING AUTHORISATIONS**

## SECTION 1

***Application and issue of fishing authorisations***

- 1. 'Fishing authorisation' means a valid entitlement or license to engage in fishing activities in accordance with the terms of the said fishing authorisation provided under this Agreement.
- 2. For a Seychelles vessel to be eligible for a fishing authorisation under this Agreement it shall:
  - (a) be included in the list of vessels notified by the Seychelles to carry out fishing activities under this Agreement;
  - (b) be on the list of authorised fishing vessels of the IOTC;

- (c) have fulfilled, during the most recent 12 months period of fishing activities under the previous private arrangement between the shipowners and Mayotte, the conditions and obligations to Mayotte under that arrangement;
  - (d) not be included in an IUU list;
  - (e) have available and provide the data required under this Agreement; and
  - (f) ensure that the fishing authorisation application is in accordance with the requirements of this Agreement and the Annex thereto.
3. Moreover, Seychelles vessels applying for a fishing authorisation shall comply with the appropriate provisions of Council Regulation (EC) n°1006/2008 relating to fishing authorisations.
  4. All Seychelles vessels applying for a fishing authorisation should be represented by an agent resident in Mayotte, or in the absence of an agent resident in Mayotte, an agent resident in the Seychelles. The name and address of that agent shall be stated in the application.
  5. The relevant Seychelles authorities shall submit to the competent authority of the EU as defined in Article 2 of this Agreement, a fishing authorisation application for each Seychelles vessel wishing to fish under this Agreement at least 20 days before the date of commencement of the period of validity.
  6. Where a fishing authorisation application has not been submitted prior to the period of validity under point 5, the vessel owner or his agent may do so during the period of validity, no later than 20 days before the start of the fishing activities. In such cases, vessel owners or their agent shall pay the advance fees due for the full validity period of the fishing authorisation.
  7. Each application for a fishing authorisation shall be submitted to the competent authority of the EU, through its Delegation in Mauritius, on a form drawn up in accordance with the specimen in Appendix 1 and shall be accompanied by the following documents:
    - (a) proof of payment of the advance fee for the period of validity of the fishing authorisation;
    - (b) any other documents or certificates required under the specific rules applicable to the type of vessel concerned pursuant to this Agreement.
  8. All payments related to authorisations and catches shall be paid into a bank account in the EU, the details of which shall be provided by the EU before the provisional application of this Agreement. The associated costs linked to bank transfers shall be borne by vessel owners or their agent.
  9. Fees shall include all national and local charges except for port taxes and service charges.
  10. Fishing authorisations for all Seychelles vessels shall be issued to the vessel owner or its agent within 15 days of receipt of all the documents referred to in point 7 by the EU. A copy of these fishing authorisations shall be sent to the Delegation of the European Union responsible for the Seychelles.
  11. A fishing authorisation shall be issued for a specific Seychelles vessel and shall not be transferable except for force majeure, as outlined in point 13.
  12. Supply vessels flying the flag of the Seychelles operating within EU waters are also subject to the issuing of an authorisation and shall be subject to the same obligations as defined in this Annex. The undertaking of fishing activities by these vessels is prohibited.
  13. Where force majeure is proven, a Seychelles vessel's fishing authorisation may be transferred, at the request of the Seychelles, for the remaining period of its validity, to another eligible Seychelles vessel with similar characteristics, with no further fee due.
  14. The owner of the first vessel, or his agent, shall return the cancelled fishing authorisation to the EU, via the Delegation of the European Union responsible for the Seychelles.
  15. The new fishing authorisation shall take effect on the day that the vessel's owner returns the cancelled fishing authorisation to the EU. The Delegation of the European Union responsible for the Seychelles shall be informed of the fishing authorisation transfer.
  16. The fishing authorisation or an electronic copy of it must be kept on board the vessel at all times, notwithstanding the provisions of Chapter VI — Control — point 2, of this Annex.

## SECTION 2

***Shipowners fee, advance payment and statement of fees***

1. The payments to be paid by shipowners shall be calculated on the basis of the following rate per tonne of fish caught:

For the first year of application of this Agreement, 110 EUR per tonne.

For the second and third years of application of this Agreement, 115 EUR per tonne.

For the fourth and fifth years of application of this Agreement, 120 EUR per tonne.

For the sixth year of application of this Agreement, 125 EUR per tonne.

2. The annual advance payment to be paid by the shipowners of Seychelles vessels at the time of application for a fishing authorisation to the EU authorities and to be issued by the EU shall be as follows:

**Tuna Purse Seine Vessels**

For the first year of application of this Agreement, the advance payment shall be 11 000 EUR, which the equivalent of 110 EUR per tonne for 100 tonnes of tuna and tuna-like species caught within Mayotte waters.

For the second and third years of application of this Agreement, the advance payment shall be 11 500 EUR, which the equivalent of 115 EUR per tonne for 100 tonnes of tuna and tuna-like species caught within Mayotte waters.

For the fourth and fifth year of application of this Agreement, the advance payment shall be 12 000 EUR, which the equivalent of 120 EUR per tonne for 100 tonnes of tuna and tuna-like species caught within Mayotte waters.

For the sixth year of application of this Agreement, the advance payment shall be 12 500 EUR, which the equivalent of 125 EUR per tonne for 100 tonnes of tuna and tuna-like species caught within Mayotte waters.

3. For catches in excess of the 100 tonnes, the yearly rate per tonne of catch provided for in point 1 shall apply.
4. The EU authorities shall draw up a statement of fees due in respect of the previous calendar year on the basis of catch declarations submitted by Seychelles vessels and other information in the possession of the EU authorities. A copy shall also be provided to the Seychelles authorities for verification.
5. The statement shall be sent to the Seychelles authorities before 31 March of the current year. The Seychelles authorities shall transmit it before 15 April to the vessel owner.
6. Where the vessel owner does not agree with the statement submitted by the EU authorities, he may consult the competent scientific institutes for verifying catch statistics in the Seychelles and subsequently discuss with the Seychelles authorities, who shall inform the Commission thereof, to establish the final statement before 31 May of the current year. In the absence of observations by the vessel owners at that date, the statement submitted by the EU authorities shall be considered as the final one. Where the final statement is less than the advance payment referred to in point 2, the balance shall not be recoverable by the vessel owners.

**Supply Vessels**

7. An authorisation for a supply vessel will be provided through the same procedure as for fishing vessels and the advance fee for the provision of an authorisation will be 3 000 EUR. In the event of any change in the provisions, fees and conditions relating to supply vessels, the EU shall inform the Seychelles of this change before it enters into effect.

## CHAPTER IV

**MONITORING**

## SECTION 1

***Catch reporting***

1. All Seychelles vessels authorised to fish in EU waters under this Agreement shall communicate their catches to the competent authority of the EU until such time as the Electronic Catch Reporting System (ERS) is implemented by both Parties as referred to in point 5, in the following manner:
  - (a) Seychelles vessels licensed to fish in EU waters shall fill a statement of catch form as set out in Appendix 2 on a daily basis, for each trip they undertake in EU waters. In the absence of catches, the form shall still be filled in. The form shall be filled in legibly and signed by the master of the vessel or his representative.

- (b) While in EU waters, Seychelles vessels shall report to the competent authority of the EU and the Seychelles, every three (3) days, the information required in the format provided for in Appendix 2, as appropriate.
- (c) As far as the submission of the statement of catch form referred to in points a) and c) is concerned, the Seychelles vessels shall:
  - in the case they call into a Seychelles' port, submit the completed form to the Seychelles authorities within five (5) days of arrival, or in any event before they leave port, whichever occurs first,
  - in any other case, send the completed form to the Seychelles authorities within fourteen (14) days of arrival in any port other than Victoria.
- (d) Copies of these statement of catch forms must simultaneously be sent to the EU Delegation in Mauritius, within the same time frame as provided for in point 1(b).

#### SECTION 2

##### ***Catch communication: entering and leaving EU waters***

1. For the purposes of this Annex, the duration of a trip by a Seychelles vessel shall be defined as follows:
  - the period elapsing between entering and leaving EU waters,
  - the period elapsing between entering EU waters and a transshipment, or
  - the period elapsing between entering EU waters and a landing in the EU.
2. Seychelles vessels shall notify the EU authorities at least six (6) hours in advance of their intention to enter or leave EU waters, and every three days during their fishing activities in EU waters, of their catches during this period.
3. When notifying entry/leaving, Seychelles vessels shall also communicate their position at the time of communication and the volume and species in catches kept on board. These communications shall be made in the format set out in Appendix 4, by e-mail or fax, to the addresses provided therein.
4. Seychelles vessels found to be fishing without having informed the EU authorities shall be deemed as vessels without a fishing authorisation. The sanctions referred to in Chapter VII will be applicable in such cases.

#### SECTION 3

##### ***Transshipment and landings***

1. Landings
  1. The designated port for landing activities in the Seychelles is Victoria, Mahé.
  2. All Seychelles vessels wishing to land catches in Seychelles' designated ports shall notify the following information to the competent authority of the Seychelles at least 24 hours in advance:
    - (a) the landing port;
    - (b) the name and International Radio Call Sign (IRCS) of the landing fishing vessel;
    - (c) the date and time of landing;
    - (d) the quantity in kg, rounded to the nearest 100 kg, by species to be landed;
    - (e) the product form presentation.
  3. Landings shall be considered as an exit from EU waters as defined in point 1 of Section 2 of this Chapter. Seychelles vessels shall therefore submit their Landing Declarations to the competent authorities of Seychelles.
2. Transshipments
  1. Transshipment at sea is prohibited, and any person infringing this provision shall be liable to the enforcement measures provided for by EU legislation. Transshipments may be carried out within a designated port of Mayotte.
  2. In the case of a transshipment in a designated port of Mayotte, the Seychelles vessel shipowners or their agents, must notify the following information to the competent EU authorities and, at the same time, to the port authority concerned in Mayotte at least 72 hours in advance:
    - (a) the transshipment port or area where the operation will occur;
    - (b) the name and IRCS of the donor Seychelles vessels;

- (c) the name and IRCS of the receiving fishing vessel and/or reefer;
  - (d) the date and time of transshipment;
  - (e) the quantity in kg, rounded to the nearest 100 kg, by species to be transhipped;
  - (f) the product form presentation.
3. Transshipment shall be considered as an exit from EU waters as defined in point 1 of Section 2. Seychelles vessels shall submit their catch declarations to the EU competent authorities and a copy thereof to the port authority, no later than twenty four (24) hours after completion of the transshipment, or in any event, before the donor vessel leaves port, whichever occurs first.

#### SECTION 4

##### **Vessels monitoring system (VMS)**

With regards to the Vessel Monitoring System, all Seychelles vessels fishing, or intending to fish, in the fishing areas within EU waters under this Agreement, shall comply with all the provisions defined in Appendix 6.

