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I

(Legislative acts)

REGULATIONS

**REGULATION (EU) No 227/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 March 2013****amending Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and Council Regulation (EC) No 1434/98 specifying conditions under which herring may be landed for industrial purposes other than direct human consumption**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Council Regulation (EC) No 1288/2009 of 27 November 2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011 ⁽³⁾ and Regulation (EU) No 579/2011 of the European Parliament and of the Council of 8 June 2011 amending Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and Council Regulation (EC) No 1288/2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011 ⁽⁴⁾ provide for the continuation of certain technical measures established in Council Regulation (EC) No 43/2009 of 16 January 2009 fixing for 2009 the

fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required ⁽⁵⁾ on a transitional basis until 31 December 2012.

- (2) A new technical conservation measures framework is awaited pending the reform of the Common Fisheries Policy (CFP). The unlikelihood that such a new framework will be in place by the end of 2012 justifies the extension of the application of those transitional technical measures.
- (3) In order to ensure the continuation of proper conservation and management of marine biological resources, Council Regulation (EC) No 850/98 ⁽⁶⁾ should be updated by incorporating the transitional technical measures into it.
- (4) In order to ensure the continuation of proper conservation and management of marine biological resources in the Black Sea, minimum landing and mesh sizes for the turbot fishery as previously established in Union law should be incorporated into Regulation (EC) No 850/98.
- (5) The prohibition of highgrading in all ICES areas should be maintained in order to reduce the discarding of quota species.
- (6) On the basis of consultations held in 2009 between the Union, Norway and the Faroe Islands, with a view to reducing unwanted catches, a prohibition on the releasing or slipping of certain species, as well as a requirement to move fishing grounds when 10 % of the catch contains undersized fish, should be introduced.

⁽¹⁾ OJ C 351, 15.11.2012, p. 83.

⁽²⁾ Position of the European Parliament of 6 February 2013 (not yet published in the Official Journal) and decision of the Council of 25 February 2013.

⁽³⁾ OJ L 347, 24.12.2009, p. 6.

⁽⁴⁾ OJ L 165, 24.6.2011, p. 1.

⁽⁵⁾ OJ L 22, 26.1.2009, p. 1.

⁽⁶⁾ OJ L 125, 27.4.1998, p. 1.

- (7) In the light of advice from the Scientific, Technical and Economic Committee for Fisheries (STECF), the restrictions on landing or retaining on board herring caught in ICES division IIa should be maintained.
- (8) In the light of advice from STECF, an area closure for the protection of spawning herring in ICES division VIa is no longer necessary to ensure the sustainable exploitation of that species, and that closure should therefore be repealed.
- (9) In the light of advice from STECF linking low sand eel availability to the poor breeding success of kittiwakes, an area closure in ICES sub-area IV should be maintained, except for a limited fishery each year to monitor the stock.
- (10) In the light of advice from STECF, it should be possible to authorise the use of gears that do not catch Norway lobster in certain areas where fishing for Norway lobster is prohibited.
- (11) In the light of advice from STECF, an area closure to protect juvenile haddock in ICES division VIb should be maintained.
- (12) In the light of advice from ICES and STECF, certain technical conservation measures in the waters west of Scotland (ICES division VIa) to protect cod, haddock and whiting stocks should be maintained in order to contribute to the conservation of fish stocks.
- (13) In the light of advice from STECF, the use of handlines and automated jigging equipment for saithe in ICES division VIa should be allowed.
- (14) In the light of advice from STECF on the spatial distribution of cod in ICES division VIa which shows that a large majority of cod catches are caught north of 59° N, the use of gillnets south of this line should be allowed.
- (15) In the light of advice from STECF, the use of gillnets for lesser spotted dogfish in ICES division VIa should be allowed.
- (16) The appropriateness of the characteristics of gears in the derogation to fish with trawls, demersal seines or similar gears in ICES division VIa should be periodically reviewed in the light of scientific advice with a view to their amendment or repeal.
- (17) In the light of advice from STECF, an area closure to protect juvenile cod in ICES division VIa should be introduced.
- (18) The appropriateness of the prohibition on fishing for cod, haddock and whiting in ICES sub-area VI should be periodically reviewed in the light of scientific advice, with a view to its amendment or repeal.
- (19) In the light of advice from ICES and STECF, measures to protect cod stocks in the Celtic Sea (ICES divisions VIIf and g) should be maintained.
- (20) In the light of advice from STECF, measures to protect spawning aggregations of blue ling in ICES division VIa should be maintained.
- (21) Measures established in 2011 by the Northeast Atlantic Fisheries Commission (NEAFC) to protect redfish in international waters of ICES sub-areas I and II should be maintained.
- (22) Measures established by NEAFC in 2011 to protect redfish in the Irminger Sea and adjacent waters should be maintained.
- (23) In the light of advice from STECF, fishing with beam trawl using electrical pulse current should continue to be allowed in ICES divisions IVc and IVb south under certain conditions.
- (24) On the basis of consultations held in 2009 between the Union, Norway and the Faroe Islands, certain measures to restrict the catch handling and discharge capabilities of pelagic vessels targeting mackerel, herring and horse mackerel in the North-East Atlantic should be implemented, on a permanent basis.
- (25) In the light of advice from ICES, technical conservation measures to protect adult cod stocks in the Irish Sea during the spawning season should be maintained.
- (26) In the light of advice from STECF, the use of sorting grids in a restricted area in ICES division VIIa should be allowed.
- (27) In light of advice from STECF, fishing with gillnets and entangling nets in ICES divisions IIIa, VIa, VIb, VIIb, VIIc, VIIj and VIIk and ICES sub-areas VIII, IX, X and XII east of 27° W in waters with a charted depth of more than 200 metres but less than 600 metres should only be allowed under certain conditions that provide protection for biologically sensitive deep-sea species.
- (28) It is important to clarify the interaction between the different regimes applicable to fishing with gillnets, especially in ICES sub-area VII. More particularly, it should be made clear that the specific derogation for

- fishing with gillnets with a mesh size equal to or greater than 100 millimetres in ICES divisions IIIa, IVa, Vb, VIa, VIb, VII b, c, j and k as well as the specific conditions related to that derogation, only applies in waters with a charted depth of more than 200 metres but less than 600 metres and that, consequently, the default rules concerning the mesh-size range and the catch composition set out in Regulation (EC) No 850/98 apply in ICES divisions VIIa, VIId, VIIe, VIIf, VIIg and VIIh and in waters with a charted depth of less than 200 metres in ICES divisions IIIa, IVa, Vb, VIa, VIb, VIId, c, j and k.
- (29) In the light of advice from STECF, the use of trammel nets in ICES sub-area IX in waters with a charted depth more than 200 metres but less than 600 metres should be allowed.
- (30) The use of certain selective gears should continue to be permitted in the Bay of Biscay in order to ensure the sustainable exploitation of the hake and Norway lobster stocks and to reduce discards of these species.
- (31) Restrictions on fishing in certain areas in order to protect vulnerable deep-sea habitats in the NEAFC Regulatory Area adopted by NEAFC in 2004 and in certain areas in ICES divisions VIIc, j and k and ICES division VIId, adopted by the Union in 2008, should remain in place.
- (32) According to the advice of a joint Union/Norway Working Group on technical measures the weekend ban on fishing for herring, mackerel or sprat with trawls or purse seines in the Skagerrak and Kattegat no longer contributes to the conservation of pelagic fish stocks due to changes in fishing patterns. Consequently, on the basis of consultations held between the Union, Norway and the Faroe Islands in 2011, this ban should be revoked.
- (33) For the sake of clarity and better regulation, some obsolete provisions should be deleted.
- (34) In order to reflect changes in fishing patterns and the adoption of more selective gears the mesh size ranges, target species and required catch percentages applicable in the Skagerrak and Kattegat should be maintained.
- (35) The minimum sizes for short-necked clam should be revised in the light of biological data.
- (36) A minimum size for octopus in catches taken in waters under the sovereignty or jurisdiction of third countries and situated in the region of the Fishery Committee for the Eastern Central Atlantic (CECAF) has been set in order to contribute to the conservation of octopus, and in particular to protect juveniles.
- (37) An equivalent measure to the minimum landing size for anchovy in terms of the number of fish per kg should be introduced, as this would simplify work on board vessels targeting this species and facilitate control measures ashore.
- (38) Specifications for a sorting grid to be used for the reduction of the by-catch in fisheries for Norway Lobster in ICES division IIIa, ICES sub-area VI and ICES division VIIa should be maintained.
- (39) Specifications for square mesh panels to be used under certain conditions for fisheries with certain towed gears in the Bay of Biscay should be maintained.
- (40) The use of 2 metre square-meshed panels by vessels with an engine power of less than 112 kW in a restricted area in ICES division VIa should be allowed.
- (41) The term 'Community' used in the enacting terms of Regulation (EC) No 850/98 should be changed, following the entry into force of the Treaty of Lisbon on 1 December 2009.
- (42) In order to ensure uniform conditions for the implementation of rules on the use of gears having equivalent high selectivity when fishing for Norway lobster in ICES division VIa and of rules excluding specific fisheries of a Member State from the application of the prohibition to use gillnets, entangling or trammel nets in ICES sub-areas VIII, IX and X where the level of shark by-catches and of discards is very low, implementing powers should be conferred on the Commission. Those powers should be exercised without applying Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers ⁽¹⁾.
- (43) Regulation (EC) No 850/98 should therefore be amended accordingly.
- (44) Council Regulation (EC) No 1434/98 ⁽²⁾ provides for specific conditions under which herring may be landed for industrial purposes other than direct human consumption. A specific derogation from the conditions for landing by-catches of herring in small meshed fisheries in ICES division IIIa, sub-area IV, division VIId and Union waters of ICES division IIa, previously included in other Union acts, should be incorporated into that Regulation. Regulation (EC) No 1434/98 should therefore be amended accordingly.

⁽¹⁾ OJ L 55, 28.2.2011, p. 13.

⁽²⁾ OJ L 191, 7.7.1998, p. 10.

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 850/98

Regulation (EC) No 850/98 is amended as follows:

(1) the following article is inserted:

'Article 1a

In Article 4(2)(c), Article 46(1)(b) and in Annex I, footnote (5), the noun "Community", or the corresponding adjective, is replaced by the noun "Union", or the corresponding adjective, and any grammatical adjustments needed as a consequence of this replacement shall be made.;

(2) in Article 2(1) the following point is added:

(i) Region 9

All waters of the Black Sea corresponding to the geographical sub-area 29 as defined in Annex I to Regulation (EU) No 1343/2011 of the European Parliament and of the Council of 13 December 2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area (*) and in Resolution GFCM/33/2009/2.

(*) OJ L 347, 30.12.2011, p. 44.;

(3) in Article 11(1) the following subparagraph is added:

'This derogation shall apply without prejudice to Article 34b(2)(c).';

(4) the following article is inserted:

'Article 11a

In Region 9, the minimum mesh size for bottom set gillnets, when used to catch turbot, shall be 400 millimetres.;

(5) Article 17 is replaced by the following:

'Article 17

A marine organism is undersized if its dimensions are smaller than the minimum dimensions specified in Annex XII and Annex XIIa for the relevant species and the relevant geographical area.;

(6) in Article 19, the following paragraph is added:

'4. Paragraphs 2 and 3 shall not apply in Region 9.;

(7) the following title is inserted.

TITLE IIIa

Measures to reduce discarding

Article 19a

Prohibition of highgrading

1. Within Regions 1, 2, 3 and 4 the discarding, during fishing operations, of species subject to quota which can be legally landed shall be prohibited.

2. The provisions referred to in paragraph 1 are without prejudice to the obligations set out in this Regulation or in any other Union legal acts in the field of fisheries.

Article 19b

Moving-on provisions and prohibition on slipping

1. Within Regions 1, 2, 3 and 4, where the quantity of undersized mackerel, herring or horse mackerel exceeds 10 % of the total quantity of the catches in any one haul, the vessel shall move fishing grounds.

2. Within Regions 1, 2, 3 and 4 it is prohibited to release mackerel, herring or horse mackerel before the net is fully taken on board a fishing vessel resulting in the loss of dead or dying fish.;

(8) in Article 20(1), point (d) is deleted;

(9) the following article is inserted:

'Article 20a

Restrictions on fishing for herring in Union waters of ICES division IIa

It shall be prohibited to land or retain on board herring caught in Union waters of ICES division IIa in the periods from 1 January to 28 February and from 16 May to 31 December.;

(10) Article 29a is replaced by the following:

'Article 29a

Closure of an area for sand eel fisheries in ICES sub-area IV

1. It shall be prohibited to land or retain on board sand eels caught within the geographical area bounded by the east coast of England and Scotland, and enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

— the east coast of England at latitude 55°30' N,

- latitude 55°30' N, longitude 01°00' W,
- latitude 58°00' N, longitude 01°00' W,
- latitude 58°00' N, longitude 02°00' W,
- the east coast of Scotland at longitude 02°00' W.

2. Fisheries for scientific investigation shall be allowed in order to monitor the sand eel stock in the area and the effects of the closure.;

(11) in Article 29b, paragraph 3 is replaced by the following:

'3. By way of derogation from the prohibition laid down in paragraph 1, fishing with creels that do not catch Norway lobster shall be authorised in the geographical areas and during the periods set out in that paragraph.;

(12) the following articles are inserted:

'Article 29c

Rockall Haddock box in ICES sub-area VI

1. All fishing of Rockall haddock, except with longlines, shall be prohibited in the areas enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

- 57°00' N, 15°00' W
- 57°00' N, 14°00' W
- 56°30' N, 14°00' W
- 56°30' N, 15°00' W
- 57°00' N, 15°00' W.

Article 29d

Restrictions on fishing for cod, haddock and whiting in ICES sub-area VI

1. It shall be prohibited to conduct any fishing activity for cod, haddock and whiting within that part of ICES division VIa that lies to the east or to the south of those rhumb lines which sequentially join the following coordinates, which shall be measured according to the WGS84 system:

- 54°30' N, 10°35' W
- 55°20' N, 09°50' W
- 55°30' N, 09°20' W

- 56°40' N, 08°55' W
- 57°00' N, 09°00' W
- 57°20' N, 09°20' W
- 57°50' N, 09°20' W
- 58°10' N, 09°00' W
- 58°40' N, 07°40' W
- 59°00' N, 07°30' W
- 59°20' N, 06°30' W
- 59°40' N, 06°05' W
- 59°40' N, 05°30' W
- 60°00' N, 04°50' W
- 60°15' N, 04°00' W.

2. Any fishing vessel present within the area referred to in paragraph 1 of this Article shall ensure that any fishing gears carried on board are lashed and stowed in accordance with Article 47 of Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (*).

3. By way of derogation from paragraph 1, it shall be permitted to conduct fishing activities within the area referred to in that paragraph using inshore static nets fixed with stakes, scallop dredges, mussel dredges, handlines, mechanised jigging, draft nets and beach seines, pots and creels, provided that:

- (a) no fishing gears other than inshore static nets fixed with stakes, scallop dredges, mussel dredges, handlines, mechanised jigging, draft nets and beach seines, pots and creels are carried on board or deployed; and
- (b) no fish other than mackerel, pollack, saithe and salmon, or shellfish other than molluscs and crustaceans are retained on board, landed or brought ashore.

4. By way of derogation from paragraph 1, it shall be permitted to conduct fishing activities within the area referred to in that paragraph using nets with a mesh size of less than 55 millimetres, provided that:

- (a) no net of mesh size greater than or equal to 55 millimetres is carried on board; and

- (b) no fish other than herring, mackerel, pilchard/sardines, sardinelles, horse mackerel, sprat, blue whiting, boarfish and argentines are retained on board.

5. By way of derogation from paragraph 1, it shall be permitted to conduct fishing activities within the area referred to in that paragraph using gillnets of mesh size greater than 120 millimetres, provided that:

- (a) they are only deployed in the area south of 59° N;
- (b) the maximum length of gillnet deployed is 20 km per vessel;
- (c) the maximum soak time is 24 hours; and
- (d) no more than 5 % of the catch is made up of whiting and cod.

6. By way of derogation from paragraph 1, it shall be permitted to conduct fishing activities within the area referred to in that paragraph using gillnets with a mesh size that is greater than 90 millimetres, provided that:

- (a) they are only deployed within 3 nautical miles of the coastline and for a maximum of 10 days per calendar month;
- (b) the maximum length of gillnet deployed is 1 000 metres;
- (c) the maximum soak time is 24 hours; and
- (d) at least 70 % of the catch is made up of lesser spotted dogfish.

7. By way of derogation from paragraph 1, it shall be permitted to fish for Norway lobster within the area set out in that paragraph, provided that:

- (a) the fishing gear used incorporates a sorting grid in accordance with points 2 to 5 of Annex XIVa, or a square-mesh panel as described in Annex XIVc, or is another gear with equivalent high selectivity;
- (b) the fishing gear is constructed with a minimum mesh size of 80 millimetres;
- (c) at least 30 % of the retained catch by weight is Norway lobster.

The Commission shall, on the basis of a favourable opinion by STECF, adopt implementing acts, determining which gears are to be considered to have equivalent high selectivity for the purpose of point (a).

