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Legislation

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Contents

II *Non-legislative acts*

INTERNATIONAL AGREEMENTS

2011/443/EU:

- ★ **Council Decision of 20 June 2011 on the approval, on behalf of the European Union, of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing** 1

Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing 3

REGULATIONS

- ★ **Commission Implementing Regulation (EU) No 715/2011 of 19 July 2011 amending, for the 15th time, Council Regulation (EC) No 1763/2004 imposing certain restrictive measures in support of effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY)** 19

DECISIONS

2011/444/EU:

- ★ **Council Decision of 12 July 2011 determining for the General Secretariat of the Council the appointing authority and the authority empowered to conclude contracts of employment and repealing Decision 2006/491/EC, Euratom** 21

Price: EUR 3

(Continued overleaf)

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

2011/445/EU:

- ★ **Council Implementing Decision of 12 July 2011 authorising Germany to apply a reduced rate of electricity tax to electricity directly provided to vessels at berth in a port ('shore-side electricity') in accordance with Article 19 of Directive 2003/96/EC** 22

2011/446/EU:

- ★ **Commission Implementing Decision of 11 July 2011 on the Union financial contribution to national programmes of 15 Member States (Bulgaria, Germany, Estonia, Ireland, France, Italy, Cyprus, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovenia and Finland) in 2011 for the collection, management and use of data in the fisheries sector** (*notified under document C(2011) 4918*) 23

2011/447/EU:

- ★ **Commission Implementing Decision of 20 July 2011 correcting Decision 2010/152/EU excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD)** (*notified under document C(2011) 5139*) 25

INTERINSTITUTIONAL AGREEMENTS

- ★ **Agreement between the European Parliament and the European Commission on the establishment of a transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation** 29

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 20 June 2011

on the approval, on behalf of the European Union, of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

(2011/443/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43, in conjunction with Article 218(6)(a), thereof

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) The European Union is competent to adopt measures for the conservation, management and control of fishery resources; it is also competent to enter into agreements with third countries and within the framework of international organisations.
- (2) The European Union is a contracting party to the United Nations Convention on the Law of the Sea of 10 December 1982, which, *inter alia*, requires all members of the international community to cooperate in managing and conserving the biological resources of the sea.
- (3) The European Union and its Members are Contracting Parties to the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, which entered into force on 11 December 2001.
- (4) The Food and Agriculture Organisation (FAO) Conference approved, at its Thirty Sixth Session held in Rome on 18-23 November 2009, the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal,

Unreported and Unregulated Fishing (hereinafter 'the Agreement') in accordance with Article XIV, paragraph 1, of the FAO Constitution, for submission to FAO Members.

- (5) The Agreement was signed on 22 November 2009 on behalf of the European Community, subject to its conclusion at a later date.
- (6) The Union is a major player in international fisheries and one of the main global markets for fishery products and it is in its interest to play an effective role in the implementation of the Agreement and to approve the Agreement.
- (7) The Agreement should therefore be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (hereinafter 'the Agreement') is hereby approved on behalf of the Union.

The text of the Agreement and the Declaration concerning the competence of the Union are attached to this Decision.

Article 2

The President of the Council shall designate the person(s) empowered to proceed, on behalf of the Union, to deposit the instrument of approval with the Director-General of the Food and Agriculture Organisation of the United Nations acting in his capacity as Depositary of the Agreement in accordance with Article 26 of the Agreement, together with the Declaration concerning the competence of the Union.

Article 3

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

Done at Luxembourg, 20 June 2011.

For the Council
The President
MATOLCSY Gy.

AGREEMENT

on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

PREAMBLE

THE PARTIES TO THIS AGREEMENT,

DEEPLY CONCERNED about the continuation of illegal, unreported and unregulated fishing and its detrimental effect upon fish stocks, marine ecosystems and the livelihoods of legitimate fishers, and the increasing need for food security on a global basis,

CONSCIOUS of the role of the port State in the adoption of effective measures to promote the sustainable use and the long-term conservation of living marine resources,

RECOGNISING that measures to combat illegal, unreported and unregulated fishing should build on the primary responsibility of flag States and use all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market related measures and measures to ensure that nationals do not support or engage in illegal, unreported and unregulated fishing,

RECOGNISING that port State measures provide a powerful and cost-effective means of preventing, deterring and eliminating illegal, unreported and unregulated fishing,

AWARE OF the need for increasing coordination at the regional and interregional levels to combat illegal, unreported and unregulated fishing through port State measures,

ACKNOWLEDGING the rapidly developing communications technology, databases, networks and global records that support port State measures,

RECOGNISING the need for assistance to developing countries to adopt and implement port State measures,