#### CHAPTER V

##### **OBSERVERS**

1. Both Parties recognize the importance of respecting the obligations of IOTC Resolution 11/04 with regards to the Scientific Observer Programme.
2. Seychelles vessels authorised to fish in EU waters under this Agreement shall take on board observers appointed by the EU authorities, except in case of space limitations due to security requirements. The provisions relating to the embarkation of observers are as follows:
  - (a) Seychelles vessels shall take on board one observer if possible, in the context of a regional observation programme.
  - (b) The EU authorities shall draw up a list of Seychelles vessels designated to take an observer on board and a list of appointed observers. Those lists shall be kept up to date. They shall be forwarded to the Seychelles authorities as soon as they have been drawn up, and every three months thereafter, where they have been updated.
  - (c) The EU authorities shall inform the shipowners of the Seychelles vessels concerned, or their agents, of the name of the observer appointed to be taken on board their vessel no later than 15 days before the observer's planned embarkation date.
3. The time spent on board by observers shall not exceed the time required to carry out their duties, unless the observer is appointed in the context of regional Observer Programmes where he/she may remain on board to undertake his/her duties in the context of the Programme. The EU authorities shall inform the Seychelles vessel owners or their agents thereof when notifying them of the name of the observer appointed to be taken on board the Seychelles vessel concerned.
4. The conditions under which observers are taken on board shall be agreed between shipowners or their agents and the EU authorities after notification of the list of designated Seychelles vessels.
5. Within two weeks and upon giving ten days' notice, the shipowners of the Seychelles vessels concerned shall make known at which port of the EU and on what dates they intend to take observers on board.
6. Where observers are taken on board in a foreign port, their travel costs shall be borne by the shipowner. Should a Seychelles vessel with an observer from the EU on board leave EU waters, all measures must be taken to ensure the observer returns to the EU as soon as possible at the expense of the shipowner, unless the observer is continuing with the Seychelles vessel in the context of his observer duties through another agreement or observer programme.
7. If the observer is not present at the time and place agreed and during the twelve 12 hours following the time agreed, Seychelles vessel owners shall be automatically absolved of their obligation to take the observer on board.
8. Observers shall be treated as officers. They shall carry out the following tasks:
  - (a) observe the fishing activities of the Seychelles vessels;
  - (b) verify the position of Seychelles vessels engaged in fishing operations;
  - (c) note the fishing gear used;



- (d) verify the catch data for EU waters recorded in the logbook;
  - (e) verify the percentages of by-catches and estimate the quantity of discards;
  - (f) report fishing data including the quantity of catches and by-catches on board taken in EU waters, once a week by e-mail or fax or other means of communication.
9. Masters of Seychelles vessels shall do everything reasonably practicable to ensure the physical safety and welfare of observers while on board.
10. Similarly, as far as possible, they shall be offered every facility needed to carry out their duties. The master shall give them access to the means of communication needed for the discharge of their duties, to documents directly concerned with the vessel's fishing activities, including in particular the logbook and the navigation log, and to those parts of the vessel necessary to facilitate the performance of their tasks as observers.
11. While on board, observers shall:
- (a) take all appropriate steps to ensure that the conditions of their boarding and presence on the vessel neither interrupt nor hamper fishing operations;
  - (b) respect the material and equipment on board and the confidentiality of all documents belonging to the vessel;
  - (c) at the end of the observation period and before leaving the Seychelles vessel, observers shall draw up an activity report to be transmitted to the competent authorities of the EU, with a copy to the Seychelles, which shall be signed by the observers. A copy of the report shall be handed to the master when the observers leave the Seychelles vessel.
12. Seychelles vessel owners shall bear the cost of accommodating observers in the same conditions as the officers on the vessel.
13. The salary and applicable taxes of the observers shall be borne by the competent authorities of the EU.

#### CHAPTER VI

##### CONTROL

- 1. Seychelles vessels shall comply with the applicable law of the EU regarding fishing gears and the technical specifications thereof and all other technical measures applicable to their fishing activities, as well as with the conservation, management and other measures adopted by the Indian Ocean Tuna Commission.
- 2. The Seychelles shall keep an up-to-date list of the Seychelles vessels to which a fishing authorisation has been issued under this Agreement. This list shall be notified to the authorities of the EU responsible for fisheries inspection as soon as it is drawn up and each time it is updated.
- 3. Masters of Seychelles vessels engaged in fishing activities in EU waters shall cooperate with any EU authorised and duly identified officer carrying out inspection and control of fishing activities.
- 4. In order to facilitate safer inspection procedures, without prejudice to the provisions of EU legislation, boarding should be conducted in such a way that allows the inspection platform and the inspectors to be identified as being authorised by the EU to carry out such tasks.
- 5. The EU shall make available to the Seychelles a list with all inspection platforms used for sea inspections in line with FAO UNFSA recommendations. This list should contain, inter alia:
  - Fisheries Patrol Vessels (FPV) names,
  - FPV Vessel details,
  - FPV photo.
- 6. The EU may on the request of the Seychelles or a body designated by it, allow Seychelles inspectors to observe the activities of Seychelles vessels, including transshipments, during onshore-based controls.
- 7. Once an inspection has been completed and the inspection report signed by the inspector, the report shall be made available for signature, comments and remarks, if any, by the master. This signature shall not prejudice the rights of the Parties in the context of alleged infringement procedures. A copy of the inspection report shall be given to the master of the Seychelles vessel before the inspection boarding party leaves the vessel.
- 8. Those authorised officers shall not remain on board for longer than is necessary for the discharge of their duties.

9. Masters of Seychelles' vessels engaged in landing or transshipment operations in an EU port shall allow and facilitate the inspection of such operations by EU and/or Seychelles authorised officers.
10. Where the provisions set out in this Chapter are not complied with, the EU reserves the right to suspend the fishing authorisation of the offending Seychelles vessel until formalities have been completed and to apply the penalty laid down in existing EU legislation. The Seychelles shall be informed thereof.

## CHAPTER VII

### ENFORCEMENT

#### 1. Sanctions

1. Failure to observe any one of the provisions of the above chapters, the management and conservation of marine living resources measures, or the EU legislation, Seychelles vessels shall be subject to the penalties and sanctions provided for in accordance with EU legislation.
2. The Seychelles shall be immediately and fully informed of any sanctions and of all relevant facts related thereto.
3. Where a sanction takes the form of suspension or revocation of a fishing authorisation, during the remaining period of the validity of a fishing authorisation which has been suspended or revoked, the Seychelles may request another fishing authorisation which would otherwise have been applicable, for a Seychelles vessel from another shipowner

#### 2. Arrest and detention of fishing vessels

1. The EU authorities shall immediately inform the Seychelles of the arrest and/or detention of any Seychelles vessel operating under this Agreement and shall transmit a copy of the inspection report, detailing the circumstances and reasons of the arrest and/or detention within 48 hours.
  2. Information exchange procedure in the event of arrest and/or detention:
    - (a) Whilst respecting the deadlines and procedures of legal proceedings as provided for by the EU legislation relating to arrest and/or detention, a consultation meeting shall be held, upon receipt of the above information, between the European Commission and the Seychelles competent authorities.
    - (b) At the meeting, the Parties shall exchange any relevant documentation or information helping to clarify the circumstances of the established facts. The shipowner or its agent shall be informed of the outcome of the meeting and of any measures resulting from the arrest and/or detention.
  3. Settlement of arrest and/or detention:
    - (a) An attempt shall be made to resolve the presumed infringement amicably. This procedure shall be completed no later than three working days after the arrest and/or detention, in conformity with EU legislation.
    - (b) In the event of an amicable settlement, the settlement shall be determined in accordance with the procedures provided for in EU legislation. If such an amicable settlement is not possible, legal proceedings shall take their course.
    - (c) The Seychelles vessel shall be released and its master discharged once the obligations arising under the amicable settlement have been fulfilled and the legal proceedings have been completed.
  4. The Seychelles shall be kept informed of any proceedings initiated and penalties imposed.
-

*Appendices*

1. Fishing authorisation application form
  2. Statement of catch form for tuna seiners
  3. Guidelines for the management and the implementation of the electronic system for communication of data relating to fishing activities (ERS)
  4. Communication Format Reports
  5. Communication of VMS messages — Position Report
  6. VMS Framework guidelines
-

## Appendix 1

## APPLICATION FOR FISHING AUTHORISATION

## I — APPLICANT

1. Name of applicant:
2. Name of the Producer Organisation (PO) or Shipowner's representative:
3. Address of the PO or Shipowner's representative:

4. Tel. No:

Fax

e-mail:

5. Master's name:

Nationality:

e-mail:

6. Shipowner or Chartering entity if different from above:

## II — VESSEL IDENTIFICATION DETAILS

1. Vessel Name:

2. Flag State:

Port of registration:

3. External Marks

MMSI:

IMO number:

RFMO No.:

5. Date of current flag Registration (DD/MM/YYYY): ...../.../.....

Previous flag, if any: .....

6. Place of construction:

Date (DD/MM/YYYY): ...../...../.....

IRCS:

7. Radio Call frequency: HF: ..... VHF .....

Vessel Satellite Phone No.:

## III — VESSEL TECHNICAL DETAILS

1. Vessel LOA (mts): .....

BOA (mts): .....

GT: .....

Net T: .....

2. Hull material: Steel ☐ Wood ☐ Polyester ☐

Other ☐ .....

3. Engine Type:

Engine Power (in HP):

Engine Manufacturer:

4. Max. Crew Members:

5. Conservation method on board: Ice ☐ Refrigeration ☐ Mixed ☐ Frozen ☐

6. Processing capacity per day (24h) in Tones:  
 No of Fish Holds:  
 Fish Holds Total capacity (m3):
7. Type of Vessel : ☐ Purseiner ☐ Longliner ☐ Support Vessel (\*)
8. VMS. Details of the Automatic Location Device:  
 Manufacturer:  
 Model:  
 Serial No.:  
 Software Version:  
 Satellite Operator (MCSP):

#### IV — FISHING ACTIVITY

1. Fishing gear authorised:
2. Authorised Waters:
3. Target species: \_\_\_\_\_
4. License period requested from (DD/MM/YYYY): ..... / ..... / ..... To: ..... / ..... / .....
5. Requirement for disposal of by catch: As per EU legislation
6. Reporting requirement: As per EU legislation.

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

Issued in \_\_\_\_\_, \_\_\_\_\_ 20 \_\_ \_\_

Signature of the Applicant: \_\_\_\_\_

#### FOR OFFICIAL USE ONLY

<input type="checkbox"/> Licence fee EUR: _____	Processing fees EUR: _____
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Cheque No.: _____	<input type="checkbox"/> Bank Transfer Ref <sup>a</sup> : _____ Receipt No: _____
Signature of Cashier: _____	Date (DD/MM/YYYY): ____ / ____ / ____

(\*) The list of fishing vessels supported by this Support Vessel should be attached to this form, if possible. The list should contain the name and RFMO (IOTC) number.

## STATEMENT OF CATCH FORM FOR TUNA SEINERS/FICHE DE DÉCLARATION DE CAPTURES POUR THONNIERS SENNEURS

[illegible]

SIGNATURE

DATE \_\_\_\_\_

## Appendix 3

## GUIDELINES FOR THE MANAGEMENT AND THE IMPLEMENTATION OF THE ELECTRONIC SYSTEM FOR COMMUNICATION OF DATA RELATING TO FISHING ACTIVITIES (ERS)

## SECTION 1

**General provisions**

1. Each Seychelles vessel authorised to fish in EU waters shall be equipped with an electronic system, hereinafter called 'system ERS', capable of recording and transmitting data relating to the fishing activities of the vessel, hereinafter 'ERS data', where the vessel operates in the fishing area as defined in point 2(a) of Chapter I of this Annex, hereinafter referred to as 'fishing area'.
2. A Seychelles vessel that is not equipped with an ERS system, or whose ERS system is not functional, is not authorised to enter in the fishing area of the EU to conduct fishing activities.
3. The EU authorities shall inform the Seychelles of the details of the Fisheries Monitoring Centre (FMC) in the EU, hereinafter the 'EU FMC', having the responsibility for the monitoring activities provided for under this Agreement.
4. The Seychelles Fisheries Monitoring Centre (FMC) shall automatically and without delay forward time critical ERS messages (COE, COX, PNO) received from the Seychelles vessel to the EU FMC. Daily catch reports (FAR) would be made available automatically and without delay to the Seychelles FMC.
5. The Seychelles shall ensure that its FMC is equipped with computer hardware and software necessary for the automatic transmission of ERS data in XML format available at [http://ec.europa.eu/cfp/control/codes/index\\_en.htm](http://ec.europa.eu/cfp/control/codes/index_en.htm), and have a safeguard procedure capable of registering and storing the ERS data in a computer readable form for a period of at least 3 years.
6. Any amendment or update of the format referred to in point 5 will be identified and dated and needs to be operational six months after its implementation.
7. The transmission of ERS data shall use electronic means of communication managed by EU authorities, identified as DEH (data exchange highway).
8. The EU and the Seychelles shall each designate one ERS correspondent which shall act as the contact point.
  - (a) The corresponding ERS shall be appointed for a minimum period of six months.
  - (b) The EU FMC and the Seychelles FMC shall communicate to each other the names, address, telephone, telex, e-mail of their corresponding ERS.
  - (c) Any change in the details of that corresponding ERS must be communicated without delay.

## SECTION 2

**Preparation and submission of ERS data**

1. The Seychelles vessel shall:
  - (a) communicate daily the ERS data for each day spent in the EU fishing area;
  - (b) record for each seine haul the quantities of each species caught and retained on board as target species or by-catch, or rejected;
  - (c) declare the discarded or spoiled catch for each species identified in the fishing authorisation issued by the EU;
  - (d) identify each species by its FAO alpha 3 code;
  - (e) express the quantities in kilograms of live weight or, if necessary, the number of individual fish;
  - (f) register in the ERS data, for each species identified in the fishing authorisation issued by the EU, the quantities which are transhipped and/or unloaded;

- (g) register in the ERS data, message when entering (COE) and exit (message COX) the EU fishing area, a specific message containing for each species identified in the fishing authorisation issued by the EU the quantities retained on board at the time of each piece;
  - (h) transmit daily the ERS data to the FMC of the Seychelles, using the format referred to in point 5 of Section 1, at the latest by 23: 59 UTC.
2. The master shall be responsible for the accuracy of the ERS data recorded and sent.
  3. The Seychelles FMC shall send automatically and immediately, the ERS data to the EU FMC.
  4. The EU FMC shall confirm receipt of ERS data by a feedback message and process all the ERS data as confidential.