8. Paragraph 7 shall not apply within the area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

- 59°05' N, 06°45' W
- 59°30' N, 06°00' W
- 59°40' N, 05°00' W
- 60°00' N, 04°00' W
- 59°30' N, 04°00' W
- 59°05' N, 06°45' W.

9. By way of derogation from paragraph 1, it shall be permitted to fish with trawls, demersal seines or similar gears within the area set out in that paragraph, provided that:

- (a) all nets on board the vessel are constructed with a minimum mesh size of 120 millimetres for vessels with an overall length of more than 15 metres and of 110 millimetres for all other vessels;
- (b) where the catch retained on board includes less than 90 % saithe the fishing gear used incorporates a square mesh panel as described in Annex XIVc; and
- (c) where the overall length of the vessel is less than or equal to 15 metres, regardless of the quantity of saithe retained on board, the fishing gear used incorporates a square-mesh panel as described in Annex XIVd.

10. No later than 1 January 2015 and no later than every two years thereafter, the Commission shall, in the light of scientific advice by STECF, assess the characteristics of gears specified in paragraph 9 and, where appropriate, submit to the European Parliament and to the Council a proposal for amendment of paragraph 9.

11. Paragraph 9 shall not apply within the area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

- 59°05' N, 06°45' W
- 59°30' N, 06°00' W

- 59°40' N, 05°00' W
- 60°00' N, 04°00' W
- 59°30' N, 04°00' W
- 59°05' N, 06°45' W.

12. From 1 January to 31 March, and from 1 October to 31 December each year, it shall be prohibited to conduct any fishing activity using any of the gears specified in Annex I to Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks(**) in the area specified in ICES area VIa enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

- 55°25' N, 07°07' W
- 55°25' N, 07°00' W
- 55°18' N, 06°50' W
- 55°17' N, 06°50' W
- 55°17' N, 06°52' W
- 55°25' N, 07°07' W.

Neither the master of a fishing vessel nor any other person on board shall cause or permit a person on board to attempt to fish for, land, tranship or have on board fish caught in the specified area.

13. Each Member State concerned shall implement an onboard observer programme from 1 January to 31 December each year in order to sample the catches and discards of vessels benefiting from the derogations provided for in paragraphs 5, 6, 7 and 9. The observer programmes shall be carried out without prejudice to the obligations under the respective rules and shall aim to estimate cod, haddock and whiting catches and discards with a precision of at least 20 %.

14. Member States concerned shall produce a report on the total amount of catches and discards made by vessels subject to the observer programme during each calendar year and shall submit it to the Commission no later than 1 February of the following calendar year.

15. No later than 1 January 2015 and no later than every two years thereafter, the Commission shall assess the state of cod, haddock and whiting stocks in the area specified in paragraph 1 in the light of scientific advice

by STECF and, where appropriate, submit to the European Parliament and the Council a proposal for the amendment of this Article.

Article 29e

Restrictions on fishing for cod in ICES sub-area VII

1. From 1 February until 31 March each year, it shall be prohibited to conduct any fishing activity in ICES sub-area VII in the area which consists of ICES statistical rectangles: 30E4, 31E4, 32E3. This prohibition shall not apply within 6 nautical miles from the baseline.

2. By way of derogation from paragraph 1, it shall be permitted to conduct fishing activities using inshore static nets fixed with stakes, scallop dredges, mussel dredges, draft nets and beach seines, handlines, mechanised jigging, pots and creels within the area and time periods referred to in that paragraph, provided that:

- (a) no fishing gears other than inshore static nets fixed with stakes, scallop dredges, mussel dredges, draft nets and beach seines, handlines, mechanised jigging, pots and creels are carried on board or deployed; and
- (b) no fish other than mackerel, pollack, salmon, or shellfish other than molluscs and crustaceans are landed, retained on board or brought ashore.

3. By way of derogation from paragraph 1, it shall be permitted to conduct fishing activities within the area referred to in that paragraph using nets of mesh size less than 55 millimetres, provided that:

- (a) no net of mesh size greater than or equal to 55 millimetres is carried on board; and
- (b) no fish other than herring, mackerel, pilchard/sardines, sardinelles, horse mackerel, sprat, blue whiting, boarfish and argentines are retained on board.

Article 29f

Special rules for the protection of blue ling

1. From 1 March to 31 May each year it shall be prohibited to retain on board any quantity of blue ling in excess of 6 tonnes per fishing trip in the areas of ICES division VIa enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

- (a) Edge of Scottish continental shelf

- 59°58' N, 07°00' W
- 59°55' N, 06°47' W

- 59°51' N, 06°28' W
- 59°45' N, 06°38' W
- 59°27' N, 06°42' W
- 59°22' N, 06°47' W
- 59°15' N, 07°15' W
- 59°07' N, 07°31' W
- 58°52' N, 07°44' W
- 58°44' N, 08°11' W
- 58°43' N, 08°27' W
- 58°28' N, 09°16' W
- 58°15' N, 09°32' W
- 58°15' N, 09°45' W
- 58°30' N, 09°45' W
- 59°30' N, 07°00' W
- 59°58' N, 07°00' W;

(b) Edge of Rosemary bank

- 60°00' N, 11°00' W
- 59°00' N, 11°00' W
- 59°00' N, 09°00' W
- 59°30' N, 09°00' W
- 59°30' N, 10°00' W
- 60°00' N, 10°00' W
- 60°00' N, 11°00' W

Not including the area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

- 59°15' N, 10°24' W
- 59°10' N, 10°22' W
- 59°08' N, 10°07' W
- 59°11' N, 09°59' W
- 59°15' N, 09°58' W
- 59°22' N, 10°02' W
- 59°23' N, 10°11' W
- 59°20' N, 10°19' W
- 59°15' N, 10°24' W.

2. When entering and exiting the areas referred to in paragraph 1, the master of a fishing vessel shall record the date, time and place of entry and exit in the logbook.

3. In either of the two areas referred to in paragraph 1, if a vessel reaches the 6 tonnes of blue ling:

- (a) it shall immediately cease fishing and exit the area in which it is present;
- (b) it may not re-enter either of the areas until its catch has been landed;
- (c) it may not return to the sea any quantity of blue ling.

4. The observers referred to in Article 8 of Council Regulation (EC) No 2347/2002 of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks (***) who are assigned to fishing vessels present in one of the areas referred to in paragraph 1 shall, in addition to the tasks referred to in paragraph 4 of that Article, for appropriate samples of the catches of blue ling, measure the fish in the samples and determine the stage of sexual maturity of subsampled fish. On the basis of advice from STECF, Member States shall establish detailed protocols for sampling and for the collation of results.

5. From 15 February to 15 April each year, it shall be prohibited to use bottom trawls, longlines and gillnets within an area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

- 60°58.76' N, 27°27.32' W
- 60°56.02' N, 27°31.16' W
- 60°59.76' N, 27°43.48' W
- 61°03.00' N, 27°39.41' W
- 60°58.76' N, 27°27.32' W.

Article 29g

Measures for the redfish fishery in international waters of ICES sub-areas I and II

1. Directed fishing for redfish in the international waters of ICES sub-areas I and II shall only be permitted within the period from 1 July to 31 December each year by vessels which have previously been engaged in the redfish fishery in the NEAFC Regulatory Area, as defined in Article 3(3) of Regulation (EU) No 1236/2010 of the European Parliament and of the Council of 15 December 2010 laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries (****).

2. Vessels shall limit their by-catches of redfish in other fisheries to a maximum of 1 % of the total catch retained on board.

3. The conversion factor to be applied to the gutted and headed presentation, including the Japanese cut presentation, of redfish caught in this fishery shall be 1,70.

4. By way of derogation from Article 9(1)(b) of Regulation (EU) No 1236/2010, masters of fishing vessels engaged in this fishery shall report their catches on a daily basis.

5. In addition to the provisions of Article 5 of Regulation (EU) No 1236/2010, an authorisation to fish for redfish shall only be valid if the reports transmitted by vessels are in accordance with Article 9(1) of that Regulation and are recorded in accordance with Article 9(3) thereof.

6. Member States shall ensure that scientific information is collected by scientific observers on board vessels flying their flag. As a minimum, the information collected shall include representative data on sex, age and length composition by depths. This information shall be reported to ICES by the competent authorities in the Member States.

7. The Commission shall inform Member States of the date on which the NEAFC Secretariat notifies the NEAFC Contracting Parties that the total allowable catch (TAC) has been fully utilised. Member States shall prohibit directed fishery for redfish by vessels flying their flag from that date.

Article 29h

Measures for the redfish fishery in the Irminger Sea and adjacent waters

1. It shall be prohibited to catch redfish in international waters of ICES sub-area V and Union waters of ICES sub-areas XII and XIV.

By way of derogation from the first subparagraph, it shall be permitted to catch redfish from 11 May to 31 December in the area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system (the "Redfish Conservation Area"):

— 64°45' N, 28°30' W

— 62°50' N, 25°45' W

— 61°55' N, 26°45' W

— 61°00' N, 26°30' W

— 59°00' N, 30°00' W

— 59°00' N, 34°00' W

— 61°30' N, 34°00' W

— 62°50' N, 36°00' W

— 64°45' N, 28°30' W.

2. Notwithstanding paragraph 1, a fishery for redfish may be permitted, by a Union legal act, outside the Redfish Conservation Area in the Irminger Sea and adjacent waters from 11 May to 31 December each year on the basis of scientific advice and provided that NEAFC has established a recovery plan in respect of redfish in that geographical area. Only Union vessels that have been duly authorised by their respective Member State and notified to the Commission as required under Article 5 of Regulation (EU) No 1236/2010 shall participate in this fishery.

3. It shall be prohibited to use trawls with a mesh size of less than 100 millimetres.

4. The conversion factor to be applied to the gutted and headed presentation, including the Japanese cut presentation, of redfish caught in this fishery shall be 1,70.

5. Masters of fishing vessels engaged in the fishery outside the Redfish Conservation Area shall transmit the catch report provided for in Article 9(1)(b) of Regulation (EU) No 1236/2010 on a daily basis after the fishing operations of that calendar day have been completed. It shall indicate the catches on board taken since the last communication of catches.

6. In addition to the provisions of Article 5 of Regulation (EU) No 1236/2010, an authorisation to fish for redfish shall only be valid if the reports transmitted by vessels are in accordance with Article 9(1) of that Regulation and are recorded in accordance with Article 9(3) thereof.

7. The reports referred to in paragraph 6 shall be made in accordance with the relevant rules.

(*) OJ L 343, 22.12.2009, p. 1.

(**) OJ L 348, 24.12.2008, p. 20.

(***) OJ L 351, 28.12.2002, p. 6.

(****) OJ L 348, 31.12.2010, p. 17.;

(13) in Article 30 the following paragraph is inserted:

'(1a) Paragraph 1 shall not apply to Region 9.;

(14) the following article is inserted:

'Article 31a

Electric fishing in ICES divisions IVc and IVb

1. By way of derogation from Article 31, fishing with beam trawl using electrical pulse current shall be allowed in ICES divisions IVc and IVb south of a rhumb line joined by the following points, which shall be measured according to the WGS84 coordinate system:

- a point on the east coast of the United Kingdom at latitude 55° N,
- then east to latitude 55° N, longitude 5° E,
- then north to latitude 56° N,
- and finally east to a point on the west coast of Denmark at latitude 56° N.

2. Electrical pulse fishing shall be allowed only when:

- (a) no more than 5 % of the beam trawler fleet per Member State use the electric pulse trawl;
- (b) the maximum electrical power in kW for each beam trawl is no more than the length in metres of the beam multiplied by 1,25;
- (c) the effective voltage between the electrodes is no more than 15 V;
- (d) the vessel is equipped with an automatic computer management system which records the maximum power used per beam and the effective voltage between electrodes for at least the last 100 tows. It is not possible for non-authorised personnel to modify this automatic computer management system;
- (e) it is prohibited to use one or more tickler chains in front of the footrope;

(15) the following article is inserted:

'Article 32a

Catch handling and discharge restrictions on pelagic vessels

1. The maximum space between bars in the water separator on board pelagic fishing vessels targeting mackerel, herring and horse mackerel operating in the NEAFC Convention Area as defined in Article 3(2) of Regulation (EU) No 1236/2010 shall be 10 millimetres.

The bars shall be welded in place. If holes are used in the water separator instead of bars, the maximum diameter of

the holes shall not exceed 10 millimetres. Holes in the chutes before the water separator shall not exceed 15 millimetres in diameter.

2. Pelagic vessels operating in the NEAFC Convention Area shall be prohibited from discharging fish under their water line from buffer tanks or Refrigerated seawater (RSW) tanks.

3. Drawings related to the catch handling and discharge capabilities of pelagic vessels targeting mackerel, herring and horse mackerel in the NEAFC Convention Area which are certified by the competent authorities of the flag Member States, as well as any modifications thereto, shall be sent by the master of the vessel to the competent fisheries authorities of the flag Member State. The competent authorities of the flag Member State of the vessels shall carry out periodic verifications of the accuracy of the drawings submitted. Copies shall be carried on board the vessel at all times;

(16) the following articles are inserted:

'Article 34a

Technical conservation measures in the Irish Sea

1. From 14 February to 30 April, it shall be prohibited to use any demersal trawl, seine or similar towed net, any gillnet, trammel net, entangling net or similar static net or any fishing gear incorporating hooks within that part of ICES division VIIa enclosed by:

- the east coast of Ireland and the east coast of Northern Ireland, and
- straight lines sequentially joining the following geographical coordinates:
 - a point on the east coast of the Ards peninsula in Northern Ireland at 54°30' N,
 - 54°30' N, 04°50' W,
 - 53°15' N, 04°50' W,
 - a point on the east coast of Ireland at 53°15' N.

2. By way of derogation from paragraph 1, within the area and time period referred to in that paragraph:

- (a) the use of demersal otter trawls shall be permitted, provided that no other type of fishing gear is retained on board and that such nets:
 - are of the mesh size ranges 70-79 millimetres or 80-99 millimetres,

- are of only one of the permitted mesh size ranges,
- incorporate no individual mesh, irrespective of its position within the net, with a mesh size greater than 300 millimetres, and
- are deployed only within an area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:
 - 53°30' N, 05°30' W
 - 53°30' N, 05°20' W
 - 54°20' N, 04°50' W
 - 54°30' N, 05°10' W
 - 54°30' N, 05°20' W
 - 54°00' N, 05°50' W
 - 54°00' N, 06°10' W
 - 53°45' N, 06°10' W
 - 53°45' N, 05°30' W
 - 53°30' N, 05°30' W;
- (b) the use of any demersal trawl, seine or similar towed net with a separator panel or a sorting grid shall be permitted, provided that no other type of fishing gear is retained on board and that such nets:
 - comply with the conditions laid down in point (a),
 - in the case of a separator panel, are constructed in conformity with the technical details provided in the Annex of Council Regulation (EC) No 254/2002 of 12 February 2002 establishing measures to be applicable in 2002 for the recovery of the stock of cod in the Irish Sea (ICES) division VIIa) (*), and
 - in the case of sorting grids, are in accordance with points 2 to 5 of Annex XIVa to this Regulation;
- (c) the use of demersal trawl, seine or similar towed net with a separator panel or a sorting grid shall also be permitted within an area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:
 - 53°45' N, 06°00' W

- 53°45' N, 05°30' W
- 53°30' N, 05°30' W
- 53°30' N, 06°00' W
- 53°45' N, 06°00' W.

Article 34b

Use of gillnets in ICES divisions IIIa, IVa, Vb, VIa, VIb, VIIb, c, j, k and ICES sub-areas VIII, IX, X and XII east of 27° W

1. Union vessels shall not deploy bottom set gillnets, entangling nets and trammel nets at any position where the charted depth is greater than 200 metres in ICES divisions IIIa, IVa, Vb, VIa, VIb, VII b, c, j, k and ICES sub-areas VIII, IX and X and XII east of 27° W.