TAKING NOTE OF the calls by the international community through the United Nations System, including the United Nations General Assembly and the Committee on Fisheries of the Food and Agriculture Organisation of the United Nations, hereinafter referred to as FAO, for a binding international instrument on minimum standards for port State measures, based on the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing,

BEARING IN MIND that, in the exercise of their sovereignty over ports located in their territory, States may adopt more stringent measures, in accordance with international law,

RECALLING the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, hereinafter referred to as the Convention,

RECALLING the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993 and the 1995 FAO Code of Conduct for Responsible Fisheries,

RECOGNISING the need to conclude an international agreement within the framework of FAO, under Article XIV of the FAO Constitution,

HAVE AGREED AS FOLLOWS:

adopted and applied consistently with the relevant rules of international law including those reflected in the Convention;

PART 1

GENERAL PROVISIONS

Article 1

Use of terms

For the purposes of this Agreement:

(a) 'conservation and management measures' means measures to conserve and manage living marine resources that are

(b) 'fish' means all species of living marine resources, whether processed or not;

(c) 'fishing' means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish;

- (d) 'fishing related activities' means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea;
- (e) 'illegal, unreported and unregulated fishing' refers to the activities set out in paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, hereinafter referred to as IUU fishing;
- (f) 'Party' means a State or regional economic integration organisation that has consented to be bound by this Agreement and for which this Agreement is in force;
- (g) 'port' includes offshore terminals and other installations for landing, transshipping, packaging, processing, refueling or resupplying;
- (h) 'regional economic integration organisation' means a regional economic integration organisation to which its member States have transferred competence over matters covered by this Agreement, including the authority to make decisions binding on its member States in respect of those matters;
- (i) 'regional fisheries management organisation' means an inter-governmental fisheries organisation or arrangement, as appropriate, that has the competence to establish conservation and management measures; and
- (j) 'vessel' means any vessel, ship of another type or boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities.

Article 2

Objective

The objective of this Agreement is to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures, and thereby to ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems.

Article 3

Application

1. Each Party shall, in its capacity as a port State, apply this Agreement in respect of vessels not entitled to fly its flag that are seeking entry to its ports or are in one of its ports, except for:

- (a) vessels of a neighbouring State that are engaged in artisanal fishing for subsistence, provided that the port State and the flag State cooperate to ensure that such vessels do not engage in IUU fishing or fishing related activities in support of such fishing; and
- (b) container vessels that are not carrying fish or, if carrying fish, only fish that have been previously landed, provided that there are no clear grounds for suspecting that such vessels have engaged in fishing related activities in support of IUU fishing.

2. A Party may, in its capacity as a port State, decide not to apply this Agreement to vessels chartered by its nationals exclusively for fishing in areas under its national jurisdiction and operating under its authority therein. Such vessels shall be subject to measures by the Party which are as effective as measures applied in relation to vessels entitled to fly its flag.

3. This Agreement shall apply to fishing conducted in marine areas that is illegal, unreported or unregulated, as defined in Article 1(e) of this Agreement, and to fishing related activities in support of such fishing.

4. This Agreement shall be applied in a fair, transparent and non-discriminatory manner, consistent with international law.

5. As this Agreement is global in scope and applies to all ports, the Parties shall encourage all other entities to apply measures consistent with its provisions. Those that may not otherwise become Parties to this Agreement may express their commitment to act consistently with its provisions.

Article 4

Relationship with international law and other international instruments

1. Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of Parties under international law. In particular, nothing in this Agreement shall be construed to affect:

- (a) the sovereignty of Parties over their internal, archipelagic and territorial waters or their sovereign rights over their continental shelf and in their exclusive economic zones;
- (b) the exercise by Parties of their sovereignty over ports in their territory in accordance with international law, including their right to deny entry thereto as well as to adopt more stringent port State measures than those provided for in this Agreement, including such measures adopted pursuant to a decision of a regional fisheries management organisation.

2. In applying this Agreement, a Party does not thereby become bound by measures or decisions of, or recognise, any regional fisheries management organisation of which it is not a member.

3. In no case is a Party obliged under this Agreement to give effect to measures or decisions of a regional fisheries management organisation if those measures or decisions have not been adopted in conformity with international law.

4. This Agreement shall be interpreted and applied in conformity with international law taking into account applicable international rules and standards, including those established through the International Maritime Organisation, as well as other international instruments.

5. Parties shall fulfil in good faith the obligations assumed pursuant to this Agreement and shall exercise the rights recognised herein in a manner that would not constitute an abuse of right.

Article 5

Integration and coordination at the national level

Each Party shall, to the greatest extent possible:

- (a) integrate or coordinate fisheries related port State measures with the broader system of port State controls;
- (b) integrate port State measures with other measures to prevent, deter and eliminate IUU fishing and fishing related activities in support of such fishing, taking into account as appropriate the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; and
- (c) take measures to exchange information among relevant national agencies and to coordinate the activities of such agencies in the implementation of this Agreement.