### SECTION 3

#### ***Failure of the ERS system on board the Seychelles vessel and/or transmission of ERS data between the vessel and the Seychelles FMC***

1. The Seychelles shall immediately inform the master and/or the owner of the Seychelles vessel, or his representative, of any technical failure of the ERS system installed on board the vessel or non-function of the ERS; data shall be transmitted between the vessel and the Seychelles FMC.
2. The Seychelles shall inform the EU authorities of the malfunction and corrective measures taken.
3. In the event of a failure of the ERS system on board the Seychelles vessel, the master and/or the owner shall provide for repair or replacement of the ERS system within 10 days. If the Seychelles vessel is performing a port call in the 10-day-period, it may resume fishing activities in the EU fishing area when the ERS system becomes fully functional again without an authorisation issued by the EU.
4. A Seychelles vessel shall not leave a port, following a technical failure of the ERS unless:
  - (a) the ERS system is fully functional to the satisfaction of the Seychelles and the EU; or
  - (b) the Seychelles vessel has no intention of resuming its fishing activities in the EU waters, and is authorised to leave port by the Seychelles competent authority;

In the latter case, the Seychelles shall inform the EU of its decision before allowing the Seychelles vessel to leave port.

5. Any Seychelles vessel which operates in the EU fishing area with a defective ERS system shall send daily and at the latest by 23: 59 UTC all the ERS data to the Seychelles FMC by any other available electronic means of communication and to the EU until such time as the ERS system is repaired within the timeframe referred to in point 3
6. The ERS data which could not be made available to the EU authorities via the ERS system due to failure referred to in point 1 shall be sent by the Seychelles FMC to the EU FMC by other mutually agreed electronic format. This alternative should be considered as a priority, it being understood that the transmission deadlines normally applicable may not be respected.
7. If the EU FMC does not receive the ERS data of a Seychelles vessel for three consecutive days, the EU may instruct the Seychelles vessel to proceed immediately to a port designated by the EU for investigation.

### SECTION 4

#### ***Failure of FMC — non-receipt of ERS data by the EU FMC***

1. When an FMC of one of the Parties receives no ERS data, it shall without delay inform the FMC of the other Party, and, if necessary, contribute to the resolution of the problem.
2. The Seychelles FMC and the EU FMC shall mutually agree alternative electronic means of communication to be used for the transmission of ERS data in the event of a failure of the FMC, and inform each other immediately of any change.



3. When the EU FMC indicates that ERS data have not been received and the Seychelles FMC identifies the causes of the problem, the Seychelles shall take the appropriate measures to resolve the problem. The Seychelles FMC shall inform the EU FMC of the problem and the outcome and measures taken within 24 hours of the failure being identified.
4. If the problem requires more than 24 hours to resolve, the Seychelles FMC shall immediately send the missing ERS data to the EU FMC using one of the alternative electronic means referred to in point 6 of Section 3.
5. The EU shall inform its competent control services (MCS) of the malfunction so that Seychelles vessels are not suspected of having committed an infringement regarding the non-transmission of ERS data by the FMC of the Seychelles due to the failure of that FMC.

#### SECTION 5

##### ***Maintenance of a FMC***

1. Planned maintenance operations of an FMC (maintenance programme) and which may affect transmission of ERS data should be notified to the other FMC at least 72 hours beforehand, indicating if possible, the date and length of the maintenance. Unforeseen interruptions, breakdowns or maintenance, should be notified as soon as possible to the other FMC.
  2. During maintenance, the provision of ERS data may be put on hold until the system is operational again. The ERS data concerned are then made available immediately after the end of the interruption.
  3. If the maintenance operation takes longer than 24 hours, the ERS data shall be transmitted to the other FMC using one of the alternative electronic means referred to in point 6 of Section 3.
  4. The Seychelles and the EU shall inform its competent control services (MCS) of the maintenance, so that Seychelles vessels are not suspected of having committed an infringement regarding the non-transmission of ERS data due to maintenance of an FMC.
-

## Appendix 4

## COMMUNICATION FORMAT REPORTS

Entry Report (COE) <sup>(1)</sup>

Content	Transmission
Destination	FRA
Action code	COE
Vessel Name	
IRCS	
Position of entry	LT/LG
Date and Time (UTC) of entry	DD/MM/YYYY — HH:MM
Quantity (Mt) of fish on board per specie:	
Yellowfin (YFT)	(Mt)
Bigeye Tuna (BET)	(Mt)
Skipjack (SKJ)	(Mt)
Others (Specify)	(Mt)

Exit Report (COX) <sup>(2)</sup>

Content	Transmission
Destination	FRA
Action code	COX
Vessel Name	
IRCS	
Position of entry	LT/LG
Date and Time (UTC) of exit	DD/MM/YYYY — HH:MM
Quantity (Mt) of fish on board per specie:	
Yellowfin (YFT)	(Mt)
Bigeye Tuna (BET)	(Mt)
Skipjack (SKJ)	(Mt)
Others (Specify)	(Mt)

<sup>(1)</sup> Sent six (6) Hours before entering EU Fishing Areas.<sup>(2)</sup> Sent six (6) Hours before exiting EU Fishing Areas.

Catch Report (CAT) Format once inside EU Fishing Areas <sup>(1)</sup>.

Content	Transmission
Destination	FRA
Action code	CAT
Vessel Name	
IRCS	
Date and Time (UTC) of report	DD/MM/YYYY — HH:MM
Quantity (Mt) of fish on board per specie:	
Yellowfin (YFT)	(Mt)
Bigeye Tuna (BET)	(Mt)
Content	(Mt)
Others (Specify)	(Mt)
Number of sets made since last report	

All reports shall be transmitted to the competent authority through the following contacts:

E-mail: [cnsf-france@developpement-durable.gouv.fr](mailto:cnsf-france@developpement-durable.gouv.fr)

Fax (+ 33) 2 97 55 23 75

Mail address: Avenue Louis Bougo, F-56410 Etel, FRANCE

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<sup>(1)</sup> Every three (3) days after entering EU Fishing Areas.

## Appendix 5

## COMMUNICATION OF VMS MESSAGES

## Position report

Given	Code	Mandatory/ Optional	Comments
Start record	SR	O	System detail — indicates start of record
Consignee	AD	O	Message detail — recipient.Alpha 3 ISO country code
Consignor	FS	O	Message detail — sender.Alpha 3 ISO country code
Type of message	TM	O	Message detail — type of message shall be 'POS'
Radio call sign	CR	O	Vessel detail — international radio call sign of vessel
Internal reference number to the Contracting Party	IR	F	Vessel detail — unique contracting party number (ISO-3 code of flag State followed by number)
External registration number	XR	F	Vessel detail — number marked on side of vessel
Flag State	FS	F	Flag State detail
Latitude	The	O	Vessel position detail — position in degrees and minutes N/S DDMM (WGS -84)
Longitude	Lo	O	Vessel position detail — position in degrees and minutes E/W DDMM (WGS-84)
Date	DA	O	Vessel position detail — date of record of UTC position (YYYYMMDD)
Hour	TI	O	Vessel position detail — time of record of UTC position (HHMM)
End of record	ER	O	System detail — indicates end of record

Character set:ISO 8859.1

Each data transmission is structured as follows:

- A double slash (//) and the code 'SR' indicate the start of the message.
- A double slash (//) and field code indicate the start of a data element.
- A single slash (/) separates the field code and the data.
- Pairs of data are separated by space.
- The code 'er' and a double slash (//) at the end indicate the end of a record.
- Optional data elements have to be inserted between the start and end of the record.

## Appendix 6

## VESSEL MONITORING SYSTEM (VMS)

## General Principles

1. With regards to the Vessel Monitoring System mentioned in the Chapter IV Section 4 of the Annex to this Agreement, all Seychelles vessels fishing, or intending to fish, in EU fishing area as defined in Chapter I point 2(a) of the Annex, hereinafter referred to as fishing area, shall comply with all the following provisions.
2. A Seychelles vessel that is not equipped with an VMS Vessel Locator Device (VLD), or if the VLD installed on board is not functional, is not allowed to enter the EU fishing area to conduct fishing activities.
3. Seychelles vessels' positions and movements shall be monitored, inter alia, by a VMS, without discrimination, in accordance with the provisions set out below.
4. For the purposes of VMS, the EU authorities shall communicate to the EU Fisheries Monitoring Centres (FMCs) the geographical coordinates (Latitudes and Longitudes) of the EU fishing area.
5. The EU authorities will transmit this information in electronic format, expressed in degrees decimal in the WGS-84 datum to the Seychelles competent authorities.
6. The EU authorities and the Seychelles FMC will exchange information on their respective contact coordinates, namely electronic addresses in https format or, where appropriate, other secure communication protocol, and the specifications to be used in their respective FMCs as well as any alternative means of communication to be used in case of failure.
7. All Seychelles vessels holding a fishing authorisation must be equipped with a fully operational Vessel Location Device (VLD) installed on board, to enable automatic and continuous communication of their geographical coordinates, to the Seychelles FMC.
8. The frequency of transmission shall be on an hourly basis.
9. It is agreed that, at the request of either Party, there will be an exchange of information on the VMS equipment used, in order to ensure that the said equipment is fully compatible with the requirements of the other Party for the purposes of these provisions.
10. The Parties agree to review these provisions as and when appropriate, including the relevant analysis of cases of malfunctioning or anomalies related to individual Seychelles vessels. All such cases will have to be notified by the EU authorities to the Seychelles competent authorities and to the European Commission at least 15 days before the review which shall occur in the framework of the Joint Committee.
11. Any dispute concerning the interpretation or the application of these provisions shall be subject to consultation between the Parties within the framework of the Joint Committee provided for in Article 8 of this Agreement.

## Integrity of the VMS

12. The Seychelles vessel Master, or anyone authorised by him, is prohibited from switching off, obstructing its VLD, or interfering in any form with the data transmitted to the Seychelles FMC, when operating in EU fishing area.
13. The master shall be responsible for the accuracy of the VMS data recorded and transmitted.
14. In particular, the Master shall ensure that:
  - (a) data are not altered in any way;
  - (b) the antenna or the antennas connected to the satellite tracking devices are not obstructed in any way;
  - (c) the power supply of the satellite tracking devices is not interrupted in any way;

- (d) the Seychelles vessel tracking device is not removed from the place where the device was first installed;
- (e) any replacement of a Seychelles vessel tracking device is immediately notified to the EU competent authority;

Any breach of the above-mentioned obligations may render the master liable for sanctions as provided under the applicable EU law.

- 15. The VMS hardware and software components shall be, as far as possible, tamper proof i.e. shall not permit the input or output of false positions and must not be capable of being manually overridden.
- 16. The system shall be fully automatic and operational at all times regardless of environmental conditions. It shall be prohibited to destroy, damage, render inoperative or otherwise interfere with the satellite tracking device.
- 17. The position of the vessels will be determined with a margin of error of less than 100 metres and with a confidence interval of 99 %.

#### VMS data transmission

- 18. When a Seychelles vessel fishing under this Agreement enters into the EU fishing area, subsequent position reports shall be automatically communicated by the Seychelles FMC to the EU FMC, in real time, on a frequency set in point 8.
- 19. The VMS messages reported shall be identified by using the following 3 letter codes:
  - (a) 'ENT', first VMS data report transmitted by each vessel upon entering the EU fishing area;
  - (b) 'POS', every VMS data report transmitted by each vessel while within the EU fishing area;
  - (c) 'EXI', first VMS data report transmitted by each vessel after exiting the EU fishing area;
- 20. The frequency of transmission can be changed up to a 30 minutes basis, when strong evidence is provided demonstrating that the Seychelles vessel is perpetrating an infringement.
  - (a) This evidence shall be submitted by the EU FMC to the Seychelles FMC and to the European Commission, along with the request to alter frequency. The Seychelles FMC shall send the data to the EU FMC, automatically, and in real time, immediately after receiving the request.
  - (b) The EU FMC shall notify immediately the Seychelles FMC and the European Commission of the end of the monitoring procedure.
  - (c) The Seychelles FMC and the European Commission shall be informed of the follow up of any inspection procedure based on the special request under this point.
- 21. The messages referred to in point 19 shall be transmitted electronically in https format, or other secure communication protocols, subject to prior agreement between the relevant FMCs.