2. By way of derogation from paragraph 1, it shall be permitted to use the following gears:

- (a) Gillnets in ICES divisions IIIa, IVa, Vb, VIa, VIb, VII b, c, j, k and ICES sub-area XII east of 27° W with a mesh size equal to or greater than 120 millimetres and less than 150 millimetres, gillnets in ICES divisions VIIa, b, d and ICES sub-area X with a mesh size equal to or greater than 100 millimetres and less than 130 millimetres and gillnets in ICES divisions VIIc and ICES sub-area IX with a mesh size equal to or greater than 80 millimetres and less than 110 millimetres, provided that:

- they are deployed in waters with a charted depth of less than 600 metres,
- they are no more than 100 meshes deep, and have a hanging ratio of not less than 0,5,
- they are rigged with floats or equivalent flotation,
- they each have a maximum length of 5 nautical miles, and the total length of all nets deployed at any one time does not exceed 25 km per vessel,
- the maximum soak time is 24 hours;

- (b) Entangling nets with a mesh size equal to or greater than 250 millimetres, provided that:

- they are deployed in waters with a charted depth of less than 600 metres,
- they are no more than 15 meshes deep, and have a hanging ratio of not less than 0,33,

- they are not rigged with floats or other means of floatation,
 - they each have a maximum length of 10 km, and the total length of all nets deployed at any one time does not exceed 100 km per vessel,
 - the maximum soak time is 72 hours;
- (c) Gillnets in ICES divisions IIIa, IVa, Vb, VIa, VIb, VIIb, c, j, k and ICES sub-area XII east of 27° W with a mesh size equal to or greater than 100 millimetres and less than 130 millimetres, provided that:
- they are deployed in waters with a charted depth of more than 200 metres and less than 600 metres,
 - they are no more than 100 meshes deep, and have a hanging ratio of not less than 0,5,
 - they are rigged with floats or equivalent floatation,
 - they each have a maximum length of 4 nautical miles, and the total length of all nets deployed at any one time does not exceed 20 km per vessel,
 - the maximum soak time is 24 hours,
 - no less than 85 % of the retained catch by weight is hake,
 - the number of vessels participating in the fishery does not rise above the level recorded in 2008,
 - prior to leaving port the master of the vessel participating in this fishery records in the logbook, the quantity and total length of gear carried on board the vessel. At least 15 % of departures shall be subject to inspection,
 - as verified in the Union logbook for that trip at the time of landing the master of the vessel has on board 90 % of the gear, and
 - the quantity of all species caught greater than 50 kg, including all quantities discarded greater than 50 kg, is recorded in the Union logbook;
- (d) Trammel nets in ICES sub-area IX with a mesh size equal to or greater than 220 millimetres, provided that:
- they are deployed in waters with a charted depth of less than 600 metres,
 - they are no more than 30 meshes deep, and have a hanging ratio of not less than 0,44,
 - they are not rigged with floats or other means of floatation,
 - they each have a maximum length of 5 km, and the total length of all nets deployed at any one time does not exceed 20 km per vessel,
 - the maximum soak time is 72 hours.
3. However, this derogation shall not apply in the NEAFC Regulatory Area.
4. All vessels deploying bottom set gillnets, entangling or trammel nets at any position where the charted depth is greater than 200 metres in ICES divisions IIIa, IVa, Vb, VIa, VIb, VII b, c, j, k and ICES sub-areas XII east of 27° W, VIII, IX and X, shall be issued with a fishing authorisation in accordance with Article 7 of Regulation (EC) No 1224/2009.
5. Only one of the types of gear described in paragraph 2(a), (b) or (d) shall be retained on board the vessel at any one time. Vessels may carry on board nets with a total length that is 20 % greater than the maximum length of the fleets that may be deployed at any one time.
6. The master of a vessel with a fishing authorisation referred to in paragraph 4 shall record in the logbook the amount and lengths of gear carried by a vessel before it leaves port and when it returns to port, and shall account for any discrepancy between the two quantities.
7. The competent authorities shall have the right to remove unattended gear at sea in ICES divisions IIIa, IVa, Vb, VIa, VIb, VII b, c, j, k and ICES sub-areas XII east of 27° W, VIII, IX and X, in the following situations:
- (a) the gear is not properly marked;
 - (b) the buoy markings or VMS data indicate that the owner has not been located at a distance less than 100 nautical miles from the gear for more than 120 hours;
 - (c) the gear is deployed in waters with a charted depth greater than that which is permitted;
 - (d) the gear is of an illegal mesh size.

8. The master of a vessel with a fishing authorisation referred to in paragraph 4 shall record in the logbook the following information during each fishing trip:

- the mesh size of the net deployed,
- the nominal length of one net,
- the number of nets in a fleet,
- the total number of fleets deployed,
- the position of each fleet deployed,
- the depth of each fleet deployed,
- the soak time of each fleet deployed,
- the quantity of any gear lost, its last known position and date of loss.

9. Vessels fishing with a fishing authorisation referred to in paragraph 4 shall only be permitted to land in the ports designated by the Member States pursuant to Article 7 of Regulation (EC) 2347/2002.

10. The quantity of sharks retained on board by any vessel using the gear type described in paragraph 2(b) and (d) shall be no more than 5 %, by live-weight, of the total quantity of marine organisms retained on board.

11. After consulting STECF, the Commission may adopt implementing acts excluding specific fisheries of a Member State, in ICES sub-areas VIII, IX and X, from the application of paragraphs 1 to 9, where information provided by Member States shows that those fisheries result in a very low level of shark by-catches and of discards.

Article 34c

Condition for fisheries using certain towed gears authorised in the Bay of Biscay

1. By way of derogation from the provisions laid down in Article 5(2) of Commission Regulation (EC) No 494/2002 of 19 March 2002 establishing additional technical measures for the recovery of the stock of hake in ICES sub-areas III, IV, V, VI and VII and ICES divisions VIIa, b, d and e(**), it shall be permitted to conduct fishing activity using trawls, Danish seines and similar gears, with the exception of beam trawls, with a mesh size range of 70-99 millimetres in the area defined in Article 5(1)(b) of Regulation (EC) No 494/2002 if the gear is fitted with a square mesh panel in accordance with Annex XIVb.

2. When fishing in ICES divisions VIII a and b, it shall be permitted to use a selective grid and its attachments in front of the codend and/or a square mesh panel with a mesh size equal to or more than 60 millimetres in the lower part of the extension piece in front of the codend. The provisions laid down in Article 4(1), Article 6 and Article 9(1) of this Regulation and in Article 3(a) and (b) of Regulation (EC) No 494/2002 shall not apply to the section of the trawl where those selective devices are inserted.

Article 34d

Measures for the protection of vulnerable deep-sea habitats in the NEAFC Regulatory Area

1. It shall be prohibited to conduct bottom trawling and fishing with static gear, including bottom set gillnets and bottom set longlines, within the areas enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

Part of the Reykjanes Ridge:

- 55°04.5327' N, 36°49.0135' W
- 55°05.4804' N, 35°58.9784' W
- 54°58.9914' N, 34°41.3634' W
- 54°41.1841' N, 34°00.0514' W
- 54°00' N, 34°00' W
- 53°54.6406' N, 34°49.9842' W
- 53°58.9668' N, 36°39.1260' W
- 55°04.5327' N, 36°49.0135' W

Northern MAR Area:

- 59°45' N, 33°30' W
- 57°30' N, 27°30' W
- 56°45' N, 28°30' W
- 59°15' N, 34°30' W
- 59°45' N, 33°30' W

Middle MAR Area (Charlie-Gibbs Fracture zone and Subpolar Frontal Region):

- 53°30' N, 38°00' W

— 53°30' N, 36°49' W

— 55°04.5327' N, 36°49' W

— 54°58.9914' N, 34°41.3634' W

— 54°41.1841' N, 34°00' W

— 53°30' N, 30°00' W

— 51°30' N, 28°00' W

— 49°00' N, 26°30' W

— 49°00' N, 30°30' W

— 51°30' N, 32°00' W

— 51°30' N, 38°00' W

— 53°30' N, 38°00' W

Southern MAR Area:

— 44°30' N, 30°30' W

— 44°30' N, 27°00' W

— 43°15' N, 27°15' W

— 43°15' N, 31°00' W

— 44°30' N, 30°30' W

The Altair Seamounts:

— 45°00' N, 34°35' W

— 45°00' N, 33°45' W

— 44°25' N, 33°45' W

— 44°25' N, 34°35' W

— 45°00' N, 34°35' W

The Antialtair Seamounts:

— 43°45' N, 22°50' W

— 43°45' N, 22°05' W

— 43°25' N, 22°05' W

— 43°25' N, 22°50' W

— 43°45' N, 22°50' W

Hatton Bank:

— 59°26' N, 14°30' W

— 59°12' N, 15°08' W

— 59°01' N, 17°00' W

— 58°50' N, 17°38' W

— 58°30' N, 17°52' W

— 58°30' N, 18°22' W

— 58°03' N, 18°22' W

— 58°03' N, 17°30' W

— 57°55' N, 17°30' W

— 57°45' N, 19°15' W

— 58°11.15' N, 18°57.51' W

— 58°11.57' N, 19°11.97' W

— 58°27.75' N, 19°11.65' W

— 58°39.09' N, 19°14.28' W

— 58°38.11' N, 19°01.29' W

— 58°53.14' N, 18°43.54' W

— 59°00.29' N, 18°01.31' W

— 59°08.01' N, 17°49.31' W

— 59°08.75' N, 18°01.47' W

— 59°15.16' N, 18°01.56' W

— 59°24.17' N, 17°31.22' W

— 59°21.77' N, 17°15.36' W

— 59°26.91' N, 17°01.66' W

— 59°42.69' N, 16°45.96' W

— 59°20.97' N, 15°44.75' W

— 59°21' N, 15°40' W

— 59°26' N, 14°30' W

North-West Rockall:

— 57°00' N, 14°53' W

— 57°37' N, 14°42' W

— 57°55' N, 14°24' W

— 58°15' N, 13°50' W

— 57°57' N, 13°09' W

— 57°50' N, 13°14' W

— 57°57' N, 13°45' W

- 57°49' N, 14°06' W
- 57°29' N, 14°19' W
- 57°22' N, 14°19' W
- 57°00' N, 14°34' W
- 56°56' N, 14°36' W
- 56°56' N, 14°51' W
- 57°00' N, 14°53' W

South-West Rockall (Empress of Britain Bank):

- 56°24' N, 15°37' W
- 56°21' N, 14°58' W
- 56°04' N, 15°10' W
- 55°51' N, 15°37' W
- 56°10' N, 15°52' W
- 56°24' N, 15°37' W

Logachev Mound:

- 55°17' N, 16°10' W
- 55°34' N, 15°07' W
- 55°50' N, 15°15' W
- 55°33' N, 16°16' W
- 55°17' N, 16°10' W

West Rockall Mound:

- 57°20' N, 16°30' W
- 57°05' N, 15°58' W
- 56°21' N, 17°17' W
- 56°40' N, 17°50' W
- 57°20' N, 16°30' W

2. Where, in the course of fishing operations in new and existing bottom fishing areas within the NEAFC Regulatory Area, the quantity of live coral or live sponge caught per gear set exceeds 60 kg of live coral and/or 800 kg of live sponge, the vessel shall inform its flag State, cease fishing and move at least 2 nautical miles away from the position that the evidence suggests is closest to the exact location where this catch was made.

Article 34e

Measures for the protection of vulnerable deep-sea habitats in ICES divisions VIIc, j and k

1. It shall be prohibited to conduct bottom trawling and fishing with static gear, including bottom set gillnets and bottom set longlines, within the areas enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 coordinate system:

Belgica Mound Province:

- 51°29.4' N, 11°51.6' W
- 51°32.4' N, 11°41.4' W
- 51°15.6' N, 11°33.0' W
- 51°13.8' N, 11°44.4' W
- 51°29.4' N, 11°51.6' W

Hovland Mound Province:

- 52°16.2' N, 13°12.6' W
- 52°24.0' N, 12°58.2' W
- 52°16.8' N, 12°54.0' W
- 52°16.8' N, 12°29.4' W
- 52°04.2' N, 12°29.4' W
- 52°04.2' N, 12°52.8' W
- 52°09.0' N, 12°56.4' W
- 52°09.0' N, 13°10.8' W
- 52°16.2' N, 13°12.6' W

North-West Porcupine Bank Area I:

- 53°30.6' N, 14°32.4' W
- 53°35.4' N, 14°27.6' W
- 53°40.8' N, 14°15.6' W
- 53°34.2' N, 14°11.4' W
- 53°31.8' N, 14°14.4' W
- 53°24.0' N, 14°28.8' W
- 53°30.6' N, 14°32.4' W

North-West Porcupine Bank Area II:

- 53°43.2' N, 14°10.8' W
- 53°51.6' N, 13°53.4' W
- 53°45.6' N, 13°49.8' W
- 53°36.6' N, 14°07.2' W
- 53°43.2' N, 14°10.8' W

South-West Porcupine Bank:

- 51°54.6' N, 15°07.2' W
- 51°54.6' N, 14°55.2' W
- 51°42.0' N, 14°55.2' W
- 51°42.0' N, 15°10.2' W
- 51°49.2' N, 15°06.0' W
- 51°54.6' N, 15°07.2' W

2. All pelagic vessels fishing in the areas for the protection of vulnerable deep-sea habitats set out in paragraph 1 of this Article shall be on a list of authorised vessels and be issued with a fishing authorisation in accordance with Article 7 of Regulation (EC) No 1224/2009. Vessels included in the list of authorised vessels shall carry on board exclusively pelagic gear.

3. Pelagic vessels intending to fish in an area for the protection of vulnerable deep-sea habitats as set out in paragraph 1 of this Article shall give four hours advance notification of their intention to enter an area for the protection of vulnerable deep-sea habitats to the Irish Fisheries Monitoring Centre (FMC) as defined in Article 4(15) of Regulation (EC) No 1224/2009. They shall at the same time notify quantities of fish retained on board.

4. Pelagic vessels fishing in an area for the protection of vulnerable deep-sea habitats as set out in paragraph 1 shall have an operational, fully functioning secure Vessel Monitoring System (VMS) which complies fully with the respective rules when present in an area for the protection of vulnerable deep-sea habitats.

5. Pelagic vessels fishing in an area for the protection of vulnerable deep-sea habitats as set out in paragraph 1 shall make VMS reports every hour.

6. Pelagic vessels who have concluded fishing in an area for the protection of vulnerable deep-sea habitats as set out in paragraph 1 shall inform the Irish FMC on departure from the area. They shall at the same time notify quantities of fish retained on board.

7. Fishing for pelagic species in an area for the protection of vulnerable deep-sea habitats as set out in paragraph 1 shall be restricted to having onboard or fishing with nets with a mesh size in the range of 16-31 millimetres or 32-54 millimetres.

*Article 34f***Measures for the protection of a vulnerable deep-sea habitat in ICES division VIIIc**

1. It shall be prohibited to conduct bottom trawling and fishing with static gear, including bottom set gillnets and bottom set longlines, within the area enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

El Cachucho:

- 44°12' N, 05°16' W
- 44°12' N, 04°26' W
- 43°53' N, 04°26' W
- 43°53' N, 05°16' W
- 44°12' N, 05°16' W

2. By way of derogation from the prohibition set out in the paragraph 1, vessels that conducted fisheries with bottom set longlines in 2006, 2007 and 2008 targeting greater forkbeard may obtain from their fishing authorities a fishing authorisation in accordance with Article 7 of Regulation (EC) No 1224/2009 that allows them to continue conducting that fishery in the area south of 44°00.00' N. All vessels having obtained this fishing authorisation shall, regardless of their overall length, have in use an operational, fully functioning secure VMS which complies with the respective rules, when conducting fisheries in the area set out in paragraph 1.

(*) OJ L 41, 13.2.2002, p. 1.

(**) OJ L 77, 20.3.2002, p. 8.;

(17) Article 38 is deleted;

(18) Article 47 is deleted;

- (19) Annexes I, IV, XII and XIV to Regulation (EC) No 850/98 are amended in accordance with the Annex to this Regulation;
- (20) Annexes XIIa, XIVa, XIVb, XIVc and XIVd are inserted in accordance with the Annex to this Regulation.

Article 2

Amendment to Regulation (EC) No 1434/98

In Article 2 of Regulation (EC) No 1434/98 the following paragraph is added:

‘1a. Paragraph 1 shall not apply to herring caught in ICES division IIIa, sub-area IV, division VIIId and EU waters of ICES division IIa.’.

Article 3

Entry into force

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

It shall apply from 1 January 2013.

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

Done at Strasbourg, 13 March 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
L. CREIGHTON

ANNEX

The Annexes to Regulation (EC) No 850/98 are amended as follows:

(1) in Annex I, footnote 6 of the table is deleted;

(2) in Annex IV, the table is replaced by the following:

Towed gears: Skagerrak and Kattegat

Mesh size ranges, target species and required catch percentages applicable to the use of a single mesh size range

Species	Mesh size range (mm)							
	< 16	16-31	32-69	35-69	70-89 ⁽³⁾	≥ 90		
	Minimum percentage of target species							
	50 % ⁽⁶⁾	50 % ⁽⁶⁾	20 % ⁽⁶⁾	50 % ⁽⁶⁾	20 % ⁽⁶⁾	20 % ⁽⁷⁾	30 % ⁽⁸⁾	none
Sand eel (<i>Ammodytidae</i>) ⁽³⁾	X	X	X	X	X	X	X	X
Sand eel (<i>Ammodytidae</i>) ⁽⁴⁾		X		X	X	X	X	X
Norway pout (<i>Trisopterus esmarkii</i>)		X		X	X	X	X	X
Blue Whiting (<i>Micromesistius poutassou</i>)		X		X	X	X	X	X
Greater weever (<i>Trachinus draco</i>) ⁽¹⁾		X		X	X	X	X	X
Molluscs (except Sepia) ⁽¹⁾		X		X	X	X	X	X
Garfish (<i>Belone belone</i>) ⁽¹⁾		X		X	X	X	X	X
Gray gurnard (<i>Eutrigla gurnardus</i>) ⁽¹⁾		X		X	X	X	X	X
Argentine (<i>Argentina</i> spp.)				X	X	X	X	X
Sprat (<i>Sprattus sprattus</i>)		X		X	X	X	X	X
Eel (<i>Anguilla Anguilla</i>)			X	X	X	X	X	X
Common shrimp/Baltic shrimp (<i>Crangon</i> spp., <i>Palaemon adspersus</i>) ⁽¹⁾			X	X	X	X	X	X
Mackerel (<i>Scomber</i> spp.)				X			X	X
Horse mackerel (<i>Trachurus</i> spp.)				X			X	X
Herring (<i>Clupea harengus</i>)				X			X	X
Northern shrimp (<i>Pandalus borealis</i>)						X	X	X
Common shrimp/Baltic shrimp (<i>Crangon</i> spp., <i>Palaemon adspersus</i>) ⁽²⁾					X		X	X
Whiting (<i>Merlangius merlangus</i>)							X	X
Norway lobster (<i>Nephrops norvegicus</i>)							X	X
All other marine organisms								X

⁽¹⁾ Only within 4 miles from the baselines.

⁽²⁾ Outside 4 miles from the baselines.

⁽³⁾ From 1 March to 31 October in Skagerrak and from 1 March to 31 July in Kattegat.

⁽⁴⁾ From 1 November to the last day of February in Skagerrak and from 1 August to the last day of February in Kattegat.

⁽⁵⁾ When applying this mesh size range, the codend shall be constructed of square mesh netting with a sorting grid in accordance with Annex XIVa of this Regulation.

⁽⁶⁾ The catch retained on board shall consist of no more than 10 % of any mixture of cod, haddock, hake, plaice, witch, lemon sole, sole, turbot, brill, flounder, mackerel, megrim, whiting, dab, saithe, Norway lobster and lobster.

⁽⁷⁾ The catch retained on board shall consist of no more than 50 % of any mixture of cod, haddock, hake, plaice, witch, lemon sole, sole, turbot, brill, flounder, herring, mackerel, megrim, dab, saithe, Norway lobster and lobster.

⁽⁸⁾ The catch retained on board shall consist of no more than 60 % of any mixture of cod, haddock, hake, plaice, witch, lemon sole, sole, turbot, brill, flounder, megrim, whiting, dab, saithe and lobster.;

(3) the table in Annex XII is amended as follows:

(a) the rows corresponding to the short-necked clam and the octopus are replaced by the following:

'Species	Minimum size	
	Regions 1 to 5, except Skagerrak/Kattegat	Skagerrak/Kattegat
Short-necked clam (<i>Venerupis philippinarum</i>)	35 mm	

Species	Minimum Size; Regions 1 to 5, except Skagerrak/Kattegat	
Octopus (<i>Octopus Vulgaris</i>)	Whole area except waters under sovereignty or jurisdiction of Region 5: 750 grams Waters under sovereignty or jurisdiction of Region 5: 450 grams (guttled)	

(b) the rows corresponding to anchovy are replaced by the following:

Species	Minimum Size; Regions 1 to 5, except Skagerrak/Kattegat
'Anchovy (<i>Engraulis encrasicolus</i>)	Whole area, except ICES division IXa east of longitude 7° 23' 48" W: 12 cm or 90 individuals/kg ICES division IXa east of longitude 7° 23' 48" W: 10 cm'

(4) the following annex is inserted:

'ANNEX XII a

Minimum sizes for Region 9

Species	Minimum size: Region 9
Turbot (<i>Psetta maxima</i>)	45 cm'

(5) in Annex XIV, the following names are inserted in their corresponding alphabetical order of vernacular names:

VERNACULAR NAME	SCIENTIFIC NAME
'Boarfish	<i>Capros aper</i>
Greater forkbeard	<i>Phycis blennoides</i>
Redfish	<i>Sebastes</i> spp.
Sardinelles	<i>Sardinella aurita</i>

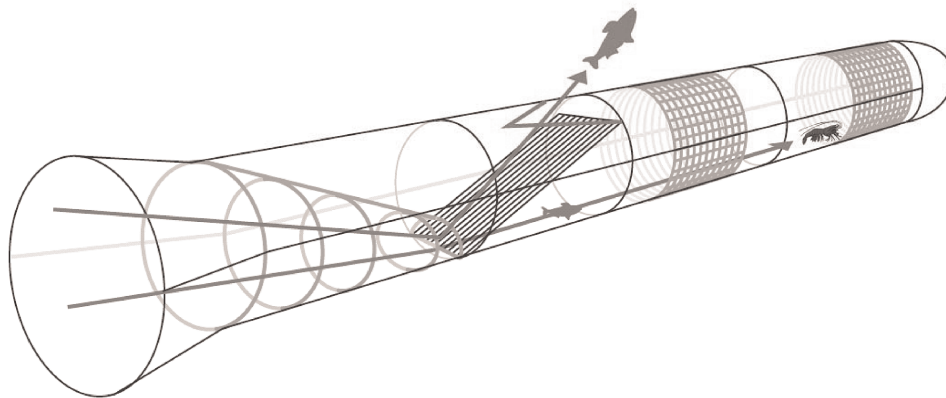
(6) the following annexes are inserted:

'ANNEX XIVa

SPECIFICATIONS FOR A SORTING GRID

1. The species selective grid shall be attached in trawls with full square mesh codend with a mesh size equal to or larger than 70 millimetres and smaller than 90 millimetres. The minimum length of the codend shall be 8 metres. It shall be prohibited to use any trawl with more than 100 square meshes in any circumference of the codend, excluding the joining or the selvages. The square mesh codend is required only in Skagerrak and Kattegat.

2. The grid shall be rectangular. The bars of the grid shall be parallel to the longitudinal axis of the grid. The bar spacing of the grid shall not exceed 35 millimetres. It shall be permitted to use one or more hinges in order to facilitate its storage on the net drum.
3. The grid shall be mounted diagonally in the trawl, upwards and backwards, anywhere from just in front of the codend to the anterior end of the untapered section. All sides of the grid shall be attached to the trawl.
4. In the upper panel of the trawl there shall be an unblocked fish outlet in immediate connection to the upper side of the grid. The opening of the fish outlet shall have the same width in the posterior side as the width of the grid and shall be cut out to a tip in the anterior direction along mesh bars from both sides of the grid.
5. It shall be permitted to attach in front of the grid a funnel to lead the fish towards the trawl floor and grid. The minimum mesh size of the funnel shall be 70 millimetres. The minimum vertical opening of the guiding funnel towards the grid shall be 15 centimetres. The width of the guiding funnel towards the grid shall be the grid width.



Schematic illustration of a size and species selective trawl. Entering fish are led towards the trawl floor and grid via a leading funnel. Larger fish are then led out of the trawl by the grid while smaller fish and Norway lobster pass through the grid and enter the codend. The full square mesh codend enhances escapement of small fish and undersized Norway lobster. The square mesh codend shown in the diagram is required only in Skagerrak and Kattegat.

ANNEX XIVb

CONDITIONS FOR FISHERIES WITH CERTAIN TOWED GEARS AUTHORISED IN THE BAY OF BISCAY

1. Specifications of the top square mesh panel

The panel shall be a rectangular section of netting. There shall be only one panel. The panel shall not be obstructed in any way by either internal or external attachments.

2. Location of the panel

The panel shall be inserted into the middle of the top panel of the rear tapered section of the trawl, just in front of the untapered section constituted by the extension piece and the codend.

The panel shall terminate not more than 12 meshes from the hand braided row of meshes between the extension piece and the rear tapered section of the trawl.

3. Size of the panel

The length of the panel shall be at least 2 metres and the width of the panel at least 1 metre.

4. Netting of the panel

The meshes shall have a minimum mesh opening of 100 millimetres. The meshes will be square meshes, i.e. all four sides of the panel netting shall be cut all bars.

The netting shall be mounted such that the bars run parallel and perpendicular to the longitudinal axis of the codend.

The netting shall be single twine. The twine thickness shall be not more than 4 millimetres.

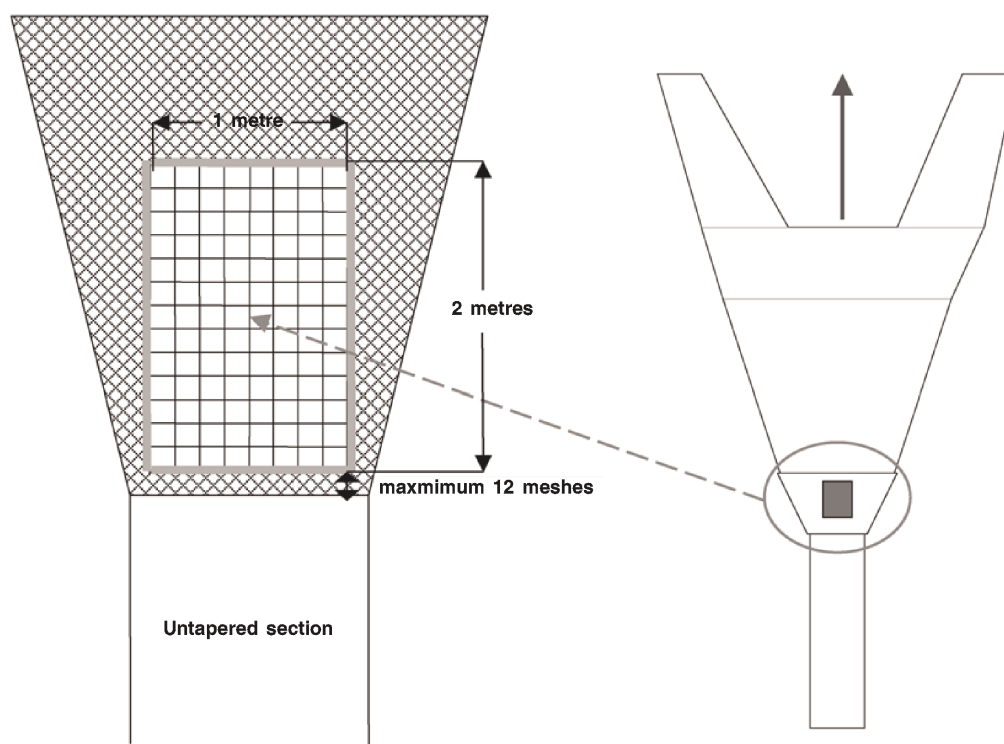
5. Insertion of the panel into the diamond mesh netting

It shall be permitted to attach a selvage on the four sides of the panel. The diameter of this selvage shall be no more than 12 millimetres.

The stretched length of the panel shall be equal to the stretched length of the diamond meshes attached to the longitudinal side of the panel.

The number of diamond meshes of the top panel attached to the smallest side of the panel (i.e. one metre long side which is perpendicular to the longitudinal axis of the codend) shall be at least the number of full diamond meshes attached to the longitudinal side of the panel divided by 0,7.

6. The insertion of the panel into the trawl is illustrated below.



ANNEX XIVc

SQUARE MESH PANEL FOR VESSELS OF MORE THAN 15 METRES

1. Specifications of the top square mesh panel

The panel shall be a rectangular section of netting. The netting shall be single twine. The meshes shall be square meshes, i.e. all four sides of the panel netting shall be cut all bars. The mesh size shall be equal or more than 120 millimetres. The length of the panel shall be at least 3 metres except when incorporated into nets towed by vessels of less than 112 kW, when it shall be of at least 2 metres in length.

2. Location of the panel

The panel shall be inserted into the top panel of the codend. The rearmost edge of the panel shall be no more than 12 metres from the codline as defined in Article 8 of Commission Regulation (EEC) No 3440/84 of 6 December 1984 on the attachment of devices to trawls, Danish seines and similar nets (*).

3. Insertion of the panel into the diamond mesh netting

There shall be no more than two open diamond meshes between the longitudinal side of the panel and the adjacent selvage.

The stretched length of the panel shall be equal to the stretched length of the diamond meshes attached to the longitudinal side of the panel. The joining rate between the diamond meshes of the top panel of the codend and the smallest side of the panel shall be three diamond meshes to one square mesh for 80 millimetre codends, or two diamond meshes to one square mesh for 120 millimetre codends, except for edge bars of the panel from both sides.

ANNEX XIVd

SQUARE MESH PANEL FOR VESSELS OF LESS THAN 15 METRES

1. Specifications of the top square mesh panel

The panel shall be a rectangular section of netting. The netting shall be single twine. The meshes shall be square meshes, i.e. all four sides of the panel netting shall be cut all bars. The mesh size shall be equal or more than 110 millimetres. The length of the panel shall be at least 3 metres except when incorporated into nets towed by vessels of less than 112 kW, when it shall be of at least 2 metres in length.

2. Location of the panel

The panel shall be inserted into the top panel of the codend. The rearmost edge of the panel shall be no more than 12 metres from the codline as defined in Article 8 of Regulation (EEC) No 3440/84.

3. Insertion of the panel into the diamond mesh netting

There shall be no more than two open diamond meshes between the longitudinal side of the panel and the adjacent selvedge. The stretched length of the panel shall be equal to the stretched length of the diamond meshes attached to the longitudinal side of the panel. The joining rate between the diamond meshes of the top panel of the codend and the smallest side of the panel shall be two diamond meshes to one square mesh, except for edge bars of the window from both sides.

(*) OJ L 318, 7.12.1984, p. 23.

REGULATION (EU) No 228/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 March 2013

laying down specific measures for agriculture in the outermost regions of the Union and repealing
Council Regulation (EC) No 247/2006

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first paragraph of Article 42, Article 43(2) and Article 349 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Specific measures in the agricultural sector to remedy the difficulties caused by the specific situation facing the Union's outermost regions, as referred to in Article 349 of the Treaty on the Functioning of the European Union ('the Treaty'), have been established by Council Regulation (EC) No 247/2006 ⁽³⁾. Those measures have been implemented by means of support programmes for each region, which constitute an essential tool for supplying such regions with agricultural products. In view of the need to update the current measures, including as a result of the entry into force of the Treaty of Lisbon, it is necessary to repeal Regulation (EC) No 247/2006 and replace it with a new Regulation.
- (2) The fundamental objectives which the scheme promoting the Union's outermost regions will help to achieve need to be specified.
- (3) It is also necessary to specify the content of the Programmes of Options Specifically Relating to Remoteness and Insularity ('POSEI programmes') which, in accordance with the principle of subsidiarity, should be established by the Member States concerned at the most appropriate geographical level and submitted by the Member States to the Commission for approval.

(4) In order to achieve more effectively the objectives of the scheme promoting the Union's outermost regions, the POSEI programmes should include measures which ensure the supply of agricultural products and the preservation and development of local agricultural production. The level of programming for the regions concerned needs to be harmonised and the policy of partnership between the Commission and the Member States needs to become systematic.

(5) In keeping with the principle of subsidiarity and in order to ensure flexibility, the two principles which form the basis of the programming approach adopted for the scheme promoting the Union's outermost regions, the authorities appointed by the Member State may propose amendments to the programme to bring it into line with the reality of the situation in the outermost regions. It should be possible for these authorities to modify the POSEI programmes, in accordance with the principle of administrative simplification, provided that they do not thereby jeopardise the effectiveness of the POSEI programmes and the corresponding financial resources allocated to them. Also in keeping with this approach, the procedure for amending the programmes should be adapted to reflect the level of relevance of each type of amendment.

(6) In order to ensure the supply of essential agricultural products to the outermost regions and to compensate for the additional costs caused by their extreme remoteness, it is appropriate to introduce a specific supply arrangement. In fact, the exceptional geographical situation of the outermost regions results in additional transport costs for supplying products which are essential for human consumption, for processing or as agricultural inputs. In addition, other objective factors linked to these regions' extreme remoteness, and in particular their insularity and small surface areas, lead to further constraints on economic operators and producers in the outermost regions that severely handicap their activities. Those handicaps can be alleviated by lowering the price of those essential products. The specific supply arrangement should, however, under no circumstances damage local products and their development.

(7) To that end, notwithstanding Article 28 of the Treaty, imports of certain agricultural products from third countries should be exempt from the applicable import duties. To take account of their origin and the customs treatment accorded to them under Union law, products which have entered the Union's customs territory under inward-processing or customs-warehousing arrangements should, for the purpose of granting the benefits of the specific supply arrangements, be considered to be direct imports.

⁽¹⁾ OJ C 107, 6.4.2011, p. 33.

⁽²⁾ Position of the European Parliament of 5 February 2013 (not yet published in the Official Journal) and decision of the Council of 25 February 2013.

⁽³⁾ OJ L 42, 14.2.2006, p. 1.