#### Malfunction of the VMS equipment on board of the Seychelles vessel

- 22. In the event of a technical problem or malfunction of the VLD installed on board the Seychelles vessel, the master of that vessel shall communicate the information specified in point 19, by means of any of the communication forms agreed in point 6, to the Seychelles FMC, starting from the time when the failure or malfunction was informed by the EU competent authority.
- 23. At least one global position report every four hours shall be transmitted while the Seychelles vessel stays in the EU fishing area. That global position report will include the hourly positions as registered by the master of that vessel during those four hours and as described in Appendix 5.
- 24. The Seychelles FMC shall forward these messages to the EU FMC without delay. In case of necessity or doubt, the EU competent authority may request the transmission of that position report every hour from a given Seychelles vessel.
- 25. Defective equipment shall be repaired or replaced as soon as the Seychelles vessel concludes its fishing trip. Any new fishing trip shall not begin until the equipment has been repaired or replaced and duly authorised by the Seychelles competent authority, which will notify the EU authorities of its decision.

FMC failure — Non-receipt of VMS data by the EU FMC

26. When one of the FMCs does not receive VMS data, this FMC shall promptly inform the other FMC contact thereof and, if necessary, work together to solve the problem.
27. The Seychelles FMC and the EU FMC will, before the provisional application of this Agreement, mutually agree alternative electronic means of communication to be used for the transmission of VMS data in case of failure of the FMC, and inform each other without delay of any changes to these means.
28. Whenever the EU FMC reports that the VMS data have not been received, the Seychelles FMC shall identify the causes of the problem and take appropriate measures to ensure that the problem is solved. The Seychelles FMC shall notify the EU FMC of the results and measures taken, within 24 hours from the acknowledgment of the failure.
29. If the resolution of the problem requires more than 24 hours, the Seychelles FMC shall forward the missing VMS data to the EU FMC, using the alternative means of communication referred to in point 27.
30. The EU shall inform its competent Monitoring Control and Surveillance (MCS) services so that Seychelles vessels are not subject to any infringement procedure for the non-reception of VMS data by the EU FMC due to the failure of the FMC systems.

Maintenance of an FMC

31. The scheduled maintenance of an FMC (maintenance program) that is likely to affect the exchange of VMS data, must be notified to the other FMC at least 72 hours in advance, indicating if possible, the date and the duration of the maintenance. Unscheduled maintenance shall be communicated as soon as possible to the other FMC.
  32. During the maintenance, the provision of VMS data can be queued until the system is operational again. Relevant VMS data are then made available immediately after maintenance has been completed.
  33. If maintenance lasts more than 24 hours, the VMS data will be transmitted to the other FMC using the electronic alternative means referred to in point 27.
  34. EU authorities shall inform their competent Monitoring Control and Surveillance (MCS) services so that Seychelles vessels are not subject to any infringement procedure for non VMS data transmission due to maintenance of the FMC.
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# REGULATIONS

## COMMISSION DELEGATED REGULATION (EU) No 604/2014

of 4 March 2014

**supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC <sup>(1)</sup>, and in particular Article 94(2) thereof,

Whereas:

- (1) Directive 2013/36/EU, and in particular Article 74 thereof, requires institutions to have robust governance arrangements and effective processes to identify, manage, monitor and report the risks that they are or might be exposed to. These arrangements and processes are to be comprehensive and proportionate to the nature, scale and complexity of the risks inherent in the business model and the institution's activities. They must take into account, amongst others, the specific risks identified in Articles 79 to 87 of that Directive. The arrangements and processes are evaluated by competent authorities as part of the supervisory review and evaluation process pursuant to Article 97 of that Directive. The risks identified are considered by institutions within the internal capital adequacy assessment process pursuant to Article 73 of that Directive.
- (2) The framework for prudential supervision established by Directive 2013/36/EU requires that all institutions identify all members of staff whose professional activities have a material impact on the institution's risk profile. The criteria that are used to assess the materiality of the influence of the professional activities of staff on the risk profile should take into account the potential impact of staff on the institution's risk profile based on their authority and responsibilities and the institution's risk and performance indicators. The institution's internal organisation and the nature, scope and complexity of its activities should be taken into account in the assessment. The criteria should fully reflect all risks to which the institution or group is or may be exposed. This should also enable institutions to set proper incentives within the remuneration policy to ensure the prudent behaviour of staff and should ensure that the identification of those members of staff whose professional activities have a material impact on the institution's risk profile reflects the level of risk of different activities within the institution.
- (3) In 2012, the European Banking Authority (EBA) published the results of a survey on national implementation and the practical application of the guidelines issued by the Committee of European Banking Supervisors on remuneration policies and practices (the CEBS Guidelines), which contained general criteria for the assessment of the materiality of the influence of staff on the institution's risk profile. The survey showed that the implementation by institutions and competent authorities of the remuneration provisions laid down in Directive 2006/48/EC of the European Parliament and of the Council <sup>(2)</sup> did not result in a sufficient degree of harmonisation. The range of remuneration practices remained inappropriately broad and, in particular, the criteria used to identify staff did not always sufficiently consider the impact of staff's professional activities on the institution's risk profile. Significant discrepancies remained in the approaches taken by different institutions and Member States to identify those staff. These regulatory technical standards should therefore build on the experience gathered in

<sup>(1)</sup> OJ L 176, 27.6.2013, p. 338.

<sup>(2)</sup> Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (OJ L 177, 30.6.2006, p. 1).



applying Directive 2006/48/EC and the CEBS Guidelines and aim to achieve a higher level of harmonisation. EBA will issue new guidelines on sound remuneration policies which comply with the principles set out in Directive 2013/36/EU, pursuant to Article 75(2) of that Directive.

- (4) A set of clear qualitative and appropriate quantitative criteria should be established in order to identify the core categories of staff whose professional activities have a material impact on an institution's risk profile, ensuring a harmonised approach across the Union and covering a common set of the most relevant risks. In accordance with Article 94(2) of Directive 2013/36/EU, all the categories of staff identified by those criteria must be of staff whose professional activities have a material impact on an institution's risk profile. Institutions should also take into account the results of their own risk assessments within their internal procedures. Competent authorities should ensure a complete identification of all staff whose professional activities have a material impact on an institution's risk profile.
- (5) Members of the management body have the ultimate responsibility for the institution, its strategy and activities and therefore are always able to have a material impact on the institution's risk profile. This applies both to the members of the management body in its management function who take decisions and to members of the supervisory function who oversee the decision making process and challenge decisions made.
- (6) The senior management and senior staff responsible for material business units, for management of specific risk categories such as liquidity, operational or interest rate risk, and for control functions within an institution are responsible for the day-to-day management of the business, its risks, or its control functions. This includes the responsibility for making strategic or other fundamental decisions on the business's activities or the control framework applied. The risks taken by the business and the way they are managed are the most important factors for the institution's risk profile.
- (7) In addition to those responsible for creating additional business, functions responsible for providing internal support which are crucial to the operation of the business and have authority to take decisions in those areas expose the institution to material operational and other risks. Therefore the professional activities of staff members in such functions also have a material impact on the institution's risk profile.
- (8) Credit risk and market risk are typically entered into in order to generate business, therefore the impact of the activities generating those risks on the risk profile can be assessed using criteria based on limits of authority which are calculated at least annually on the basis of capital figures and approaches used for regulatory purposes, while applying a *de minimis* threshold for credit risks to ensure the proportionate application of the criteria within small institutions.
- (9) The criteria to identify staff whose professional activities have a material impact on the institution's risk profile should take account of the facts that the requirements relating to the trading book can be waived for some institutions under Regulation (EU) No 575/2013 of the European Parliament and of the Council <sup>(1)</sup> and that limits are set in different ways between institutions using different approaches for the calculation of the capital requirements.
- (10) Considering that the outcome of decisions is often influenced by the staff initiating the decision while the formal decision making power rests with more senior staff or committees, the criteria should take into account the material elements in such decision-making processes.
- (11) Staff in a managerial position are responsible for the business activities in the area under their management. Therefore, appropriate criteria should ensure that members of staff are identified as having a material impact on the institution's risk profile where they are responsible for groups of staff whose activities could have a material impact on the institution's risk profile. This includes situations where the activities of individual staff members under their management do not individually have a material impact on the institution's risk profile but the overall scale of their activities could have such an impact.
- (12) In addition to the qualitative criteria, appropriate quantitative criteria should be established to identify categories of staff whose professional activities have a material impact on the institution's risk profile. Total remuneration awarded depends principally on the contribution that staff make to the successful achievement of the institution's business objectives and therefore on the responsibilities, duties, abilities and skills of staff and the performance of staff and the institution. Where a member of staff is awarded total remuneration which exceeds an appropriate

<sup>(1)</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

threshold, it is reasonable to presume that this is linked to the staff member's contribution to the institution's business objectives and to the impact of the staff member's professional activities on the risk profile of the institution. Accordingly, it is appropriate to base those quantitative criteria on the total remuneration a member of staff receives, both in absolute terms and relative to other members of staff within the same institution. In applying those quantitative criteria, account should, where appropriate, be taken of the fact that payment levels differ across jurisdictions. Clear and appropriate thresholds should be established to identify staff whose professional activities have a material impact on the institution's risk profile, taking into account the data collected by EBA and by competent authorities. These quantitative criteria form a strong presumption that staff have a material impact on the institution's risk profile. However, such presumptions based on quantitative criteria should not apply where institutions establish on the basis of additional objective conditions that staff do not in fact have a material impact on the institution's risk profile, taking into account all risks to which the institution is or may be exposed. The exclusion of the highest earning staff identified under these criteria should be subject to the approval of the competent authority to ensure effective and consistent application of those criteria. For staff awarded more than EUR 1 000 000 (high earners) competent authorities should inform EBA before exclusions are approved to ensure the coherent application of those criteria, in particular in such exceptional circumstances. The identification process, including the application of exclusions, should nevertheless always be subject to supervisory review in accordance with Article 92(2) of Directive 2013/36/EU.

- (13) The fact that staff members are in the same remuneration bracket as senior management or risk takers may also be an indicator that the staff member's professional activities have a material impact on the institution's risk profile. When establishing the bracket, the remuneration paid to staff in control functions, support functions and members of the management body in the supervisory function should not be taken into account. In the application of this criterion, account should also be taken of the fact that payment levels differ across jurisdictions. Institutions should be allowed to demonstrate that staff who fall within that remuneration bracket, but do not meet any of the qualitative or other quantitative criteria, do not have a material impact on the institution's risk profile, taking into account all risks to which the institution is or may be exposed. The exclusion of staff with a high level of total remuneration from this criterion should be subject to a notification procedure to allow for a timely supervisory review, in order to ensure consistent application of this criterion.
- (14) Competent authorities should ensure that institutions maintain a record of the assessment made and of the staff whose professional activities have been identified as having a material impact on their risk profile to enable the competent authority and auditors to review the assessment. The documentation should also include staff who have been identified under criteria based on their remuneration but for whom the professional activities are assessed as not having a material impact on the institution's risk profile.
- (15) This Regulation is based on the draft regulatory technical standards submitted by EBA to the Commission.
- (16) EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council <sup>(1)</sup>,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

#### **Subject matter and scope**

This Regulation establishes regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile, as referred to in Article 92(2) of Directive 2013/36/EU, at group, parent company and subsidiary levels, including institutions established in offshore financial centres.

<sup>(1)</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

*Article 2***Application of the criteria**

Without prejudice to the obligation imposed on the competent authority to ensure that institutions comply with the principles set out in Articles 92, 93 and 94 of Directive 2013/36/EU for all categories of staff whose professional activities have a material impact on an institution's risk profile pursuant to Article 92(2) of that Directive, staff who meet any of the qualitative criteria set out in Article 3 of this Regulation or any of the quantitative criteria in Article 4 of this Regulation shall be identified as having a material impact on an institution's risk profile.