- (8) In order to achieve in an effective manner the goal of lowering prices in the outermost regions, mitigating the additional costs of their extreme remoteness, aid should be granted for the supply of Union products to the outermost regions. Such aid should take account of the additional cost of transport to these regions and the cost of exports to third countries and, in the case of agricultural inputs and products intended for processing, the additional costs associated with their extreme remoteness, and in particular their insularity and small surface areas, their difficult topography and climate and the fact that they are scattered islands.
- (9) Support for traditional sectors is all the more necessary because it enables them to remain competitive on the Union market in the face of competition from third countries. When they draw up their programmes, Member States should, however, also ensure, as far as possible, that agricultural activities in the outermost regions are diversified.
- (10) In order to avoid speculation which would be harmful to end users in the outermost regions, it is important to specify that the specific supply arrangements may only apply to products of sound, fair and marketable quality.
- (11) Rules should be established concerning the operation of the scheme, particularly those relating to the creation of a register of operators and a system of certificates, based on the licences referred to in Articles 130 and 161 of 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) ⁽¹⁾.
- (12) Given the requirements relating to the monitoring of transactions benefiting from the specific supply arrangements, administrative checks should be conducted on the products concerned at the time of their import or entry into the outermost regions and also at the time of their export or dispatch from the same. In addition, in order to achieve the objectives of the arrangements, the economic advantages of the specific supply arrangements should be reflected in production costs and should reduce prices up to the end user stage. They should therefore be granted only on condition that they are actually passed on, and appropriate checks should be carried out.
- (13) Since the quantities covered by the specific supply arrangements are limited to the supply requirements of the outermost regions, those arrangements should not impair the proper functioning of the internal market. Nor should the economic advantages of the specific supply arrangements lead to diversions of trade in the products concerned. The dispatch or export of those products from the outermost regions should therefore be prohibited. However, the dispatch or export of those products should be authorised if the financial advantage resulting from the specific supply arrangements is reimbursed.
- (14) With regard to processed products, trade between the outermost regions should be authorised in order to allow commerce between these regions. Account should also be taken of trade flows within the context of regional commerce and traditional exports and dispatching with the rest of the Union or third countries in the outermost regions, and exports of processed products corresponding to traditional trade for all those regions should be authorised. For the sake of clarity, the reference period for defining traditionally exported or dispatched quantities should be specified.
- (15) Appropriate measures should be taken to allow for the necessary restructuring of the sugar processing sector in the Azores. These measures should take into account the fact that, in order for the sugar sector on the Azores to be viable, a certain level of production and processing needs to be ensured. Against this background, the Azores should exceptionally, be permitted to dispatch to the rest of the Union quantities of sugar in excess of traditional flows for a limited period of five years, subject to progressively reducing annual limits. Because the quantities that may be re-dispatched will be proportional and limited to those strictly necessary for ensuring the viability of local sugar production and processing, such temporary dispatching of sugar from the Azores will not adversely affect the internal market of the Union.
- (16) With regard to out-of-quota sugar to be supplied to the Azores, Madeira and the Canary Islands, the scheme of exemption from import duties will continue to apply. In particular, the Azores should also be authorised to benefit from the exemption from import duties for raw cane sugar up to their forecast supply balance.
- (17) To date, the Canary Islands have been supplied under specific supply arrangements with skimmed milk powder falling within CN code 1901 90 99 (skimmed milk powder containing vegetable fat) for industrial processing. The continued supply of this product, which has become a traditional component of the local diet, should be permitted.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

- (18) Given that rice constitutes a staple of the diet of Réunion, that rice processing and polishing industries have been established in Réunion for many years and that Réunion does not produce sufficient quantities to meet local requirements, the import of this product to the island should continue to be exempt from any form of import tax.
- (19) Union policy to assist local production in the outermost regions has involved a multitude of products and measures for their production, marketing or processing. Those measures have proved effective and have ensured that agriculture continues and develops. The Union should continue to support these lines of production, which are a key element to ensure the environmental, social and economic equilibrium of the outermost regions. Experience has shown that, as in the case of rural development policy, a closer partnership with local authorities can help to address, in a more targeted way, the particular issues affecting the regions concerned. Support to promote local production therefore needs to continue through the POSEI programmes.
- (20) In order to support the marketing of products from the outermost regions, aid should be established to assist the commercialisation of these products outside of the region in which they are produced, taking account of the high additional costs they face as a result of their distance from consumer markets and the need for double storage, factors which result in crucial competitive disadvantages for the outermost regions, affecting their ability to compete in the internal market. These factors justify the need to review the POSEI scheme in the near future.
- (21) The minimum elements which should be provided under the POSEI programmes in order to establish the measures supporting local agricultural production, specifically the description of the location, of the strategy proposed, of the objectives and of the measures, should be established. The principles underlying the consistency of these measures with other Union policies should also be stated, in order to avoid any incompatibility and overlapping of aid.
- (22) For the purposes of applying this Regulation, it should also be possible for the POSEI programmes to contain measures for financing studies, demonstration projects, training and technical assistance.
- (23) Farmers in the outermost regions should be encouraged to continue to supply high-quality products and to prioritise their marketing. Use of the logo introduced in this Regulation and of other forms of quality certification introduced by the Union may be useful to this end.
- (24) The structures of certain farms or processing and marketing firms in the outermost regions are seriously deficient and face specific difficulties. Articles 26(2) and 28(2) of Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ⁽¹⁾ therefore provide for more favourable support rates for certain types of investment in the outermost regions.
- (25) Article 27(1) of Regulation (EC) No 1698/2005 excludes the outermost regions from the restriction to a grant of forestry support provided for in that Regulation.
- (26) Regulation (EC) No 1698/2005 determines the maximum annual amounts eligible for agri-environmental payments. To take into account the specific environmental situation of certain very sensitive pasture areas in the Azores and the preservation of the landscape, the biodiversity and the traditional features of agricultural land, in particular the areas of terrace cultivation in Madeira and the Canary Islands, as well as the conservation of stone walls in the outermost regions, provision should be made for the possibility, in the case of certain specific measures, of increasing those amounts up to twofold.
- (27) A derogation may be granted from the Commission's consistent policy of not authorising State operating aid for the production, processing and marketing of agricultural products covered by Annex I to the Treaty, in order to mitigate the specific constraints on farming in the outermost regions linked to their extreme remoteness, specifically their isolation, insularity, small surface areas, mountainous terrain and climate and their economic dependency on a small number of products. Agricultural production plays a vital role in revitalising rural areas and encouraging people to stay in them, and the outermost rural areas are particularly affected by population ageing, low population density and, in some cases, depopulation.
- (28) The plant health of agricultural crops in the outermost regions is affected by particular problems such as the arrival of parasites associated with the increase in the amount of imports, the climate and the inadequacy of the control measures previously applied there. Programmes should therefore be implemented to combat harmful organisms, including by sustainable and environmentally sound organic methods. The Union's financial contribution towards such programmes should be defined, taking into account the fact that, under the multiannual financial framework, it is envisaged that, with effect from 2014, the financing of these programmes will fall under a different budgetary heading.

⁽¹⁾ OJ L 277, 21.10.2005, p. 1.

- (29) The maintenance of vineyards, which are the most widespread type of cultivation in the regions of Madeira and the Canary Islands and a very important one for the Azores, is an economic, social and environmental imperative. To help support production, the abandonment premiums, the market mechanisms and, in the case of the Canary Islands, the planting rights system, provided for in Regulation (EC) No 1234/2007 should not be applicable in these regions. Nonetheless, in the Canary Islands, it should be possible to apply crisis distillation measures in the event of exceptional market disturbance arising from quality problems. Similarly, technical and socio-economic difficulties have prevented complete conversion, within the time limits established, of the areas in the regions of Madeira and the Azores under vines of hybrid varieties prohibited by Regulation (EC) No 1234/2007. The wine produced by such vineyards is intended solely for traditional local consumption.
- (30) The restructuring of the milk sector is not yet complete in the Azores. In line with the high dependence of the Azores on milk production, combined with other handicaps connected with their extreme remoteness and the absence of profitable alternative lines of production, the derogation from certain provisions of Regulation (EC) No 1234/2007 concerning surplus levies on milk and milk products should be maintained.
- (31) Given the irreplaceable nature of milk production in the Azores, where it is one of the main driving forces for the economy, social stability, the quality of the environment and occupation of the land, the POSEI programmes are the best instruments for adopting any necessary measures to maintain this production.
- (32) Support for the production of cow's milk in Madeira and Réunion has not been sufficient to maintain the balance between domestic and external supply, chiefly because of the serious structural difficulties affecting the sector and its problems adapting to new economic environments. Consequently, authorisation to produce UHT milk reconstituted from milk powder of Union origin should continue, in order to cover local consumption more fully, provided that this does not pose an obstacle to the collection and marketing of all locally produced milk, or hamper efforts to promote the expansion of local production. In order to inform the consumer correctly, it should be made compulsory to indicate on the sales labelling the method by which UHT milk is reconstituted using milk powder. This provision should also be applicable in Martinique, French Guiana and Guadeloupe, if France makes a request to that effect, stating the wish of local stakeholders to be covered by it and their ability to develop the milk sector.
- (33) The need to maintain local milk production by means of incentives justifies not applying Regulation (EC) No 1234/2007 in the French overseas departments and Madeira. This exemption should apply to Madeira subject to a limit of 4 000 tonnes.
- (34) Trade among outermost regions should be fostered with a view to meeting local consumption needs. The export of surplus production from each of the outermost regions — for example, the export of milk, beef and young male bovine animals from the Azores — to those regions with shortages should be encouraged with a view to strengthening trade, while avoiding harming the growth of local production. The conditions necessary for fair and equitable trade should also be guaranteed.
- (35) Traditional livestock farming activities should be supported. In order to meet the local consumption needs of the French overseas departments and Madeira, duty-free imports from third countries of male bovine animals intended for fattening should be authorised subject to certain conditions and up to a maximum annual limit.
- (36) The possibility introduced by Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers⁽¹⁾ to enable Portugal to transfer rights to the suckler cow premium from the mainland to the Azores should be renewed and that instrument should be adjusted in the light of the support arrangements for the outermost regions.
- (37) Tobacco growing is of historical importance in the Canary Islands. From an economic perspective, tobacco preparation continues to be one of the chief industrial activities in the region. In social terms, tobacco cultivation is very labour-intensive and is carried out by small farms. Since the crop is not sufficiently profitable, however, it is in danger of dying out. Tobacco is currently only cultivated on a small area on the island of La Palma for the small-scale manufacture of cigars. Spain should therefore be authorised to continue to grant aid, in addition to Union aid, so that this traditional crop can be maintained with a view to supporting the artisanal activity associated with it. In addition, to maintain the manufacture of tobacco products, imports into the Canary Islands of raw and semi-manufactured tobacco should continue to be exempt from customs duty, up to an annual limit of 20 000 tonnes of stripped raw tobacco equivalent.

⁽¹⁾ OJ L 30, 31.1.2009, p. 16.

- (38) Implementation of this Regulation should not jeopardise the level of special support from which the outermost regions have benefited up to now. The Member States should have at their disposal sums equivalent to the support already granted by the Union under Regulation (EC) No 247/2006, in order to implement the appropriate measures.
- (39) Given the potential effects that negotiation of future trade agreements and modifications to the common agricultural policy may have on the outermost regions, specific regard should be given to the special characteristics of these regions in the context of the analyses, studies and assessments carried out in relation to these negotiations and modifications.
- (40) Since 2006, requirements in essential products have increased in some outermost regions, particularly in the Azores and in the French overseas departments, as a result of the increasing livestock population and demographic pressure. The proportion of the budget which Member States may use for the specific supply arrangements for the regions concerned should therefore be increased.
- (41) The socio-economic fabric of the outermost regions remains very fragile and, for some of them, is often highly dependent on the banana sector, which itself clearly suffers from a lack of competitiveness and difficulties responding to changing market conditions. The POSEI budget allocated to the banana sector should therefore be increased by a one-off, limited amount to be paid to banana producers during the financial year 2013.
- (42) In order to ensure the proper functioning of the regime established by this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission, in respect of supplementing or modifying certain non-essential elements of this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (43) In order to ensure uniform conditions for the implementation of the POSEI programme in the Member States and to avoid unfair competition or discrimination between operators, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules

and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers⁽¹⁾.

- (44) In order to allow for the prompt application of the measures envisaged, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND OBJECTIVES

Article 1

Subject matter

This Regulation lays down specific measures for agriculture to mitigate the difficulties caused by extreme remoteness, specifically remoteness, isolation, small surface areas, terrain, difficult climate and economic dependence on a limited number of products of the regions of the Union referred to in Article 349 of the Treaty ('the outermost regions').

Article 2

Objectives

1. The specific measures referred to in Article 1 shall help to meet the following objectives:
 - (a) guaranteed supply to the outermost regions of products essential for human consumption or for processing and as agricultural inputs by mitigating the additional costs incurred due to their extreme remoteness, without harming local production and the growth thereof;
 - (b) securing the long-term future and development of the 'livestock' and 'crop-diversification' sectors in the outermost regions, including the production, processing and sale of local products;
 - (c) maintaining the development and strengthening the competitiveness of traditional agricultural activities in the outermost regions, including the production, processing and marketing of local crops and products.
2. The objectives set out in paragraph 1 shall be implemented by means of the measures referred to in Chapters III, IV and V.

⁽¹⁾ OJ L 55, 28.2.2011, p. 13.

CHAPTER II

POSEI PROGRAMMES

Article 3

Establishing the POSEI programmes

1. The measures provided for in Article 1 shall be defined for each outermost region by a Programme of Options Specifically Relating to Remoteness and Insularity (POSEI), ('the POSEI programme'), comprising:

- (a) specific supply arrangements as provided for in Chapter III; and
- (b) specific measures to assist local agricultural production as provided for in Chapter IV.

2. The POSEI programme shall be established at the geographical level which the Member State concerned deems to be the most appropriate. It shall be prepared by the competent authorities designated by the said Member State, which shall submit it to the Commission for approval in accordance with Article 6 after the competent authorities and organisations at the appropriate regional level have been consulted.

3. A single POSEI programme may be submitted for each Member State in respect of its outermost regions.

Article 4

Compatibility and consistency

1. Measures taken under POSEI programmes shall comply with Union law. Such measures shall be consistent with other Union policies and with the measures taken under such policies.

2. Consistency of the measures taken under POSEI programmes with measures implemented under other instruments of the common agricultural policy, and in particular the common organisations of markets, rural development, product quality, animal welfare and the protection of the environment, shall be ensured.

In particular, no measure under this Regulation shall be financed as:

- (a) additional support for premium or aid schemes under a common organisation of the market save in exceptional cases justified by objective criteria;
- (b) support for research projects, measures to support research projects or measures eligible for Union financing under Council Decision 2009/470/EC of 25 May 2009 on expenditure in the veterinary field ⁽¹⁾;

⁽¹⁾ OJ L 155, 18.6.2009, p. 30.

- (c) support for measures within the scope of Regulation (EC) No 1698/2005.

Article 5

Content of the POSEI programmes

A POSEI programme shall comprise:

- (a) a schedule for the implementation of the measures and a general annual indicative financing table showing the resources to be deployed;
- (b) proof of the compatibility and consistency between the various measures under the programmes and with the criteria and quantitative indicators to be used for monitoring and evaluation;
- (c) the steps taken to ensure that the programmes are implemented effectively and appropriately, including the arrangements for publicity, monitoring and evaluation, and a specified set of quantified indicators for use in programme evaluation;
- (d) the designation of the competent authorities and bodies responsible for implementing the programme and the designation at the appropriate levels of authorities or associated bodies and socio-economic partners, and the results of consultations held.

Article 6

Approval and amendments of the POSEI programmes

1. The POSEI programmes are established by Regulation (EC) No 247/2006 and are financed under the financial allocation referred to in Article 30(2) and (3).

Each programme comprises a forecast supply balance indicating the products, the quantities thereof and the amount of aid for supply from the Union together with a draft programme of support for local production.

2. Depending on the annual evaluation of the implementation of measures included in the POSEI programmes, the Member States may, after consulting the socio-economic partners concerned, submit to the Commission duly substantiated proposals for amendments to those measures within the context of the financial allocation referred to in Article 30(2) and (3), to bring them more into line with the requirements of the outermost regions and the strategy proposed. The Commission shall adopt implementing acts laying down the procedures for assessing whether the amendments proposed comply with Union law and for deciding whether to approve them. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

3. The procedures laid down by the implementing acts referred to in paragraph 2 may take account of the following elements: the importance of the modifications proposed by the Member States with reference to the introduction of new measures, whether the changes to the budget allocated to the measures are substantial, changes in the quantities and in the level of aid for products in the forecast supply balances and any amendments to codes and descriptions laid down in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾.

4. The implementing acts referred to in paragraph 2 shall also determine, for each procedure, the frequency with which requests for amendments are to be made, as well as the time frames within which the approved amendments are to be implemented.

Article 7

Amendments regarding the financial allocations

By 22 April 2013, Member States shall submit to the Commission the draft amendments to their POSEI programmes to reflect the changes introduced by Article 30(5).

These amendments shall become applicable one month after their submission if during this period the Commission raises no objections.

The competent authorities shall pay the aid referred to in Article 30(5) not later than 30 June 2013.

Article 8

Monitoring and follow-up

The Member States shall conduct verifications by means of administrative and on-the-spot checks. The Commission shall adopt implementing acts regarding the minimum characteristics of the checks to be carried out by the Member States.

The Commission shall also adopt implementing acts regarding the procedures and physical and financial indicators in order to ensure that the implementation of the programmes is monitored in an effective manner.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

CHAPTER III

SPECIFIC SUPPLY ARRANGEMENTS

Article 9

Forecast supply balance

1. Specific supply arrangements are hereby established for the agricultural products listed in Annex I to the Treaty

which are essential in the outermost regions for human consumption, for the manufacture of other products or as agricultural inputs.

2. The Member State concerned shall establish, at the geographical level which it deems most appropriate, a forecast supply balance so as to quantify the annual supply requirements for each outermost region with regard to the products listed in Annex I to the Treaty.

A separate forecast balance may be drawn up for the requirements of undertakings packaging and processing products intended for the local market for traditional consignment to the rest of the Union or for export as part of regional trade, in accordance with Article 14(3), or within the context of traditional trade flows.

Article 10

Operation of the specific supply arrangements

1. Within the limit of the quantities determined in the forecast supply balance, no duties shall apply to direct imports from third countries into the outermost regions of products covered by the specific supply arrangements.

Products which have entered the Union's customs territory under inward processing or customs warehousing arrangements shall be considered to be direct imports from third countries for the purposes of this Chapter.

2. In order to ensure coverage of the requirements established in accordance with Article 9(2) in terms of price and quality, while taking care to maintain the Union's share in supplies, aid shall be granted to supply the outermost regions with Union products held in public intervention storage or available on the Union market.

Such aid shall be determined for each type of product concerned, taking account of the additional cost of transport to the outermost regions and the prices applied to exports to third countries and, in the case of products intended for processing or agricultural inputs, other additional costs associated with extreme remoteness, and in particular their insularity and small surface areas.

3. No aid shall be granted for the supply of products which have already benefited from the specific supply arrangements in another outermost region.

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

4. Only products of sound, fair and marketable quality shall benefit from the specific supply arrangements. Products from third countries shall provide an equivalent level of guarantees to those produced under the Union's veterinary and plant health standards.

Article 11

Implementation

In implementing the specific supply arrangements, account shall be taken, in particular, of the following:

- (a) the specific requirements of the outermost regions and, in the case of products intended for processing and agricultural inputs, the quality requirements;
- (b) trade flows with the rest of the Union;
- (c) the economic aspect of the proposed aid;
- (d) the need to ensure that existing local production is neither destabilised, nor obstructed in its development.

Article 12

Certificates

1. Exemption from import duties or access to aid within the framework of the specific supply arrangements shall be granted on the presentation of a certificate.

Certificates shall be issued only to operators entered in a register held by the competent authorities.

Licences and certificates shall not be transferable.

2. No security shall be required when applying for import licences, exemption certificates or aid certificates. However, to the extent necessary to ensure the proper application of this Regulation, the competent authority may require a security to be lodged equal to the amount of the advantage as referred to in Article 13. In such cases, Article 34(1), (4), (5), (6), (7) and (8) of Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ⁽¹⁾ shall apply.

The Commission shall be empowered to adopt delegated acts, in accordance with Article 33, determining the conditions for

recording operators in the register and providing for the full exercise by operators of their rights to participate in the specific supply arrangements.

3. The Commission shall adopt implementing acts regarding the measures necessary to ensure the uniform application by the Member States of this Article, specifically relating to the introduction of the system of certificates and the commitment undertaken by operators at the time of registration. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 13

Impact of advantage

1. Benefiting from the specific supply arrangements resulting from the exemption of import duty or the awarding of aid shall be subject to the condition that the impact of the economic advantage is passed on up to the end user who, as appropriate, may be the consumer in the case of products meant for direct consumption, the end processor or packager in the case of products meant for the processing or packaging industries, or farmers in the case of products used for animal feed or as agricultural inputs.

The advantage referred to in the first subparagraph shall be equal to the amount of the exemption from import duties or to the amount of the aid.

2. In order to ensure that paragraph 1 is applied in a uniform manner, the Commission shall adopt implementing acts regarding the application of the rules set out in paragraph 1 and more specifically the conditions for the monitoring by Member States, that the advantage has in fact been passed on up to the end user. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 14

Export to third countries and dispatch to the rest of the Union

1. The Commission shall adopt implementing acts establishing the requirements in accordance with which products covered by the specific supply arrangements may be exported to third countries or dispatched to the rest of the Union, which shall include the payment of import duty or the reimbursement of the aid received, as indicated in Article 10. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Exports to third countries of products covered by the specific supply arrangements shall not be subject to the presentation of a certificate.

⁽¹⁾ OJ L 114, 26.4.2008, p. 3.

The first subparagraph shall not apply to trade flows between French overseas departments.

2. The first subparagraph of paragraph 1 shall not apply to products processed in the outermost regions from products that have benefited from the specific supply arrangements which are:

(a) exported to third countries or dispatched to the rest of the Union within the limits of traditional exports and traditional dispatches. The Commission shall adopt implementing acts establishing those amounts, on the basis of dispatches or export average figures, taking as a reference the verified average figures for the three best years between 2005 and 2012. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2);

(b) exported to third countries as part of regional trade;

(c) dispatched between the regions of the Azores, Madeira and the Canary Islands;

(d) dispatched between French overseas departments.

No export refund shall be granted on the export of products referred to in points (a) and (b) of the first subparagraph.

Exports to third countries of products referred to in points (a) and (b) of the first subparagraph shall not be subject to the presentation of a certificate.

3. For the purposes of this Chapter, 'regional trade' shall be understood as trade, for each outermost region, with third countries belonging to the same geographical area as those outermost regions, and with countries with which there are historical trade links. The Commission shall adopt implementing acts establishing a list of those countries, taking into account objective requests made by the Member States following consultation with the sectors concerned. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

4. Products delivered to the French overseas departments, the Azores, Madeira or the Canary Islands which have benefited from the specific supply arrangements and are used to supply ships and aircraft shall be deemed to have been consumed locally.

5. By way of derogation from paragraph 2, first subparagraph, point (a), the following maximum quantities of sugar

(CN code 1701) may be dispatched annually from the Azores to the rest of the Union in the following five years:

— in 2011: 3 000 tonnes,

— in 2012: 2 500 tonnes,

— in 2013: 2 000 tonnes,

— in 2014: 1 500 tonnes,

— in 2015: 1 000 tonnes.

6. Processing operations which may give rise to traditional or regional trade exports or traditional dispatches shall fulfil, *mutatis mutandis*, the processing conditions applicable under inward processing arrangements and the procedure for processing under customs control provided for in the relevant Union legislation, with the exception of all usual forms of handling.

Article 15

Sugar

1. During the period established in Article 204(2) and (3) of Regulation (EC) No 1234/2007, the non-quota production referred to in Article 61 of that Regulation shall be exempt from import duties subject to the forecast supply balance referred to in Article 9 of this Regulation in respect of:

(a) sugar brought for consumption to Madeira or the Canary Islands in the form of white sugar falling within CN code 1701;

(b) sugar refined and consumed in the Azores in the form of raw sugar falling within CN code 1701 12 10 (raw beet sugar).

2. In the Azores, for the purpose of refining, the quantities referred to in paragraph 1 may be supplemented, subject to the limit of the forecast supply balance, by raw sugar falling within CN code 1701 11 10 (raw cane sugar).

When determining the Azores' raw sugar requirements, account shall be taken of the development of local production of sugar beet. The quantities covered by the supply arrangements shall be determined so as to ensure that the total volume of sugar refined in the Azores each year does not exceed 10 000 tonnes.

Article 16

Skimmed milk powder

By way of derogation from Article 9 above, the Canary Islands may continue to receive supplies of skimmed milk powder falling within CN code 1901 90 99 (skimmed milk powder containing vegetable fat) meant for industrial processing, subject to a limit of 800 tonnes per year. Aid granted for supplies of this product from the Union may not exceed EUR 210 per tonne and shall be included in the limit laid down in Article 30. This product shall be used for local consumption only.

Article 17

Rice

No customs duties shall be charged in the French overseas department of Réunion on products falling within CN codes 1006 10, 1006 20 and 1006 40 00 imported for consumption there.

Article 18

Controls and penalties

1. Products which are the subject of specific supply arrangements shall be subject to administrative checks at the time that they are imported into or enter the outermost regions, as well as when they are exported or dispatched.

The Commission shall adopt implementing acts regarding the minimum characteristics of the checks to be carried out by the Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

2. Except in cases of *force majeure* or exceptional climatic conditions, if an operator, as referred to in Article 12, fails to comply with the commitments made in accordance with Article 12, the competent authority, without prejudice to any penalties applicable under national law, shall:

- (a) recover the advantage granted to operator;
- (b) temporarily suspend or revoke the operator's registration, depending on the seriousness of the non-compliance.

3. Except in cases of *force majeure* or exceptional climatic conditions, where operators, as referred to in Article 12, do not carry out the planned import or entry, their entitlement to apply for licences or certificates shall be suspended by the competent authority for a period of 60 days following expiry of that licence or certificate. After the suspension period, the issue of subsequent licences or certificates shall be subject to the

lodging of a security equal to the amount of the advantage to be granted during a period to be determined by the competent authority.

The competent authority shall adopt the measures required to reutilise any quantities of products made available as a result of non-execution, partial execution or cancellation of the licenses and certificates issued or recovery of the advantage.

CHAPTER IV

MEASURES TO ASSIST LOCAL AGRICULTURAL PRODUCTS

Article 19

Measures

1. The POSEI programmes consist of specific measures designed to promote local agricultural production under the scope of Part Three, Title III of the Treaty, necessary in order to ensure the continuity and development of local agricultural production in each outermost region.

2. The parts of the programme which include measures to assist local agricultural production and which correspond to the objectives set out in Article 2 shall comprise at least the following elements:

- (a) a quantified description of the current situation of the agricultural production in question, taking into account the results of available evaluations, showing disparities, gaps and potential for development, the financial resources deployed and the primary results of measures taken previously;
- (b) a description of the strategy proposed, the priorities selected, its quantified general and operational objectives, and an appraisal showing the expected economic, environmental and social impact, including employment effects;
- (c) a description of the measures envisaged, and in particular aid schemes for implementing them, and, where appropriate, information on the need for any studies, demonstration projects, training or technical assistance operations relating to the preparation, implementation or adaptation of the measures concerned;
- (d) a list of the aid constituting direct payments in accordance with Article 2(d) of Regulation (EC) No 73/2009;
- (e) the aid amount established for each measure and the provisional amount for each action in order to achieve one or more objectives for the programme.

3. The Commission shall adopt implementing acts concerning requirements for the provision of the aid described in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

4. The programme may include measures to support production, processing or sale of agricultural products in the outermost regions.

Each measure may include a variety of actions. For each action, the programme shall define at least the following elements:

- (a) the beneficiaries;
- (b) the eligibility conditions;
- (c) the unit amount of aid.

In order to support the marketing of products outside a region in which they are produced, the Commission shall be empowered to adopt delegated acts, in accordance with Article 33, regarding the conditions for establishing the amount of aid awarded in respect of such marketing and, where appropriate, the conditions for establishing the quantities of products subject to this aid.

Article 20

Controls and wrongful payments

1. Verification of measures provided for in this Chapter shall be conducted by administrative and on-the-spot checks.

2. In the event of wrongful payments, the beneficiary concerned shall be obliged to reimburse the amounts in question. Article 80 of Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector⁽¹⁾ shall apply *mutatis mutandis*.

CHAPTER V

ACCOMPANYING MEASURES

Article 21

Logo

1. A logo shall be introduced with a view to improving awareness and the consumption of quality agricultural

products, whether processed or not, specific to the outermost regions.

2. The conditions for using the logo referred to in paragraph 1 shall be proposed by the trade organisations concerned. The national authorities shall forward such proposals, with their opinion thereon, to the Commission.

Use of the logo shall be monitored by a public authority or a body approved by the competent national authorities.

3. The Commission shall be empowered to adopt delegated acts, in accordance with Article 33, regarding the conditions for exercising the right to use the logo and for reproducing and using it. Those conditions shall be set to improve awareness of high-quality agricultural products from the outermost regions and to increase the consumption thereof, regardless of whether those products are processed or non-processed.

4. The Commission shall adopt implementing acts regarding the detailed rules concerning the use of the logo and the minimum characteristics for the checks and monitoring which the Member States shall perform. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 22

Rural development

1. Notwithstanding Article 39(4) of Regulation (EC) No 1698/2005, the maximum annual amounts eligible for Union aid, as set out in Annex I to that Regulation, may be increased up to twofold in the case of the measure to protect lakes in the Azores and the measure to preserve the landscape, biodiversity and traditional features of agricultural land and the conservation of stone walls in the outermost regions.

2. A description of the measures planned under paragraph 1 of this Article shall be included, where appropriate, in the programmes for these regions referred to in Article 16 of Regulation (EC) No 1698/2005.

Article 23

State aid

1. For the agricultural products covered by Annex I to the Treaty, to which Articles 107, 108 and 109 thereof apply, the Commission may authorise, in accordance with Article 108 of the Treaty, operating aid in the sectors producing, processing and marketing those products, with a view to alleviating the specific constraints on farming in the outermost regions as a result of their isolation, insularity and extreme remoteness.

⁽¹⁾ OJ L 316, 2.12.2009, p. 65.

2. Member States may grant additional financing for the implementation of POSEI programmes. In such cases, the Member States shall notify the Commission of the State aid and the Commission may approve it in accordance with this Regulation as part of those programmes. Aid thus notified shall be regarded as notified within the meaning of the first sentence of Article 108(3) of the Treaty.

3. France may grant the sugar sector in the French outermost regions aid of up to EUR 90 million per marketing year.

France shall inform the Commission within 30 days of the end of each marketing year of the amount of aid actually granted.

4. Without prejudice to paragraphs 1 and 2 of this Article and by way of derogation from the first subparagraph of Article 180 of Regulation (EC) No 1234/2007 and Article 3 of Council Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of, and trade in, agricultural products ⁽¹⁾, Articles 107, 108 and 109 of the Treaty shall not apply to payments made under Chapter IV of this Regulation, paragraph 3 of this Article and Articles 24 and 28 of this Regulation by Member States in conformity with this Regulation.

Article 24

Plant health programmes

1. The Member States shall submit programmes to the Commission for the control of organisms harmful to plants or plant products in the outermost regions. The programmes shall specify in particular the objectives to be achieved, the measures to be carried out, their duration and their cost.

The Commission shall evaluate the programmes submitted. The Commission shall adopt implementing acts to approve or not approve those programmes. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

2. The Union shall contribute to the financing of the programmes provided for in paragraph 1 on the basis of a technical analysis of the regional situations.

Such contribution may cover up to 75 % of eligible expenditure. Payment shall be made on the basis of documentation provided by Member States. If necessary, checks may be organised by the Commission and conducted on its behalf by the experts referred to in Article 21 of Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the

Community of organisms harmful to plants or plant products and against their spread within the Community ⁽²⁾.

3. The Commission shall adopt implementing acts in respect of each region and programme, on the basis of the criteria fixed in paragraph 2 and the programme presented in accordance with paragraph 1, establishing:

(a) the financial participation of the Union, as well as the amount of the aid;

(b) the measures eligible for Union financing.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 25

Wine

1. Measures referred to in Articles 103v, 103w, 103x and 182a of Regulation (EC) No 1234/2007 shall not apply to the Azores and Madeira.

2. Notwithstanding the second subparagraph of Article 120a(2) of Regulation (EC) No 1234/2007, grapes from the vine varieties referred to in point (b) of that subparagraph, and harvested in the Azores and Madeira, may be used for the production of wine which must remain within those regions.

Portugal shall gradually cease harvesting the parcels planted using the vine varieties referred to in point (b) of the second subparagraph of Article 120a(2) of Regulation (EC) No 1234/2007 with, if necessary, the supports provided for in Article 103q of that Regulation.

3. By way of derogation from Article 85f of Regulation (EC) No 1234/2007, the transitional planting rights regime shall apply to the Canary Islands until 31 December 2012.

Article 26

Milk

1. For the purposes of distributing the surplus levy referred to in Article 79 of Regulation (EC) No 1234/2007, only producers who, within the meaning of Article 65(c) of that Regulation, established and producing in the Azores, market quantities exceeding their reference quantity increased by the percentage referred to in the third subparagraph of this paragraph shall be deemed to have contributed to the overrun.

⁽¹⁾ OJ L 214, 4.8.2006, p. 7.

⁽²⁾ OJ L 169, 10.7.2000, p. 1.

The surplus levy shall be due on quantities exceeding the quota thus increased by the percentage referred to in the third subparagraph, after reallocation of the unused quantities within the margin resulting from this increase among all the producers within the meaning of Article 65(c) of Regulation (EC) No 1234/2007 established and producing in the Azores, and in proportion to the reference quantity available to each producer.

The percentage referred to in the first subparagraph shall be equal to the ratio between the quantity of 23 000 tonnes from the 2005/2006 marketing year onwards and the total of the reference quantities available on each holding on 31 March 2010. It shall apply only to the quota available on 31 March 2010.

2. The quantities of milk or milk equivalent marketed which exceed the quota but which comply with the percentage referred to in the third subparagraph of paragraph 1, after the reallocation referred to in that same paragraph, shall not be taken into account in establishing any overrun by Portugal as calculated in accordance with Article 66 of Regulation (EC) No 1234/2007.

3. The surplus levy scheme applicable to producers of milk provided for in Regulation (EC) No 1234/2007 shall not apply in the French overseas departments or, within the limit of local production of 4 000 tonnes of milk, in Madeira.