*Article 3***Qualitative criteria**

Staff shall be deemed to have a material impact on an institution's risk profile where any of the following qualitative criteria are met:

- (1) the staff member is a member of the management body in its management function;
- (2) the staff member is a member of the management body in its supervisory function;
- (3) the staff member is a member of the senior management;
- (4) the staff member is responsible and accountable to the management body for the activities of the independent risk management function, compliance function or internal audit function;
- (5) the staff member has overall responsibility for risk management within a business unit as defined in Article 142(1)(3) of Regulation (EU) No 575/2013 which has had internal capital distributed to it in accordance with Article 73 of Directive 2013/36/EU that represents at least 2 % of the internal capital of the institution (a 'material business unit');
- (6) the staff member heads a material business unit;
- (7) the staff member has managerial responsibility in one of the functions referred to in point (4) or in a material business unit and reports directly to a staff member identified pursuant to point (4) or (5);
- (8) the staff member has managerial responsibility in a material business unit and reports directly to the staff member who heads that unit;
- (9) the staff member heads a function responsible for legal affairs, finance including taxation and budgeting, human resources, remuneration policy, information technology, or economic analysis;
- (10) the staff member is responsible for, or is a member of, a committee responsible for the management of a risk category provided for in Articles 79 to 87 of Directive 2013/36/EU other than credit risk and market risk;
- (11) with regard to credit risk exposures of a nominal amount per transaction which represents 0.5 % of the institution's Common Equity Tier 1 capital and is at least EUR 5 million, the staff member:
  - (a) is responsible for initiating credit proposals, or structuring credit products, which can result in such credit risk exposures; or
  - (b) has authority to take, approve or veto a decision on such credit risk exposures; or
  - (c) is a member of a committee which has authority to take the decisions referred to in point (a) or (b);

- (12) in relation to an institution to which the derogation for small trading book business provided for in Article 94 of Regulation (EU) No 575/2013 does not apply, the staff member:
- (a) has authority to take, approve or veto a decision on transactions on the trading book which in aggregate meet one of the following thresholds:
    - (i) where the standardised approach is used, an own funds requirement for market risks which represents 0.5 % or more of the institution's Common Equity Tier 1 capital; or
    - (ii) where an internal model-based approach is approved for regulatory purposes, 5 % or more of the institution's internal value-at-risk limit for trading book exposures at a 99th percentile (one-tailed confidence interval); or
  - (b) is a member of a committee which has authority to take decisions set out in point (a);
- (13) the staff member has managerial responsibility for a group of staff members who have individual authorities to commit the institution to transactions and either of the following conditions is met:
- (a) the sum of those authorities equals or exceeds a threshold set out in point 11(a), point 11(b) or point 12(a)(i);
  - (b) where an internal model-based approach is approved for regulatory purposes those authorities amount to 5 % or more of the institution's internal value-at-risk limit for trading book exposures at a 99th percentile (one-tailed confidence interval). Where the institution does not calculate a value-at-risk at the level of that staff member the value-at-risk limits of staff under the management of this staff member shall be added up;
- (14) with regard to decisions to approve or veto the introduction of new products, the staff member:
- (a) has the authority to take such decisions; or
  - (b) is a member of a committee which has authority to take such decisions;
- (15) the staff member has managerial responsibility for a staff member who meets one of the criteria set out in points (1) to (14).

#### Article 4

#### Quantitative criteria

1. Subject to paragraphs 2 to 5, staff shall be deemed to have a material impact on an institution's risk profile where any of the following quantitative criteria are met:
- (a) the staff member has been awarded total remuneration of EUR 500 000 or more in the preceding financial year;
  - (b) the staff member is within the 0.3 % of the number of staff, rounded up to the next integer, who have been awarded the highest total remuneration in the preceding financial year;
  - (c) the staff member was in the preceding financial year awarded total remuneration that is equal to or greater than the lowest total remuneration awarded in that financial year to a member of senior management or meets any of the criteria in points (1), (3), (5), (6), (8), (11), (12), (13) or (14) of Article 3.
2. A criterion set out in paragraph 1 shall not be deemed to be met where the institution determines that the professional activities of the staff member do not have a material impact on the institution's risk profile because the staff member, or the category of staff to which the staff member belongs:
- (a) only carries out professional activities and has authorities in a business unit which is not a material business unit; or
  - (b) has no material impact on the risk profile of a material business unit through the professional activities carried out.
3. The condition set out in point (b) of paragraph 2 shall be assessed on the basis of objective criteria which take into account all relevant risk and performance indicators used by the institution to identify, manage and monitor risks in accordance with Article 74 of Directive 2013/36/EU and on the basis of the duties and authorities of the staff member or category of staff and their impact on the institution's risk profile when compared with the impact of the professional activities of staff members identified by the criteria set out in Article 3 of this Regulation.

4. An institution shall notify the competent authority responsible for its prudential supervision of the application of paragraph 2 in relation to the criterion in point (a) of paragraph 1. The notification shall set out the basis on which the institution has determined that the staff member concerned, or the category of staff to which the staff member belongs, meets one of the conditions laid down in paragraph 2 and shall, if applicable, include the assessment carried out by the institution pursuant to paragraph 3.

5. The application of paragraph 2 by an institution in respect of a staff member who was awarded total remuneration of EUR 750 000 or more in the preceding financial year, or in relation to the criterion in point (b) of paragraph 1, shall be subject to the prior approval of the competent authority responsible for prudential supervision of that institution.

The competent authority shall only give its prior approval where the institution can demonstrate that one of the conditions set out in paragraph 2 is satisfied, having regard, in respect of the condition in point (b) of paragraph 2, to the assessment criteria set out in paragraph 3.

Where the staff member was awarded total remuneration of EUR 1 000 000 or more in the preceding financial year the competent authority shall only give its prior approval in exceptional circumstances. In order to ensure the consistent application of this Article the competent authority shall inform the European Banking Authority before giving its approval in respect of such a staff member.

#### Article 5

##### Calculation of remuneration awarded

1. For the purposes of this Regulation, remuneration which has been awarded but has not yet been paid shall be valued as at the date of the award without taking into account the application of the discount rate referred to in Article 94(1)(g)(iii) of Directive 2013/36/EU or reductions in payouts, whether through clawback, malus, or otherwise. All amounts shall be calculated gross and on a full-time equivalent basis.

2. For the purpose of the application of points (b) and (c) of Article 4(1), the remuneration awarded may be considered separately for each Member State and third country where the institution has an establishment and staff shall be assigned to the country where they carry on the predominant part of their activities.

#### Article 6

##### 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, 4 March 2014.

*For the Commission*  
*The President*  
José Manuel BARROSO

**COMMISSION REGULATION (EU) No 605/2014****of 5 June 2014****amending, for the purposes of introducing hazard and precautionary statements in the Croatian language and its adaptation to technical and scientific progress, Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to the Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union and the Treaty establishing the European Atomic Energy Community <sup>(1)</sup>, and in particular Article 50 thereof,Having regard to Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 <sup>(2)</sup>, and in particular Article 37(5) thereof,

Whereas:

- (1) Commission Regulation (EU) No 487/2013 <sup>(3)</sup> amends some of the language tables for hazard statements included in Annex III to Regulation (EC) No 1272/2008 and some of the language tables for precautionary statements included in Annex IV to that Regulation. With the accession of Croatia to the European Union on 1 July 2013, it is necessary that all hazard and precautionary statements provided for by Regulation (EC) No 1272/2008 as amended by Commission Regulation (EU) No 487/2013 are available in the Croatian language as well. This Regulation introduces the necessary adjustments to the language tables.
- (2) Part 3 of Annex VI to Regulation (EC) No 1272/2008 contains two lists of harmonised classification and labelling of hazardous substances. Table 3.1 lists the harmonised classification and labelling of hazardous substances based on the criteria set out in Parts 2 to 5 of Annex I to Regulation (EC) No 1272/2008. Table 3.2 lists the harmonised classification and labelling of hazardous substances based on the criteria set out in Annex VI to Council Directive 67/548/EEC <sup>(4)</sup>.
- (3) Proposals for new or updated harmonised classification and labelling of certain substances have been submitted to the European Chemicals Agency (ECHA) pursuant to Article 37 of Regulation (EC) No 1272/2008. Based on the opinions on those proposals issued by the Committee for Risk Assessment of ECHA, as well as on the comments received from the parties concerned, it is appropriate to introduce, remove or update harmonised classification and labelling of certain substances by amending Annex VI to that Regulation.
- (4) Compliance with the new harmonised classifications should not be required immediately, as a certain period of time will be necessary to allow suppliers to adapt the labelling and packaging of substances and mixtures to the new classifications and to sell existing stocks. In addition, a certain period of time will be necessary to allow suppliers to comply with the registration obligations resulting from the new harmonised classifications for substances classified as carcinogenic, mutagenic or toxic to reproduction, categories 1A and 1B (Table 3.1) and categories 1 and 2 (Table 3.2), or as very toxic to aquatic organisms which may cause long term effects in the aquatic environment, in particular with those set out in Article 23 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council <sup>(5)</sup>.

<sup>(1)</sup> OJ L 112, 24.4.2012, p. 21.<sup>(2)</sup> OJ L 353, 31.12.2008, p. 1.<sup>(3)</sup> Commission Regulation (EU) No 487/2013 of 8 May 2013 amending, for the purposes of its adaptation to technical and scientific progress, Regulation (EC) No 1272/2008 of the European Parliament and the Council on classification, labelling and packaging of substances and mixtures (OJ L 149, 1.6.2013, p. 1).<sup>(4)</sup> Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ L 196, 16.8.1967, p. 1).<sup>(5)</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

- (5) In line with the transitional provisions of Regulation (EC) No 1272/2008 which allow the application of the new provisions at an earlier stage on a voluntary basis, suppliers should have the possibility of applying the new harmonised classifications and of adapting the labelling and packaging accordingly on a voluntary basis before the deadline for compliance.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee established under Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Regulation (EC) No 1272/2008 is amended as follows:

- (1) Annex III is amended in accordance with Annex I to this Regulation;
- (2) Annex IV is amended in accordance with Annex II to this Regulation;
- (3) Annex VI is amended in accordance with Annex III to this Regulation.

#### *Article 2*

1. By way of derogation from Article 3(2), substances and mixtures may, before 1 December 2014 and 1 June 2015 respectively, be classified, labelled and packaged in accordance with this Regulation.
2. By way of derogation from Article 3(2), substances classified, labelled and packaged in accordance with Regulation (EC) No 1272/2008 and placed on the market before 1 December 2014, shall not be required to be relabelled and repackaged in accordance with this Regulation until 1 December 2016.
3. By way of derogation from Article 3(2), mixtures classified, labelled and packaged in accordance with Directive 1999/45/EC of the European Parliament and of the Council <sup>(1)</sup> or Regulation (EC) No 1272/2008 and placed on the market before 1 June 2015, shall not be required to be relabelled and repackaged in accordance with this Regulation until 1 June 2017.
4. By way of derogation from Article 3(3), the harmonised classifications set out in Annex III to this Regulation may be applied before the date referred to in Article 3(3).

#### *Article 3*

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. Article 1(1) and (2) shall apply in respect of substances from 1 December 2014 and in respect of mixtures from 1 June 2015.
3. Article 1(3) shall apply from 1 April 2015.

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

Done at Brussels, 5 June 2014.

*For the Commission*

*The President*

José Manuel BARROSO

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<sup>(1)</sup> Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations (OJ L 200, 30.7.1999, p. 1).