4. Notwithstanding Article 114(2) of Regulation (EC) No 1234/2007, the production in Madeira and in the French overseas department of Réunion of UHT milk reconstituted from milk powder originating in the Union shall be authorised within the limits of local consumption requirements, provided that this measure does not hinder the collection or disposal of locally produced milk. If France demonstrates the expediency of such a measure for the French overseas departments of Martinique, Guadeloupe and French Guiana, the Commission shall be empowered to adopt, where necessary, delegated acts, in accordance with Article 33, in order to extend this measure to those departments. This product shall be used for local consumption only.

The method by which the UHT milk thus reconstituted has been obtained shall be clearly indicated on the sales labelling.

Article 27

Cattle farming

1. Until the local numbers of young male bovines reach a level sufficient to ensure the maintenance and development of local beef production in the French overseas departments and

Madeira, the possibility shall be introduced of importing bovine animals from third countries for fattening and consumption in the French overseas departments and Madeira, without applying import duties under the Common Customs Tariff. The Commission shall adopt implementing acts regarding the measures necessary to implement this subparagraph and more specifically the means for introducing the exemption from import duties in respect of the young male bovines introduced into the French overseas departments and Madeira. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 13 and Article 14(1) shall apply to animals qualifying for the exemption referred to in the first subparagraph of this paragraph.

2. The numbers of animals qualifying for the exemption referred to in paragraph 1 shall be determined in the POSEI programmes, if the need to import is justified, in view of developments in local production. Priority for such animals shall be given to producers keeping animals for fattening at least 50 % of which are of local origin.

The Commission shall be empowered to adopt delegated acts, in accordance with Article 33, laying down the conditions for the exemption from import duties. Those conditions shall take into account the specific local features of the beef sector and industry.

3. Where Article 52 and Article 53(1) of Regulation (EC) No 73/2009 are applied, Portugal may reduce the component of the national ceiling corresponding to sheep and goat payments and suckler cow premium rights. In this case, the Commission shall adopt implementing acts regarding the relevant amount to be transferred from the ceilings established in accordance with Article 52 and Article 53(1) of Regulation (EC) No 73/2009 to the financial allocation referred to in the second indent of Article 30(2) of this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

Article 28

State aid for tobacco production

Spain is authorised to award aid concerning the production of tobacco in the Canary Islands. The granting of this aid may not result in discrimination between producers in the islands.

The amount of the aid may not exceed EUR 2 980,62 per tonne. The additional aid shall be granted for up to 10 tonnes each year.

Article 29

Exemption of tobacco from customs duties

1. No customs duties shall be applied to direct imports into the Canary Islands of raw and semi-manufactured tobacco falling, respectively, within:

(a) CN code 2401; and

(b) the following subheadings:

- 2401 10 Tobacco, not stemmed/stripped,
- 2401 20 Tobacco, partly or wholly stemmed/stripped,
- ex 2401 20 Outer coverings for cigars presented on supports, in reels for the manufacture of tobacco,
- 2401 30 Tobacco waste,
- ex 2402 10 Unfinished cigars without wrapping,
- ex 2403 10 Cigarette rag (finished mixtures of tobacco for the manufacture of cigarettes, cigars, cheroots and cigarillos),
- ex 2403 91 Homogenised or reconstituted tobacco, whether or not put up in sheets or strips,
- ex 2403 99 Expanded tobacco.

The exemption provided for in the first subparagraph is granted by means of the certificates referred to in Article 12.

This exemption applies to the products referred to in the first subparagraph, meant to be processed in the Canary Islands in order to produce manufactured products ready for smoking, subject to an annual import limit of 20 000 tonnes of raw stripped tobacco equivalent.

2. The Commission shall adopt implementing acts regarding the measures necessary to implement paragraph 1 and more specifically the measures for introducing the exemption from import duties in respect of tobacco in the Canary Islands. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

CHAPTER VI

FINANCIAL PROVISIONS

Article 30

Financial resources

1. The measures provided for in this Regulation shall constitute intervention intended to stabilise the agricultural

markets within the meaning of Article 3(1)(b) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy ⁽¹⁾, with the exception of the measures provided for in:

(a) Article 22; and

(b) Article 24, from the date of application of the multiannual financial framework for the years 2014-2020.

2. In respect of each financial year, the Union shall finance the measures provided for in Chapters III and IV, up to an annual sum equivalent to:

— in the French overseas departments: EUR 278,41 million

— Azores and Madeira: EUR 106,21 million

— Canary Islands: EUR 268,42 million

3. The sums allocated for each financial year to finance the measures provided for in Chapter III may not exceed the following amounts:

— in the French overseas departments: EUR 26,9 million

— Azores and Madeira: EUR 21,2 million

— Canary Islands: EUR 72,7 million

The Commission shall adopt implementing acts establishing the requirements in accordance with which Member States may amend the allocation of resources allocated each year to the various products benefiting from the specific supply arrangements. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34(2).

4. The Commission shall be empowered to adopt delegated acts, in accordance with Article 33, concerning the conditions for determining the annual maximum amount which may be allocated to measures for financing studies, demonstration projects, training and technical assistance, provided that such allocation is reasonable and proportionate.

5. For the financial year 2013, the Union shall grant an additional financing for the banana sector of the outermost regions up to the maximum amounts as follows:

— in the French overseas departments: EUR 18,52 million

— Azores and Madeira: EUR 1,24 million

— Canary Islands: EUR 20,24 million

⁽¹⁾ OJ L 209, 11.8.2005, p. 1.

CHAPTER VII

GENERAL AND FINAL PROVISIONS

Article 31

National measures

Member States shall take the measures necessary to ensure compliance with this Regulation, particularly as regards checks and administrative penalties, and shall inform the Commission thereof.

Article 32

Communications and reports

1. Member States shall communicate to the Commission not later than 15 February each year the appropriations made available to them which they intend to spend in the following year on implementation of the forecast supply balance and for each measure promoting local agricultural production included in the POSEI programmes.

2. Member States shall submit to the Commission, not later than 30 September each year, a report on the implementation of the measures provided for in this Regulation over the previous year.

3. By 30 June 2015, and thereafter every five years, the Commission shall submit a general report to the European Parliament and to the Council showing the impact of the action taken under this Regulation, including in the banana and milk sectors, accompanied, if applicable, by appropriate proposals.

4. The Commission shall include a specific chapter in the analyses, studies and assessments it carries out in the context of trade agreements and the common agricultural policy for any topic in which the outermost regions have a particular interest.

Article 33

Exercise of the delegation

1. The power to adopt delegated acts shall be conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in the second subparagraph of Article 12(2), the third subparagraph of Article 19(4), Article 21(3), the first subparagraph of Article 26(4), the second subparagraph of Article 27(2) and Article 30(4) shall be conferred on the Commission for a period of five years from 21 March 2013. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament

or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in the second subparagraph of Article 12(2), the third subparagraph of Article 19(4), Article 21(3), the first subparagraph of Article 26(4), the second subparagraph of Article 27(2) and Article 30(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision to revoke in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. The delegated acts adopted pursuant to the second subparagraph of Article 12(2), the third subparagraph of Article 19(4), Article 21(3), the first subparagraph of Article 26(4), the second subparagraph of Article 27(2) and Article 30(4) shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they do not intend to raise any objections. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 34

Committee procedure

1. The Commission shall be assisted by the Management Committee for Direct Payments established by Article 141 of Regulation (EC) No 73/2009, except for the implementation of Article 24 of this Regulation, for which the Commission shall be assisted by the Standing Committee on Plant Health established by Council Decision 76/894/EEC⁽¹⁾. Those Committees are committees within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 35

Review

The Commission shall review these arrangements before the end of 2013, in view of their overall effectiveness and the new CAP policy framework, and if necessary come forward with appropriate proposals for a revised POSEI scheme.

⁽¹⁾ OJ L 340, 9.12.1976, p. 25.

*Article 36***Repeal**

Regulation (EC) No 247/2006 is hereby repealed.

References made to the repealed Regulation shall be construed as being made to this Regulation and shall be read in accordance with the correlation table set out in the Annex.

*Article 37***Entry into force**

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

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

Done at Strasbourg, 13 March 2013.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

L. CREIGHTON

ANNEX

Correlation table

Regulation (EC) No 247/2006	This Regulation
Article 1	Article 1
Article 2	Article 9
Article 3(1) and (2)	Article 10(1) and (2)
—	Article 10(3)
—	Article 10(4)
Article 3(3)	Article 11
Article 3(4)	Article 13
Article 4(1) and (2)	Article 14(1) and (2)
—	Article 14(3)
—	Article 14(4)
Article 4(3)	Article 14(5)
Article 5	Article 15
Article 6	Article 16
Article 7	Article 17
Article 8 last sentence	Article 12(3)
Article 9(1) and Article 10	Article 19(1)
Article 9(2) and (3)	Article 3
Article 11	Article 4
Article 12(a), (b) and (c)	Article 19(2)(a), (b) and (c)
Article 12(d), (e), (f), (g)	Article 5
Article 13	Article 8 second paragraph
Article 14	Article 21
Article 15	Article 22
Article 16	Article 23
Article 17	Article 24
Article 18	Article 25
Article 19	Article 26
Article 20	Article 27

Regulation (EC) No 247/2006	This Regulation
Article 21	Article 28
Article 22	Article 29
Article 23	Article 30
Article 24	Article 6
Article 27	Article 31
Article 28	Article 32
Article 29	Article 36
Article 33	Article 37

REGULATION (EU) No 229/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 March 2013

laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing
Council Regulation (EC) No 1405/2006

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first paragraph of Article 42 and Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Specific measures in the agricultural sector to remedy the difficulties caused by the particular geographical situation of the smaller Aegean islands have been established by Council Regulation (EC) No 1405/2006 ⁽³⁾. Those measures have been implemented by means of a support programme, which constitutes an essential tool for supplying those islands with agricultural products and for supporting local agricultural production. In view of the need to update the current measures, including as a result of the entry into force of the Treaty of Lisbon, it is necessary to repeal Regulation (EC) No 1405/2006 and replace it with a new regulation.
- (2) The fundamental objectives which the scheme promoting the smaller Aegean islands will help to achieve need to be specified.
- (3) It is also necessary to specify the content of the support programme for the smaller Aegean islands ('support programme'), which, in accordance with the principle

of subsidiarity, should be established by Greece at the most appropriate geographical level and submitted by Greece to the Commission for approval.

- (4) In order to more effectively achieve the objectives of the scheme promoting the smaller Aegean islands, the support programme should include measures which ensure the supply of agricultural products and the preservation and development of local agricultural production. The level of programming needs to be harmonised and the policy of partnership between the Commission and Greece needs to become systematic. The Commission should adopt procedures and indicators to ensure the smooth implementation and adequate monitoring of the programme.
- (5) In keeping with the principle of subsidiarity and in order to ensure flexibility, the two principles which form the basis of the programming approach adopted for the scheme promoting the smaller Aegean islands, the authorities appointed by Greece may propose amendments to the programme to bring it into line with the reality of the situation on those islands. To that end, more significant involvement on the part of the competent local and regional authorities and other stakeholders should be encouraged. Also in keeping with this approach, the procedure for amending the programme should be adapted to reflect the level of relevance of each type of amendment.
- (6) The particular geographical situation of some of the smaller Aegean islands imposes additional transport costs in supplying products which are essential for human consumption, for processing or as agricultural inputs. In addition, other objective factors arising as a result of insularity and distance from markets impose further constraints on economic operators and producers in those Aegean islands that severely handicap their activities. In certain cases, operators and producers suffer from 'double insularity', consisting of the fact that supplies are brought by way of other islands. Those handicaps can be alleviated by lowering the price of those essential products. It is therefore appropriate to introduce specific supply arrangements to guarantee supply to the smaller Aegean islands and compensate for the additional costs arising from their insularity, small size and distance from markets.
- (7) The problems experienced by the smaller Aegean islands are accentuated by the islands' small size. In order to guarantee the effectiveness of the measures envisaged, such measures should apply to all Aegean islands except Crete and Evia.

⁽¹⁾ OJ C 132, 3.5.2011, p. 82.

⁽²⁾ Position of the European Parliament of 5 February 2013 (not yet published in the Official Journal) and decision of the Council of 25 February 2013.

⁽³⁾ OJ L 265, 26.9.2006, p. 1.

- (8) In order to achieve the goal of lowering prices in the smaller Aegean islands, mitigating the additional costs of their insularity, small size and distance from markets while maintaining the competitiveness of Union products, aid should be granted for the supply of Union products to the smaller Aegean islands. Such aid should take account of the additional cost of transport to the smaller Aegean islands and, in the case of agricultural inputs and products intended for processing, the additional costs of insularity, small size and distance from markets.
- (9) In order to avoid speculation which would be harmful to end-users in the smaller Aegean islands, it is important to specify that the specific supply arrangements may only apply to products of sound, fair and marketable quality.
- (10) Since the quantities covered by the specific supply arrangements are limited to the supply requirements of the smaller Aegean islands, those arrangements should not impair the proper functioning of the internal market. Nor should the economic advantages of the specific supply arrangements lead to diversions of trade in the products concerned. The dispatch or export of those products from the smaller Aegean islands should therefore be prohibited. However, dispatch or exportation of those products should be authorised where the advantage resulting from the specific supply arrangements is reimbursed.
- (11) With regard to processed products, trade between the smaller Aegean islands should be authorised and transport costs in respect of those products should be reduced, in order to allow commerce between those islands. Account should also be taken of trade flows within the context of regional commerce and traditional exports and dispatching with the rest of the Union or third countries and exports of processed products corresponding to traditional trade for all those regions should be authorised.
- (12) In order to achieve the objectives of the specific supply arrangements, the economic advantages of those arrangements should be reflected in production costs and should reduce prices up to the end-user stage. They should therefore be granted only on condition that they are actually passed on, and appropriate checks should be carried out.
- (13) Rules should be established concerning the operation of the scheme, particularly those relating to the creation of a register of operators and a system of certificates, based on the certificates referred to in Article 161 of 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) ⁽¹⁾.
- (14) Union policy to assist local production in the smaller Aegean islands, as established by Regulation (EC) No 1405/2006, has involved a multitude of products and measures for their production, marketing or processing. Those measures have proved effective and have ensured that agricultural activities have been maintained and developed. The Union should continue to support that production, which is a key factor in the environmental, social and economic equilibrium of the smaller Aegean islands. Experience has shown that, as in the case of rural development policy, closer partnership with the local authorities can help to address in a more targeted way the particular issues affecting the islands concerned. Support for local production should thus continue to be granted through the support programme, established for the first time by Regulation (EC) No 1405/2006. In that regard, emphasis should be placed on preserving the traditional agricultural heritage and the traditional characteristics of production methods and of local and organic products.
- (15) The minimum elements which should be provided under the support programme in order to establish the measures supporting local agricultural production, specifically the description of the location, of the strategy proposed, of the objectives and of the measures, should be established. The principles underlying the consistency of those measures with other Union policies should also be stated, in order to avoid any incompatibility and overlapping of aid.
- (16) For the purposes of applying this Regulation, it should also be possible for the support programme to contain measures for financing studies, demonstration projects, training and technical assistance.
- (17) Farmers on the smaller Aegean islands should be encouraged to supply quality products, and the marketing of such products should be assisted.
- (18) A derogation may be granted from the Commission's consistent policy of not authorising State operating aid for the production, processing, marketing and transportation of agricultural products listed in Annex I to the Treaty on the Functioning of the European Union ('the Treaty') in order to mitigate the specific constraints on farming in the smaller Aegean islands as a result of their insularity, small size, mountainous terrain and climate, their economic dependency on a small number of products and their distance from markets.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

(19) Implementation of this Regulation should not jeopardise the level of special support from which the smaller Aegean islands have benefited up to now. In order to be able to carry out the appropriate measures, Greece should continue to have at its disposal sums equivalent to the Union support already granted under Regulation (EC) No 1405/2006.

(20) Since 2007, requirements in essential products have increased in the smaller Aegean islands as a result of an increasing livestock population and demographic pressure. The proportion of the budget which Greece should be able to use for the specific supply arrangements for the smaller Aegean islands should therefore be increased.

(21) In order to allow Greece to evaluate all the elements concerning the implementation of the support programme for the previous year and make it possible to submit to the Commission a complete annual evaluation report, the submission date of that report should be postponed from 30 June to 30 September of the year following the reference year.

(22) The Commission should be required to submit to the European Parliament and to the Council, by 31 December 2016 at the latest and thereafter every five years, a general report on the impact of measures taken to implement this Regulation accompanied, where appropriate, by suitable recommendations.

(23) In order to ensure the proper functioning of the regime introduced by this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission, in respect of supplementing or modifying certain non-essential elements of this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(24) In order to ensure uniform conditions for the implementation of the programme in the smaller Aegean islands in relation to other similar schemes and to avoid unfair competition or discrimination between operators, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers⁽¹⁾.

(25) In order to allow for the prompt application of the measures envisaged, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND OBJECTIVES

Article 1

Subject matter

1. This Regulation lays down specific measures for agriculture to mitigate the difficulties caused by the insularity, small size and distance from markets of the smaller Aegean islands ('the smaller islands').