## ANNEX I

In Part 1 of Annex III, Table 1.1 is amended as follows:

- (1) in code H229, the following is inserted after the entry corresponding to GA:

	'HR	Spremnik pod tlakom; može se rasprsnuti ako se grije.'
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- (2) in code H230, the following is inserted after the entry corresponding to GA:

	'HR	Može eksplozivno reagirati i bez prisustva zraka.'
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- (3) in code H231, the following is inserted after the entry corresponding to GA:

	'HR	Može eksplozivno reagirati i bez prisustva zraka na povišenom tlaku i/ili temperaturi.'
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## ANNEX II

Part 2 to Annex IV is amended as follows:

(1) Table 1.2 is amended as follows:

(a) in code P210, the following is inserted after the entry corresponding to GA:

	'HR	Čuvati odvojeno od topline, vrućih površina, iskri, otvorenih plamena i ostalih izvora paljenja. Ne pušiti.'
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(b) in code P223: The following is inserted after the entry corresponding to GA:

	'HR	Spriječiti dodir s vodom.'
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(c) in code P244, the following is inserted after the entry corresponding to GA:

	'HR	Spriječiti dodir ventila i spojnice s uljem i masti.'
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(d) in code P251, the following is inserted after the entry corresponding to GA:

	'HR	Ne bušiti, niti paliti čak niti nakon uporabe.'
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(e) in code P284, the following is inserted after the entry corresponding to GA:

	'HR	[U slučaju nedovoljne ventilacije] nositi sredstva za zaštitu dišnog sustava.'
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(2) Table 1.3 is amended as follows:

(a) in code P310, the following is inserted after the entry corresponding to GA:

	'HR	Odmah nazvati CENTAR ZA KONTROLU OTROVANJA/liječnika/...'
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(b) in code P 311, the following is inserted after the entry corresponding to GA:

	'HR	Nazvati CENTAR ZA KONTROLU OTROVANJA/liječnika/...'
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(c) in code P312: The following is inserted after the entry corresponding to GA:

	'HR	U slučaju zdravstvenih tegoba nazvati CENTAR ZA KONTROLU OTROVANJA/liječnika/...'
--	-----	---

(d) in code P340, the following is inserted after the entry corresponding to GA:

	'HR	Premjestiti osobu na svjež zrak i postaviti ju u položaj koji olakšava disanje.'
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(e) in code P352, the following is inserted after the entry corresponding to GA:

	'HR	Oprati velikom količinom vode/...'
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- (f) in code P361, the following is inserted after the entry corresponding to GA:

	'HR	Odmah skinuti svu zagađenu odjeću.'
--	-----	-------------------------------------

- (g) in code P362, the following is inserted after the entry corresponding to GA:

	'HR	Skinuti zagađenu odjeću.'
--	-----	---------------------------

- (h) in code P364, the following is inserted after the entry corresponding to GA:

	'HR	I oprati je prije ponovne uporabe.'
--	-----	-------------------------------------

- (i) in code P378, the following is inserted after the entry GA:

	'HR	Za gašenje rabiti ...'
--	-----	------------------------

- (j) in combined codes P301 + P310, the following is inserted after the entry corresponding to GA:

	'HR	AKO SE PROGUTA: odmah nazvati CENTAR ZA KONTROLU OTROVANJA/liječnika/...'
--	-----	---

- (k) in combined codes P301 + P312, the following is inserted after the entry corresponding to GA:

	'HR	AKO SE PROGUTA: u slučaju zdravstvenih tegoba nazvati CENTAR ZA KONTROLU OTROVANJA/liječnika/...'
--	-----	---

- (l) in combined codes P302 + P352, the following is inserted after the entry corresponding to GA:

	'HR	U SLUČAJU DODIRA S KOŽOM: oprati velikom količinom vode/...'
--	-----	--

- (m) in combined codes P303 + P361+P353, the following is inserted after the entry corresponding to GA:

	'HR	U SLUČAJU DODIRA S KOŽOM (ili kosom): odmah skinuti svu zagađenu odjeću. Isprati kožu vodom/tuširanjem.'
--	-----	--

- (n) in combined codes P304 + P340, the following is inserted after the entry corresponding to GA:

	'HR	AKO SE UDIŠE: premjestiti osobu na svježi zrak i postaviti ju u položaj koji olakšava disanje.'
--	-----	---

- (o) in combined codes P308 + P311, the following is inserted after the entry corresponding to GA:

	'HR	U SLUČAJU izloženosti ili sumnje na izloženost: nazvati CENTAR ZA KONTROLU OTROVANJA/liječnika/...'
--	-----	---

- (p) in combined codes P342 + P311, the following is inserted after the entry corresponding to GA:

	'HR	Pri otežanom disanju: nazvati CENTAR ZA KONTROLU OTROVANJA/liječnika/...'
--	-----	---

- (q) in combined codes P361 + P364, the following is inserted after the entry corresponding to GA:

	'HR	Odmah skinuti svu zagađenu odjeću i oprati je prije ponovne uporabe.'
--	-----	---

- (r) in combined codes P362 + P364, the following is inserted after the entry corresponding to GA:

	'HR	Skinuti zagađenu odjeću i oprati je prije ponovne uporabe.'
--	-----	---

- (s) in combined codes P370 + P378, the following is inserted after the entry corresponding to GA:

	'HR	U slučaju požara: za gašenje rabiti ...'
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Part 3 of Annex VI is amended as follows:

(1) Table 3.1 is amended as follows:

(a) the entry corresponding to index number 015-188-00-X is deleted;

(b) the entries corresponding to index numbers 006-086-00-6, 015-154-00-4, 015-192-00-1, 601-023-00-4, 601-026-00-0, 603-061-00-7, 605-001-00-5, 605-008-00-3 and 616-035-00-5 are replaced by the following corresponding entries:

006-086-00-6	fenoxycarb (ISO); ethyl [2-(4-phenoxyphenoxy) ethyl]carbamate	276-696-7	72490-01-8	Carc. 2 Aquatic Acute 1 Aquatic Chronic 1	H351 H400 H410	GHS08 GHS09 Wng	H351 H410		M = 1 M = 10 000	
015-154-00-4	ethephon; 2-chlor-oethylphosphonic acid	240-718-3	16672-87-0	Acute Tox. 3 Acute Tox. 4 Acute Tox. 4 Skin Corr. 1C Aquatic Chronic 2	H311 H332 H302 H314 H411	GHS06 GHS05 GHS09 Dgr	H311 H332 H302 H314 H411	EUH071		
015-192-00-1	tetrakis(2,6-dimethyl-phenyl)- <i>m</i> -phenylene biphosphate	432-770-2	139189-30-3	Skin Sens. 1	H317	GHS07 Wng	H317			
601-023-00-4	ethylbenzene	202-849-4	100-41-4	Flam. Liq. 2 Acute Tox. 4* STOT RE 2 Asp. Tox. 1	H225 H332 H373 (hearing organs) H304	GHS02 GHS07 GHS08 Dgr	H225 H332 H373 (hearing organs) H304			
601-026-00-0	styrene	202-851-5	100-42-5	Flam. Liq. 3 Repr. 2 Acute Tox. 4* STOT RE 1 Skin Irrit. 2 Eye Irrit. 2	H226 H361d H332 H372 (hearing organs) H315 H319	GHS02 GHS08 GHS07 Dgr	H226 H361d H332 H372 (hearing organs) H315 H319		*	D

603-061-00-7	tetrahydro-2-furyl-methanol; tetrahydrofurfuryl alcohol	202-625-6	97-99-4	Repr. 1B Eye Irrit. 2	H360Df H319	GHS08 GHS07 Dgr	H360Df H319			
605-001-00-5	formaldehyde ...%	200-001-8	50-00-0	Carc. 1B Muta. 2 Acute Tox. 3* Acute Tox. 3* Acute Tox. 3* Skin Corr. 1B Skin Sens. 1	H350 H341 H301 H311 H331 H314 H317	GHS08 GHS06 GHS05 Dgr	H350 H341 H301 H311 H331 H314 H317		* Skin Corr. 1B; H314: C ≥ 25 % Skin Irrit. 2; H315: 5 % ≤ C < 25 % Eye Irrit. 2; H319: 5 % ≤ C < 25 % STOT SE 3; H335: C ≥ 5 % Skin Sens. 1; H317: C ≥ 0,2 %	B, D
605-008-00-3	acrolein; prop-2-enal; acrylaldehyde	203-453-4	107-02-8	Flam. Liq. 2 Acute Tox. 1 Acute Tox. 2 Acute Tox. 3 Skin Corr. 1B Aquatic Acute 1 Aquatic Chronic 1	H225 H330 H300 H311 H314 H400 H410	GHS02 GHS06 GHS05 GHS09 Dgr	H225 H330 H300 H311 H314 H410	EUH071	Skin Corr. 1B; H314: C ≥ 0,1 % M = 100 M = 1	D
616-035-00-5	cymoxanil (ISO); 2-cyano-N-[(ethylamino)carbonyl]-2-(methoxyimino)acetamide	261-043-0	57966-95-7	Repr. 2 Acute Tox. 4 STOT RE 2 Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H361fd H302 H373 (blood, thymus) H317 H400 H410	GHS08 GHS07 GHS09 Wng	H361fd H302 H373 (blood, thymus) H317 H410		M = 1 M = 1'	

(c) the following entries are inserted in accordance with the order of the entries set out in Table 3.1:

050-028-00-2	2-ethylhexyl 10-ethyl-4,4-dimethyl-7-oxo-8-oxa-3,5-dithia-4-stanna-tetradecanoate	260-829-0	57583-35-4	Repr. 2 Acute Tox. 4 STOT RE 1 Skin Sens. 1A	H361d H302 H372 (nervous system, immune system) H317	GHS08 GHS07 Dgr	H361d H302 H372 (nervous system, immune system) H317			
050-029-00-8	dimethyltin dichloride	212-039-2	753-73-1	Repr. 2 Acute Tox. 2 Acute Tox. 3 Acute Tox. 3 STOT RE 1 Skin Corr. 1B	H361d H330 H301 H311 H372 (nervous system, immune system) H314	GHS08 GHS06 GHS05 Dgr	H361d H330 H301 H311 H372 (nervous system, immune system) H314	EUH071		
601-088-00-9	4-vinylcyclohexene	202-848-9	100-40-3	Carc. 2	H351	GHS08 Wng	H351			
601-089-00-4	muscalure; cis-tricos-9-ene	248-505-7	27519-02-4	Skin Sens. 1B	H317	GHS07 Wng	H317			
604-090-00-8	4-tert-butylphenol	202-679-0	98-54-4	Repr. 2 Skin Irrit. 2 Eye Dam. 1	H361f H315 H318	GHS08 GHS05 Dgr	H361f H315 H318			
604-091-00-3	etofenprox (ISO); 2-(4-ethoxyphenyl)-2-methyl-propyl 3-phenoxybenzyl ether	407-980-2	80844-07-1	Lact. Aquatic Acute 1 Aquatic Chronic 1	H362 H400 H410	GHS09 Wng	H362 H410		M = 100 M = 1 000	

606-146-00-7	tralkoxydim (ISO); 2-(N-ethoxypropanimidoyl)-3-hydroxy-5-mesitylcyclohex-2-en-1-one	-	87820-88-0	Carc. 2 Acute Tox. 4 Aquatic Chronic 2	H351 H302 H411	GHS08 GHS07 GHS09 Wng	H351 H302 H411			
606-147-00-2	cycloxydim (ISO); 2-(N-ethoxybutanimidoyl)-3-hydroxy-5-(tetrahydro-2H-thiopyran-3-yl)cyclohex-2-en-1-one	405-230-9	101205-02-1	Repr. 2	H361d	GHS08 Wng	H361d			
607-705-00-8	benzoic acid	200-618-2	65-85-0	STOT RE 1 Skin Irrit. 2 Eye Dam. 1	H372 (lungs) (inhalation) H315 H318	GHS08 GHS05 Dgr	H372 (lungs) (inhalation) H315 H318			
607-706-00-3	methyl 2,5-dichlorobenzoate	220-815-7	2905-69-3	Acute Tox. 4 STOT SE 3 Aquatic Chronic 2	H302 H336 H411	GHS07 GHS09 Wng	H302 H336 H411			
612-287-00-5	fluazinam (ISO); 3-chloro-N-[3-chloro-2,6-dinitro-4-(trifluoromethyl)phenyl]-5-(trifluoromethyl)pyridin-2-amine	-	79622-59-6	Repr. 2 Acute Tox. 4 Eye Dam. 1 Skin Sens. 1A Aquatic Acute 1 Aquatic Chronic 1	H361d H332 H318 H317 H400 H410	GHS08 GHS07 GHS05 GHS09 Dgr	H361d H332 H318 H317 H410		M = 10 M = 10	
613-317-00-X	penconazole (ISO); 1-[2-(2,4-dichlorophenyl)pentyl]-1H-1,2,4-triazole	266-275-6	66246-88-6	Repr. 2 Acute Tox. 4 Aquatic Acute 1 Aquatic Chronic 1	H361d H302 H400 H410	GHS08 GHS07 GHS09 Wng	H361d H302 H410		M = 1 M = 1	

613-318-00-5	fenpyrazamine (ISO); S-allyl 5-amino-2-isopropyl-4-(2-methylphenyl)-3-oxo-2,3-dihydro-1H-pyrazole-1-carbothioate	-	473798-59-3	Aquatic Chronic 2	H411	GHS09	H411			
616-212-00-7	3-iodo-2-propynyl butylcarbamate; 3-iodo-prop-2-yn-1-yl butylcarbamate	259-627-5	55406-53-6	Acute Tox. 3 Acute Tox. 4 STOT RE 1 Eye Dam. 1 Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H331 H302 H372 (larynx) H318 H317 H400 H410	GHS06 GHS08 GHS05 GHS09 Dgr	H331 H302 H372 (larynx) H318 H317 H410		M = 10 M = 1'	

(2) Table 3.2 is amended as follows:

- (a) the entry corresponding to index number 015-188-00-X is deleted;
- (b) the entries corresponding to index numbers 006-086-00-6, 015-154-00-4, 015-192-00-1, 601-023-00-4, 601-026-00-0, 603-061-00-7, 605-001-00-5 and 616-035-00-5 are replaced by the following corresponding entries:

006-086-00-6	fenoxycarb (ISO);ethyl [2-(4-phenoxyphenoxy)ethyl] carbamate	276-696-7	72490-01-8	Carc. Cat. 3; R40 N; R50-53	Xn; N R: 40-50/53 S: (2-)22-36/37-60-61	N; R50-53: $C \geq 25 \%$ N; R51-53: $2,5 \% \leq C < 25 \%$ R52-53: $0,25 \% \leq C < 2,5 \%$	
015-154-00-4	ethephon; 2-chloroethyl-phosphonic acid	240-718-3	16672-87-0	C; R34 Xn; R20/21/22 N; R51-53	C; N R: 20/21/22-34-51/53 S: (1/2-)26-36/37/39-45-61	Xi; R37: $5 \% \leq C < 10 \%$	
015-192-00-1	tetrakis(2,6-dimethylphenyl)- <i>m</i> -phenylene biphosphate	432-770-2	139189-30-3	R43	Xi R: 43 S: (2-)24-37		
601-023-00-4	ethylbenzene	202-849-4	100-41-4	F; R11 Xn; R20-48/20-65	F; Xn R: 11-20-48/20-65 S: (2-)16-24/25-29-62		



601-026-00-0	styrene	202-851-5	100-42-5	Repr. Cat. 3; R63 Xn; R20-48/20 Xi; R36/38 R10	Xn R: 10-20-36/38-48/20-63 S: (2-)23-36/37-46	Xn; R20: C ≥ 12,5 % Xi; R36/38: C ≥ 12,5 %	D
603-061-00-7	tetrahydro-2-furylmethanol; tetrahydrofurfuryl alcohol	202-625-6	97-99-4	Repr. Cat. 2; R61 Repr. Cat. 3; R62 Xi; R36	T R: 36-61-62 S: 45-53	Xi; R36: C ≥ 10 %	
605-001-00-5	formaldehyde ...%	200-001-8	50-00-0	Carc. Cat. 2; R45 Muta. Cat. 3; R68 T; R23/24/25 C; R34 R43	T R: 23/24/25-34-43-45-68 S: 45-53	T; R23/24/25: C ≥ 25 % Xn; R20/21/22: 5 % ≤ C < 25 % C; R34: C ≥ 25 % Xi; R36/37/38: 5 % ≤ C < 25 % R43: C ≥ 0,2 %	B, D
616-035-00-5	cymoxanil (ISO); 2-cyano-N-[(ethylamino) carbonyl]-2-(methoxyi- mino)acetamide	261-043-0	57966-95-7	Repr. Cat. 3; R62-63 Xn; R22-48/22 R43 N; R50-53	Xn; N R: 22-43-48/22-62-63-50/53 S: (2-)36/37-46-60-61	N; R50-53: C ≥ 25 % N; R51-53: 2,5 % ≤ C < 25 % R52-53: 0,25 % ≤ C < 2,5 %	

(c) the following entries are inserted in accordance with the order of the entries set out in Table 3.2:

050-028-00-2	2-ethylhexyl 10-ethyl-4,4- dimethyl-7-oxo-8-oxa-3,5- dithia-4-stannatetradecanoate	260-829-0	57583-35-4	Repr. Cat. 3; R63 T; R48/25 Xn; R22 R43	T R: 22-43-48/25-63 S: (1/2-)36/37-45		
050-029-00-8	dimethyltin dichloride	212-039-2	753-73-1	Repr. Cat. 3; R63 T+; R26 T; R24/25-48/25 C; R34	T+ R: 24/25-26-34-48/25-63 S: (1/2-)26-28-36/37/39-45-63		

601-088-00-9	4-vinylcyclohexene	202-848-9	100-40-3	Carc. Cat. 3; R40	Xn R: 40 S: (2-)36/37		
601-089-00-4	muscalure; cis-tricos-9-ene	248-505-7	27519-02-4	R43	Xi R: 43 S: (2-)24-37		
604-090-00-8	4-tert-butylphenol	202-679-0	98-54-4	Repr. Cat. 3; R62 Xi; R38-41	Xn R: 38-41-62 S: (2-)26-36/37/39-46		
604-091-00-3	etofenprox (ISO); 2-(4-ethoxyphenyl)-2-methylpropyl 3-phenoxybenzyl ether	407-980-2	80844-07-1	R64 N; R50-53	N R: 50/53-64 S: 60-61	N; R50-53: C $\geq$ 0,25 % N; R51-53: 0,025 % $\leq$ C < 0,25 % R52-53: 0,0025 % $\leq$ C < 0,025 %	
606-146-00-7	tralkoxydim (ISO); 2-(N-ethoxypropanimidoyl)-3-hydroxy-5-mesitylcyclohex-2-en-1-one	—	87820-88-0	Carc. Cat. 3; R40 Xn; R22 N; R51-53	Xn; N R: 22-40-51/53 S: (2-)36/37-60-61		
606-147-00-2	cycloxydim (ISO); 2-(N-ethoxybutanimidoyl)-3-hydroxy-5-(tetrahydro-2H-thiopyran-3-yl)cyclohex-2-en-1-one	405-230-9	101205-02-1	F; R11 Repr. Cat. 3; R63	F; Xn R: 11-63 S: (2-)16-36/37-46		
607-705-00-8	benzoic acid	200-618-2	65-85-0	T; R48/23 Xi; R38-41	T R: 38-41-48/23 S: (1/2-)26-39-45-63		
607-706-00-3	methyl 2,5-dichlorobenzoate	220-815-7	2905-69-3	Xn; R22 N; R51-53	Xn; N R: 22-51/53 S: (2-) 46-61		

612-287-00-5	fluazinam (ISO); 3-chloro-N-[3-chloro-2,6-dinitro-4-(trifluoromethyl)phenyl]-5-(trifluoromethyl)pyridin-2-amine	-	79622-59-6	Repr. Cat. 3; R63 Xn; R20 Xi; R41 R43 N; R50-53	Xn; N R: 20-41-43-50/53-63 S: (2-)26-36/37/39-46-60-61	N; R50-53: $C \geq 2,5 \%$ N; R51-53: $0,25 \% \leq C < 2,5 \%$ R52-53: $0,025 \% \leq C < 0,25 \%$	
613-317-00-X	penconazole (ISO); 1-[2-(2,4-dichlorophenyl)pentyl]-1H-1,2,4-triazole	266-275-6	66246-88-6	Repr. Cat. 3; R63 Xn; R22 N; R50-53	Xn; N R: 22-50/53-63 S: (2-) 36/37-46-60-61	N; R50-53: $C \geq 25 \%$ N; R51-53: $2,5 \% \leq C < 25 \%$ R52-53: $0,25 \% \leq C < 2,5 \%$	
613-318-00-5	fenpyrazamine (ISO); S-allyl 5-amino-2-isopropyl-4-(2-methylphenyl)-3-oxo-2,3-dihydro-1H-pyrazole-1-carbothioate	-	473798-59-3	N; R51-53	N R: 51/53 S: 60-61		
616-212-00-7	3-iodo-2-propynyl butylcarbamate; 3-iodoprop-2-yn-1-yl butylcarbamate	259-627-5	55406-53-6	T; R23-48/23 Xn; R22 Xi; R41 R43 N; R50	T; N R: 22-23-41-43-48/23-50 S: (1/2-)24-26-37/39-45-63	N; R50: $C \geq 2,5 \%$	

**COMMISSION IMPLEMENTING REGULATION (EU) No 606/2014****of 5 June 2014****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,

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

Whereas:

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

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

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

Done at Brussels, 5 June 2014.

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

Jerzy PLEWA  
*Director-General for Agriculture and Rural Development*

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<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 157, 15.6.2011, p. 1.

## ANNEX

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

(EUR/100 kg)		
CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	AL	46,1
	MK	77,0
	TR	76,3
	ZZ	66,5
0707 00 05	MK	30,7
	TR	106,1
	ZZ	68,4
0709 93 10	TR	113,3
	ZZ	113,3
0805 50 10	AR	120,1
	TR	118,2
	ZA	132,6
	ZZ	123,6
0808 10 80	AR	105,4
	BR	86,4
	CL	101,0
	CN	98,8
	NZ	141,9
	US	173,1
	UY	158,2
	ZA	94,2
	ZZ	119,9
	TR	257,1
0809 10 00	ZZ	257,1
	TR	379,1
0809 29 00	TR	379,1
	ZZ	379,1

<sup>(1)</sup> Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

# DECISIONS

## COMMISSION IMPLEMENTING DECISION

of 4 June 2014

**amending the Annexes to Decisions 92/260/EEC, 93/197/EEC and 2004/211/EC with regard to the animal health and veterinary certification conditions for the importation of registered horses from certain parts of the territory of India**

*(notified under document C(2014) 3582)*

**(Text with EEA relevance)**

(2014/332/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC <sup>(1)</sup>, and in particular Article 17(3)(a) thereof,

Having regard to Council Directive 2009/156/EC of 30 November 2009 on animal health conditions governing the movement and importation from third countries of equidae <sup>(2)</sup>, and in particular Article 12(1) and (4), point (a) of Article 15, Article 16(2), and the introductory phrase of Article 19 and points (a) and (b) of Article 19 thereof,

Whereas:

- (1) Directive 2009/156/EC lays down animal health conditions for the importation into the Union of live equidae. It provides that imports of equidae into the Union are only authorised from those third countries that meet certain animal health requirements.
- (2) Commission Decision 92/260/EEC <sup>(3)</sup> lays down the animal health conditions and veterinary certification requirements for the temporary admission into the Union of registered horses for a period of less than 90 days from third countries assigned to specific sanitary groups as set out in Annex I thereto. Annex II to that Decision sets out specimen animal health certificates which must accompany the animals arriving from third countries assigned to the corresponding sanitary groups.
- (3) Commission Decision 93/197/EEC <sup>(4)</sup> lays down the animal health conditions and veterinary certification requirements for imports into the Union of registered equidae and equidae for breeding and production coming from third countries assigned to specific sanitary groups as set out in Annex I thereto. That Annex also specifies the category of equidae allowed for imports from a particular third country. Annex II to that Decision sets out specimen animal health certificates which must accompany the animals arriving from third countries assigned to the corresponding sanitary groups.

<sup>(1)</sup> OJ L 268, 14.9.1992, p. 54.

<sup>(2)</sup> OJ L 192, 23.7.2010, p. 1.

<sup>(3)</sup> Commission Decision 92/260/EEC of 10 April 1992 on animal health conditions and veterinary certification for temporary admission of registered horses (OJ L 130, 15.5.1992, p. 67).

<sup>(4)</sup> Commission Decision 93/197/EEC of 5 February 1993 on animal health conditions and veterinary certification for imports of registered equidae and equidae for breeding and production (OJ L 86, 6.4.1993, p. 16).

- (4) Commission Decision 2004/211/EC <sup>(1)</sup> establishes a list of third countries, or parts thereof where regionalisation applies, from which Member States are to authorise the importation of equidae and semen, ova and embryos thereof, and indicates the other conditions applicable to such imports. That list is set out in Annex I to that Decision.
- (5) From the information available, India is free of African horse sickness in accordance with Union legislation and the last case of African horse sickness was reported in 1963. India has also been free from Venezuelan equine encephalomyelitis for two years, which has never been reported in that third country. However, glanders occurs in parts of the territory of India and there is a lack of information on the occurrence of dourine.
- (6) Taking into account the epidemiological situation in India as regards diseases transmissible to equidae, that third country should be assigned to Sanitary Group C as set out in Annex I to Decisions 92/260/EEC and 93/197/EEC respectively.
- (7) Since the risk of contracting glanders is smaller for registered horses, it is appropriate to limit the introduction into the Union of equidae to registered horses only and to require that those registered horses introduced into the Union, in accordance with Decisions 92/260/EEC or 93/197/EEC, are subjected to tests for glanders and dourine. The specimen animal health certificate 'C' set out in the respective Annex II to those Decisions should therefore specify those tests for the introduction of those registered horses from India.
- (8) Annexes I and II to Decision 92/260/EEC and to Decision 93/197/EEC should therefore be amended accordingly.
- (9) By letter of 31 December 2013, India informed the Commission of the establishment of an equine disease free zone at the Remount and Veterinary Corps (RVC) Centre, Meerut Cantonment, district Meerut, division Meerut in the State of Uttar Pradesh, and provided the necessary guarantees as required in accordance with Article 12 of Directive 2009/156/EC.
- (10) Pending the outcome of a Commission audit mission and considering that India wishes to participate in the World Equestrian Games of the Fédération Équestre Internationale (FEI) in Normandy in France in August 2014, the equine disease free zone established in India should be approved on a temporary basis until October 2014.
- (11) The regionalisation should also include access ways for the transfer of the registered horses from the equine disease free zone to the nearest international airport, for which India has presented the Standard Operating Procedures and biosecurity measures.
- (12) Annex I to Decision 2004/211/EC should therefore be amended accordingly.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

#### *Article 1*

Annexes I and II to Decision 92/260/EEC are amended in accordance with Annex I to this Decision.