2. For the purposes of this Regulation 'the smaller islands' means any islands in the Aegean Sea except the islands of Crete and Evia.

Article 2

Objectives

1. The specific measures provided for in Article 1 shall help to meet the following objectives:

(a) guaranteed supply to the smaller islands of products essential for human consumption or for processing and as agricultural inputs by mitigating the additional costs incurred due to their insularity, small size and distance from markets;

(b) the preservation and development of agricultural activities in the smaller islands, including the production, processing, marketing and transport of local raw and processed products.

2. The objectives set out in paragraph 1 shall be implemented by means of the measures referred to in Chapters III, IV and V.

CHAPTER II

SUPPORT PROGRAMME

Article 3

Establishing the support programme

1. The measures provided for in Article 1 shall be defined by a support programme comprising:

(a) specific supply arrangements as provided for in Chapter III; and

⁽¹⁾ OJ L 55, 28.2.2011, p. 13.

- (b) specific measures to assist local agricultural production as provided for in Chapter IV.

2. The support programme shall be established at the geographical level which Greece deems to be the most appropriate. It shall be prepared by the competent local and regional authorities designated by Greece, which shall submit it to the Commission for approval in accordance with Article 6 after the competent authorities and organisations at the appropriate regional level have been consulted.

Article 4

Compatibility and consistency

1. Measures taken under the support programme shall comply with Union law. Such measures shall be consistent with other Union policies and with the measures taken under such policies.

2. Consistency of the measures taken under the support programme with measures implemented under other instruments of the common agricultural policy, and in particular the common organisations of markets, rural development, product quality, animal welfare and the protection of the environment, shall be ensured.

In particular, no measure under this Regulation shall be financed as:

- (a) additional support for premium or aid schemes under a common organisation of the market, save in exceptional cases, justified by objective criteria;
- (b) support for research projects, measures to support research projects or measures eligible for Union financing under Council Decision 2009/470/EC of 25 May 2009 on expenditure in the veterinary field ⁽¹⁾;
- (c) support for measures within the scope of Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ⁽²⁾.

Article 5

Content of the support programme

The support programme shall comprise:

- (a) a schedule for the implementation of the measures and a general annual indicative financing table showing the resources to be deployed;
- (b) proof of the compatibility and consistency between the various measures under the programme and with the

criteria and quantitative indicators to be used for monitoring and evaluation;

- (c) the steps taken to ensure that the programme is implemented effectively and appropriately, including the arrangements for publicity, monitoring and evaluation, and a specified set of quantified indicators for use in programme evaluation;

- (d) the designation of the competent authorities and bodies responsible for implementing the programme and the designation at the appropriate levels of authorities or associated bodies and socio-economic partners, and the results of consultations held.

Article 6

Approval and amendments of the programme

1. The support programme is established under Regulation (EC) No 1405/2006 and is financed under the financial allocation referred to in Article 18(2) and (3).

The programme comprises a forecast supply balance indicating the products, the quantities thereof and the amount of aid for supply from the Union together with a draft programme of support for local production.

2. Depending on the annual evaluation of the implementation of measures included in the support programme, Greece may submit to the Commission duly substantiated proposals for amendments to those measures within the context of the financial allocation referred to in Article 18(2) and (3), to bring them more into line with the requirements of the smaller islands and the strategy proposed. The Commission shall adopt implementing acts laying down the procedures for assessing whether the amendments proposed comply with Union law and for deciding whether to approve them. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(2).

3. The procedures laid down by the implementing acts referred to in paragraph 2 may take account of the following elements: the importance of the modifications proposed by Greece with reference to the introduction of new measures, whether the changes to the budget allocated to the measures are substantial, changes in the quantities and in the level of aid for products in the forecast supply balances and any amendments to codes and descriptions laid down in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽³⁾.

⁽¹⁾ OJ L 155, 18.6.2009, p. 30.

⁽²⁾ OJ L 277, 21.10.2005, p. 1.

⁽³⁾ OJ L 256, 7.9.1987, p. 1.

4. The implementing acts referred to in paragraph 2 shall also determine, for each procedure, the frequency with which requests for amendments are to be made, as well as the time frames within which the approved amendments are to be implemented.

Article 7

Monitoring and follow-up

Greece shall conduct verifications by means of administrative and on-the-spot checks. The Commission shall adopt implementing acts regarding the minimum characteristics of the checks to be carried out by Greece.

The Commission shall also adopt implementing acts regarding the procedures and physical and financial indicators in order to ensure that the implementation of the programmes is monitored in an effective manner.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(2).

CHAPTER III

SPECIFIC SUPPLY ARRANGEMENTS

Article 8

Forecast supply balance

1. Specific supply arrangements are hereby established for the Union's agricultural products listed in Annex I to the Treaty ('the agricultural products') which are essential in the smaller islands for human consumption, for the manufacture of other products or as agricultural inputs.

2. Greece shall establish, at the geographical level which it deems most appropriate, a forecast supply balance so as to quantify the annual supply requirements for the smaller islands with regard to the agricultural products.

A separate forecast balance may be drawn up for the requirements of undertakings packaging and processing products intended for the local market, for consignment to the rest of the Union or for export to third countries as part of regional trade, in accordance with Article 13(2) and (3), or within the context of traditional trade flows.

Article 9

Operation of the specific supply arrangements

1. Aid shall be granted to supply the smaller islands with agricultural products.

The amount of the aid shall be determined for each product concerned, taking account of the additional costs of marketing products in the smaller islands, calculated from the usual ports of shipment in mainland Greece, and from the ports of islands of transit or of loading for the islands of final destination. In the case of agricultural inputs and products intended for processing, such aid should take account of the additional costs associated with insularity, small size and distance from markets.

2. The specific supply arrangements shall only apply to products of sound, fair and marketable quality.

Article 10

Implementation

In implementing the specific supply arrangements, account shall be taken, in particular, of the following:

- (a) the specific needs of the smaller islands and the precise quality requirements;
- (b) traditional trade flows with ports in mainland Greece and between the islands in the Aegean Sea;
- (c) the economic aspect of the proposed aid;
- (d) where applicable, the need not to obstruct the development of local products.

Article 11

Certificates

1. The aid provided for in Article 9(1) shall be granted on presentation of a certificate.

Certificates shall be issued only to operators entered in a register held by the competent authorities.

Those certificates shall not be transferable.

2. No security shall be required when applying for a certificate. However, to the extent necessary to ensure the proper application of this Regulation, the competent authority may require a security to be lodged equal to the amount of the advantage as referred to in Article 12. In such cases, Article 34(1), (4), (5), (6), (7) and (8) of Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ⁽¹⁾ shall apply.

⁽¹⁾ OJ L 114, 26.4.2008, p. 3.

The Commission shall be empowered to adopt delegated acts, in accordance with Article 21, determining the conditions for recording operators in the register and providing for the full exercise by operators of their rights to participate in the specific supply arrangements.

3. The Commission shall adopt implementing acts concerning the measures necessary to ensure the uniform application by Greece of this Article, specifically relating to the introduction of the system of certificates, and the commitment undertaken by operators at the time of registration. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(2).

Article 12

Impact of advantage

1. Benefiting from the specific supply arrangements resulting from the awarding of aid shall be subject to the condition that the impact of the economic advantage is passed on up to the end-user who, as appropriate, may be the consumer in the case of products meant for direct consumption, the end processor or packager in the case of products meant for the processing or packaging industries, or farmers in the case of products used for animal feed or as agricultural inputs.

The advantage referred to in the first subparagraph shall be equal to the amount of the aid.

2. In order to ensure that paragraph 1 is applied in a uniform manner, the Commission shall adopt implementing acts regarding the application of the rules set out in paragraph 1 and more specifically regarding the conditions for the monitoring, by the Member State, that the advantage has in fact been passed on up to the end-user. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(2).

Article 13

Export to third countries and dispatch to the rest of the Union

1. The Commission shall adopt implementing acts establishing the requirements in accordance with which products covered by the specific supply arrangements may be exported to third countries or dispatched to the rest of the Union. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(2).

Those requirements shall include in particular reimbursement of the aid received under the specific supply arrangements.

Exports to third countries of products covered by the specific supply arrangements shall not be subject to the presentation of a certificate.

2. The first subparagraph of paragraph 1 shall not apply to products processed in the smaller islands from products that have benefited from the specific supply arrangements which are:

- (a) exported to third countries or dispatched to the rest of the Union within the limits of traditional exports and traditional dispatches;
- (b) exported to third countries as part of regional trade in accordance with the destinations and detailed provisions to be determined by the Commission;
- (c) dispatched between the smaller islands.

Exports to third countries of products referred to in points (a) and (b) of the first subparagraph shall not be subject to the presentation of a certificate.

No export refund shall be granted on the export of products referred to in points (a) and (b) of the first subparagraph.

The Commission shall adopt implementing acts establishing the limits of the quantities of products referred to in point (a) and the detailed provisions referred to in point (b). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(2).

3. Processing operations which may give rise to traditional trade exports or traditional dispatches shall fulfil, *mutatis mutandis*, the processing conditions applicable under customs control provided for in the relevant Union legislation, with the exception of all usual forms of handling.

Article 14

Controls and penalties

1. The agricultural products which are the subject of the specific supply arrangements shall be subject to administrative checks at the time that they enter the smaller islands as well as when they are exported or dispatched.

The Commission shall adopt implementing acts concerning the minimum characteristics of the checks to be carried out by Greece. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(2).

2. Except in cases of *force majeure* or exceptional climatic conditions, if an operator, as referred to in Article 11, fails to comply with the commitments made in accordance with that Article, the competent authority, without prejudice to any penalties applicable under national law, shall:

- (a) recover the advantage granted to the operator;

(b) temporarily suspend or revoke the operator's registration, depending on the seriousness of the non-compliance.

3. Except in cases of *force majeure* or exceptional climatic conditions, where operators, as referred to in Article 11, do not carry out the planned entry, their entitlement to apply for certificates shall be suspended by the competent authority for a period of 60 days following expiry of that certificate. After the suspension period, the issue of subsequent certificates shall be subject to the lodging of a security equal to the amount of the advantage to be granted during a period to be determined by the competent authority.

The competent authority shall adopt the measures required to reutilise any quantities of products made available as a result of non-execution, partial execution or cancellation of the certificates issued or recovery of the advantage.

CHAPTER IV

MEASURES TO ASSIST LOCAL AGRICULTURAL PRODUCTS

Article 15

Measures

1. The support programme contains the measures necessary in order to ensure continuity and development of local lines of agricultural production in the smaller islands under the scope of Part Three, Title III of the Treaty.

2. The part of the programme which includes measures to assist local agricultural production shall comprise at least the following elements:

- (a) a quantified description of the current agricultural production situation, taking into account the results of available evaluations, showing disparities, gaps and potential for development and the financial resources deployed;
- (b) a description of the strategy proposed, the priorities selected, its quantified general and operational objectives, and an appraisal showing the expected economic, environmental and social impact, including employment effects;
- (c) a description of the measures envisaged, and in particular aid schemes for implementing them, and, where appropriate, information on the need for any studies,

demonstration projects, training or technical assistance operations relating to the preparation, implementation or adaptation of the measures concerned;

(d) a list of the aid constituting direct payments in accordance with Article 2(d) of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers ⁽¹⁾;

(e) the aid amount established for each measure and the provisional amount for each action in order to achieve one or more objectives for the programme.

3. The Commission shall adopt implementing acts concerning requirements for the provision of the aid described in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(2).

4. The programme may include measures to support production, processing, marketing and transport of raw and processed agricultural products in the smaller islands.

Each measure may include a variety of actions. For each action, the programme shall define at least the following elements:

- (a) the beneficiaries;
- (b) the eligibility conditions;
- (c) the unit amount of aid.

The Commission shall adopt delegated acts in accordance with Article 21 concerning the conditions for establishing the amount of aid awarded in respect of the support for the marketing and transport of raw and processed products outside the region in which they are produced, and, where appropriate, concerning the conditions for establishing the quantities of products subject to that aid.

Article 16

Controls and wrongful payments

1. Verification of measures provided for in this Chapter shall be conducted by administrative and on-the-spot checks.

⁽¹⁾ OJ L 30, 31.1.2009, p. 16.

2. In the event of wrongful payments, the beneficiary concerned shall be required to reimburse the amounts in question. Article 80 of Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector⁽¹⁾ shall apply *mutatis mutandis*.

CHAPTER V

ACCOMPANYING MEASURES

Article 17

State aid

1. For the agricultural products covered by Annex I to the Treaty, to which Articles 107, 108 and 109 thereof apply, the Commission may authorise, in accordance with Article 108 of the Treaty, operating aid in the sectors producing, processing, marketing and transporting those products, with a view to alleviating the specific constraints on farming in the smaller islands as a result of their insularity, small size, mountainous terrain and climate, their economic dependency on a small number of products and their distance from markets.

2. Greece may grant additional financing for the implementation of the support programme. In such cases, Greece shall notify the Commission of the State aid and the Commission may approve it in accordance with this Regulation as part of the support programme. Aid thus notified shall be deemed to have been notified within the meaning of the first sentence of Article 108(3) of the Treaty.

3. Without prejudice to paragraphs 1 and 2 of this Article and by way of derogation from Article 180 of Regulation (EC) No 1234/2007 and Article 3 of Council Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of and trade in agricultural products⁽²⁾, Articles 107, 108 and 109 of the Treaty shall not apply to payments made under Chapters III and IV of this Regulation by Greece in conformity with this Regulation.

CHAPTER VI

FINANCIAL PROVISIONS

Article 18

Financial resources

1. The measures provided for in this Regulation shall constitute intervention intended to stabilise the agricultural markets within the meaning of Article 3(1)(b) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy⁽³⁾.

2. The Union shall finance the measures provided for in Chapters III and IV up to a maximum annual amount of EUR 23,93 million.

3. The amount allocated annually to finance the specific supply arrangements referred to in Chapter III shall not exceed EUR 7,11 million.

The Commission shall adopt implementing acts establishing the requirements in accordance with which Greece may amend the allocation of resources allocated each year to the various products benefiting from the specific supply arrangements. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(2).

4. The Commission shall adopt delegated acts, in accordance with Article 21, concerning the conditions for determining the annual maximum amount which may be allocated to measures for financing studies, demonstration projects, training and technical assistance, provided that such allocation is reasonable and proportionate.

CHAPTER VII

GENERAL AND FINAL PROVISIONS

Article 19

National measures

Greece shall take the measures necessary to ensure compliance with this Regulation, in particular as regards checks and administrative penalties, and shall inform the Commission thereof.

Article 20

Communications and reports

1. Greece shall communicate to the Commission not later than 15 February each year the appropriations made available to it which it intends to spend in the following year on implementation of the forecast supply balance and for each measure promoting local agricultural production included in the support programme.

2. Greece shall submit to the Commission no later than 30 September each year a report on the implementation of the measures provided for in this Regulation over the previous year.

3. By 31 December 2016, and thereafter every five years, the Commission shall submit a general report to the European Parliament and to the Council showing the impact of the action taken under this Regulation, accompanied, if applicable, by appropriate proposals.

Article 21

Exercise of the delegation

1. The power to adopt delegated acts shall be conferred on the Commission subject to the conditions laid down in this Article.

⁽¹⁾ OJ L 316, 2.12.2009, p. 65.

⁽²⁾ OJ L 214, 4.8.2006, p. 7.

⁽³⁾ OJ L 209, 11.8.2005, p. 1.

2. The power to adopt delegated acts referred to in Article 11(2), Article 15(4) and Article 18(4) shall be conferred on the Commission for a period of five years from 21 March 2013. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 11(2), Article 15(4) and Article 18(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision to revoke in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. The delegated acts adopted pursuant to Article 11(2), Article 15(4) and Article 18(4) shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the

Commission that they do not intend to raise any objections. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 22

Committee procedure

1. The Commission shall be assisted by the Management Committee for Direct Payments established under Article 141 of Regulation (EC) No 73/2009. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 23

Repeal

Regulation (EC) No 1405/2006 is hereby repealed.

References made to the repealed Regulation shall be construed as being made to this Regulation and shall be read in accordance with the correlation table set out in the Annex.

Article 24

Entry into force

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

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

Done at Strasbourg, 13 March 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
L. CREIGHTON

ANNEX

Correlation table

Regulation (EC) No 1405/2006	This Regulation
Article 1	Article 1
Article 2	Article 3(1)
Article 3	Article 8
Article 4(1)	Article 9(1)
Article 4(2)	Article 10
Article 4(3)	Article 12(1)
Article 5	Article 13
Article 7(1)	Article 15(1)
Article 7(2)	Article 3(2)
Article 8	Article 4
Article 9(a) and (b)	Article 15(2)
Article 9(c), (d), (e) and (f)	Article 5
Article 10	Article 7 second paragraph
Article 11	Article 17
Article 12	Article 18
Article 13	Article 6(1)
Article 14(a)	Article 6(2) to (4)
Article 14(b)	Article 7 first paragraph, and Article 14(1) second subparagraph, (2) and (3)
Article 16	Article 19
Article 17	Article 20
Article 18	Article 23
Article 21	Article 24

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