#### *Article 2*

Annexes I and II to Decision 93/197/EEC are amended in accordance with Annex II to this Decision.

#### *Article 3*

Annex I to Decision 2004/211/EC is amended in accordance with Annex III to this Decision.

<sup>(1)</sup> Commission Decision 2004/211/EC of 6 January 2004 establishing the list of third countries and parts of territory thereof from which Member States authorise imports of live equidae and semen, ova and embryos of the equine species, and amending Decisions 93/195/EEC and 94/63/EC (OJ L 73, 11.3.2004, p. 1).

*Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 4 June 2014.

*For the Commission*  
Tonio BORG  
*Member of the Commission*

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## ANNEX I

Annexes I and II to Decision 92/260/EEC are amended as follows:

- (1) In Annex I, the list of third countries assigned to Sanitary Group C is replaced by the following:

‘Sanitary Group C <sup>(1)</sup>

Canada (CA), China <sup>(3)</sup> (CN), Hong Kong (HK), India <sup>(3)</sup> (IN), Japan (JP), Korea Republic (KR), Macao (MO), Malaysia (peninsula) (MY), Singapore (SG), Thailand (TH), United States of America (US)’

- (2) In Annex II, in specimen animal health certificate C, in Section III, point (l) is replaced by the following:

‘(l) If the horse comes from China <sup>(1)</sup> <sup>(3)</sup>, India <sup>(1)</sup> <sup>(3)</sup> or Thailand <sup>(3)</sup>, it was subjected to a complement fixation test for glanders and for dourine carried out with negative results at a serum dilution of 1 in 10 on a sample of blood collected within 10 days prior to export on ... <sup>(4)</sup> <sup>(5)</sup>’

## ANNEX II

Annexes I and II to Decision 93/197/EEC are amended as follows:

- (1) In Annex I, the list of third countries assigned to Sanitary Group C is replaced by the following:

‘Sanitary Group C <sup>(1)</sup>

Canada (CA), China <sup>(2)</sup> <sup>(3)</sup> (CN), Hong Kong <sup>(3)</sup> (HK), India <sup>(2)</sup> <sup>(3)</sup> (IN), Japan <sup>(3)</sup> (JP), Korea Republic <sup>(3)</sup> (KR), Macao <sup>(3)</sup> (MO), Malaysia (peninsula) <sup>(3)</sup> (MY), Singapore <sup>(3)</sup> (SG), Thailand <sup>(3)</sup> (TH), United States of America (US)’

- (2) In Annex II, in specimen animal health certificate C, in Section III, point (m) is replaced by the following:

‘(m) If the horse comes from China <sup>(1)</sup> <sup>(3)</sup>, India <sup>(1)</sup> <sup>(3)</sup> or Thailand <sup>(3)</sup>, it was subjected to a complement fixation test for glanders and for dourine carried out with negative results at a serum dilution of 1 in 10 on a sample of blood collected within 10 days prior to export on ... <sup>(4)</sup>’

## ANNEX III

Annex I to Decision 2004/211/EC is amended as follows:

(1) the following row is inserted in the order of the ISO-country code:

IN	India	IN-0	Whole country	C	—	—	—	—	—	—	—	—	—	
		IN-1	The equine disease free zone at the Remount and Veterinary Corps (RVC) Centre, Meerut Cantonment, district Meerut, division Meerut State of Uttar Pradesh including the Road Passage from and to the airport in New Delhi (see Box 6 for details)	C	X	—	X	—	—	—	—	—	—	Valid until 31 October 2014'

(2) The following Box 6 is added:

Box 6														
IN	India	IN-1	The equine disease free zone at the Remount and Veterinary Corps (RVC) Centre, Meerut Cantonment, district Meerut, division Meerut, State of Uttar Pradesh (localised at 29.028893, 77.731018 or +29° 01' 44.01", +77° 43' 51.66") and surrounded by a 10 km surveillance zone, including the access through Roorkee, Mawana and Delhi Roads to National Highway No 58, followed on Hapur Road (57), GT Road, Dharampura Road, Eastern Approach Road, Yudister Setu, Lala Hardev Sahai Marg, Mahatma Road, Vandemataram Marg, National Highway No 8, Airport Road, Ullan Batar Marg to Indira Gandhi International Airport New Delhi.'											

**COMMISSION DECISION**  
**of 5 June 2014**  
**on the protection of personal data in the European e-Justice Portal**  
(2014/333/EU)

THE EUROPEAN COMMISSION,

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

After consulting the European Data Protection Supervisor,

Whereas:

- (1) In its communication of May 2008 <sup>(1)</sup>, the Commission stated that it would design and set up the European e-Justice Portal (hereinafter 'the Portal'), to be managed in close cooperation with the Member States.
- (2) The Multi-annual European e-Justice Action Plan 2009–2013 <sup>(2)</sup> of 8 November 2008 entrusted the European Commission with the implementation of the Portal. The Portal was launched on 16 July 2010. The adoption of this Decision has become necessary only now since the Portal is only now ready for the first interconnection of national registers involving the processing of personal data.
- (3) The Portal's objective is to contribute to the achievement of the European judicial area by facilitating and enhancing access to justice and leveraging information and communication technologies to facilitate cross-border electronic judicial proceedings and judicial cooperation.
- (4) The institutions, bodies, offices and agencies of the European Union as well as the Member States when they are implementing Union law must respect fundamental rights and observe the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the right to the protection of personal data stipulated in Article 8 of that Charter.
- (5) Since the various Portal-related tasks and functions of the Commission and the Member States will entail different responsibilities and obligations as regards data protection, it is essential to delimit them clearly.
- (6) In accordance with the specific nature of activities linked to the e-Justice Portal, developed in cooperation between the Commission and the Member States, the role of the Commission in processing personal data through the Portal is limited. It should be clarified that the Commission has no responsibility for the content of interconnected national databases made available through the Portal.
- (7) Regulation (EC) No 45/2001 of the European Parliament and of the Council <sup>(3)</sup> applies to the processing of personal data by the Commission in the Portal. In this context, the Commission is in particular responsible for providing the IT infrastructure for the Portal functionalities, including the interconnection of national databases.
- (8) In accordance with Regulation (EC) No 45/2001 the purposes of processing of personal data should be explicitly specified. Therefore, the processing of personal data by the Commission in the portal should only take place if it is done to provide access to interconnected national databases holding personal data, to provide interactive services allowing users to communicate directly with the appropriate authorities in another Member State, to provide access to public information targeted towards registered users, or to provide contact information.

<sup>(1)</sup> COM(2008)329 final, 30.5.2008.

<sup>(2)</sup> OJ C 75, 31.3.2009, p. 1.

<sup>(3)</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

- (9) The Commission should embed in the system technologies that reflect the concept of 'data protection by design'. In implementing that concept, a privacy and data protection impact assessment should be carried out during the design phase of the functionality associated with the processing of personal data through the Portal, as well as of other Portal functionalities. That assessment will identify the potential data protection risks involved. It will also define the appropriate measures and safeguards to be incorporated in the system to protect personal data.
- (10) The Commission should perform continuous and appropriate security assessments insofar as work related to the interconnection of national databases is carried out.
- (11) Only publicly available information in the interconnected national databases can be accessed through the Portal. It should not be possible to combine information from different interconnected national databases for different purposes through the Portal,

HAS ADOPTED THIS DECISION:

#### *Article 1*

##### **Subject matter**

This Decision lays down the functions and responsibilities of the European Commission in relation to data protection requirements whilst processing personal data in the European e-Justice Portal (hereinafter 'the Portal').

#### *Article 2*

##### **Definitions**

For the purpose of this Decision, the definitions laid down in Regulation (EC) No 45/2001 shall apply. In addition, the following definitions shall also apply:

- (a) 'European e-Justice actor' means any representative of a Member State or a European e-Justice partner organisation who has been granted authorisation to modify (parts of) the content of the Portal;
- (b) 'Interconnected national databases' means databases containing publicly accessible information, operated by the Member States and other bodies such as professional associations and non-profit organisations, which are interconnected through the Portal in such a way that the information available at national level can be accessed via the Portal;
- (c) 'Publicly accessible information' means information which is accessible to the public via the internet;
- (d) 'Registered user' means a Portal user who has registered to the Portal via the European Commission Authentication Service (ECAS), such as a 'European e-Justice actor'.

#### *Article 3*

##### **Data processing**

The Commission shall process personal data in the Portal only in so far as this is necessary for the purpose of:

- (a) providing access to interconnected national databases holding personal data;
- (b) providing interactive services allowing registered users to communicate directly with the appropriate authorities in another Member State;
- (c) providing access to public information targeted towards registered users;
- (d) providing contact information.

*Article 4***Responsibilities of Data controller**

1. The Commission shall exercise the responsibilities of data controller pursuant to Article 2(d) of Regulation (EC) No 45/2001 in accordance with its respective responsibilities within the Portal as referred to in this Article.
2. The Commission shall ensure the availability, maintenance and security of the IT infrastructure of the Portal.
3. The Commission shall be responsible for the following processing operations:
  - (a) organisation;
  - (b) disclosure by transmission;
  - (c) dissemination or otherwise making available;
  - (d) alignment or combination of personal data derived from the interconnected national databases or of personal data on registered users.
4. The Commission shall define the necessary policies and apply the appropriate technical solutions to fulfil its responsibilities within the scope of the function of data controller.
5. The Commission shall implement the technical measures required to ensure the security of personal data while in transit and during their display on the Portal, in particular the confidentiality and integrity for any transmission to and from the Portal.
6. The Commission shall not be responsible for any data protection aspects concerning
  - (a) the initial collection and storage of any data derived from the interconnected national databases;
  - (b) any decision taken by the Member States to make such data available via the Portal;
  - (c) the content of any data derived from the interconnected national databases made available through the Portal.
7. The obligations of the Commission shall not affect the responsibilities of the Member States and other bodies for the content and operation of the interconnected national databases run by them.

*Article 5***Information obligations**

1. The Commission shall provide the data subjects with the information specified in Articles 11 and 12 of Regulation (EC) No 45/2001, as regards information for which the Commission is responsible under this Decision.
2. Notwithstanding the obligations towards data subjects of the Member States and other bodies operating the interconnected national databases, the Commission shall also provide data subjects with information on whom to contact for the effective exercise of their rights to information, to access, to rectify and to object according to the applicable data protection legislation. The Commission shall refer to specific privacy statements of the Member States and other bodies.
3. The Commission shall also make available on the Portal:
  - (a) translations into the languages of the Portal of Member States' privacy notices referred to in paragraph 2;
  - (b) a comprehensive privacy notice concerning the Portal in accordance with Articles 11 and 12 of Regulation (EC) No 45/2001, in a clear and understandable form.

*Article 6***Storage of personal data**

1. As regards information exchanges from interconnected national databases, no personal data relating to the data subjects shall be stored in the Portal. All such data shall be stored in the national databases operated by the Member States or other bodies.
2. Personal data relating to or provided by Portal users shall not be stored in the Portal, other than in cases where they have signed up as registered users. Personal data of registered users shall be stored until they request the deletion of their registration. In accordance with Article 3, personal data on European e-Justice actors or contact points will only be stored for as long as these persons fulfil their function.

*Article 7***Date of effect**

This Decision shall enter into force on the 20th day after its publication in the *Official Journal of the European Union*.

Done at Brussels, 5 June 2014.

*For the Commission*  
*The President*  
José Manuel BARROSO

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