Article 6

Cooperation and exchange of information

1. In order to promote the effective implementation of this Agreement and with due regard to appropriate confidentiality requirements, Parties shall cooperate and exchange information with relevant States, FAO, other international organisations and regional fisheries management organisations, including on the measures adopted by such regional fisheries management organisations in relation to the objective of this Agreement.

2. Each Party shall, to the greatest extent possible, take measures in support of conservation and management measures adopted by other States and other relevant international organisations.

3. Parties shall cooperate, at the subregional, regional and global levels, in the effective implementation of this Agreement including, where appropriate, through FAO or regional fisheries management organisations and arrangements.

PART 2

ENTRY INTO PORT

Article 7

Designation of ports

1. Each Party shall designate and publicise the ports to which vessels may request entry pursuant to this Agreement. Each Party shall provide a list of its designated ports to FAO, which shall give it due publicity.

2. Each Party shall, to the greatest extent possible, ensure that every port designated and publicised in accordance with paragraph 1 of this Article has sufficient capacity to conduct inspections pursuant to this Agreement.

Article 8

Advance request for port entry

1. Each Party shall require, as a minimum standard, the information requested in Annex A to be provided before granting entry to a vessel to its port.
2. Each Party shall require the information referred to in paragraph 1 of this Article to be provided sufficiently in advance to allow adequate time for the port State to examine such information.

Article 9

Port entry, authorisation or denial

1. After receiving the relevant information required pursuant to Article 8, as well as such other information as it may require to determine whether the vessel requesting entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, each Party shall decide whether to authorise or deny the entry of the vessel into its port and shall communicate this decision to the vessel or to its representative.

2. In the case of authorisation of entry, the master of the vessel or the vessel's representative shall be required to present the authorisation for entry to the competent authorities of the Party upon the vessel's arrival at port.

3. In the case of denial of entry, each Party shall communicate its decision taken pursuant to paragraph 1 of this Article to the flag State of the vessel and, as appropriate and to the extent possible, relevant coastal States, regional fisheries management organisations and other international organisations.

4. Without prejudice to paragraph 1 of this Article, when a Party has sufficient proof that a vessel seeking entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, in particular the inclusion of a vessel on a list of vessels having engaged in such fishing or fishing related activities adopted by a relevant regional fisheries management organisation in accordance with the rules and procedures of such organisation and in conformity with international law, the Party shall deny that vessel entry into its ports, taking into due account paragraphs 2 and 3 of Article 4.

5. Notwithstanding paragraphs 3 and 4 of this Article, a Party may allow entry into its ports of a vessel referred to in those paragraphs exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing and fishing related activities in support of such fishing.

6. Where a vessel referred to in paragraph 4 or 5 of this Article is in port for any reason, a Party shall deny such vessel the use of its ports for landing, transshipping, packaging, and processing of fish and for other port services including, inter alia, refueling and resupplying, maintenance and drydocking. Paragraphs 2 and 3 of Article 11 apply *mutatis mutandis* in such cases. Denial of such use of ports shall be in conformity with international law.

Article 10

Force majeure or distress

Nothing in this Agreement affects the entry of vessels to port in accordance with international law for reasons of force majeure or distress, or prevents a port State from permitting entry into port to a vessel exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

PART 3

USE OF PORTS

Article 11

Use of ports

1. Where a vessel has entered one of its ports, a Party shall deny, pursuant to its laws and regulations and consistent with international law, including this Agreement, that vessel the use of the port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, inter alia, refueling and resupplying, maintenance and drydocking, if:

- (a) the Party finds that the vessel does not have a valid and applicable authorisation to engage in fishing or fishing related activities required by its flag State;
- (b) the Party finds that the vessel does not have a valid and applicable authorisation to engage in fishing or fishing

related activities required by a coastal State in respect of areas under the national jurisdiction of that State;

- (c) the Party receives clear evidence that the fish on board was taken in contravention of applicable requirements of a coastal State in respect of areas under the national jurisdiction of that State;
- (d) the flag State does not confirm within a reasonable period of time, on the request of the port State, that the fish on board was taken in accordance with applicable requirements of a relevant regional fisheries management organisation taking into account paragraphs 2 and 3 of Article 4; or
- (e) the Party has reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing or fishing related activities in support of such fishing, including in support of a vessel referred to in paragraph 4 of Article 9, unless the vessel can establish:
 - (i) that it was acting in a manner consistent with relevant conservation and management measures; or
 - (ii) in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not, at the time of provisioning, a vessel referred to in paragraph 4 of Article 9.

2. Notwithstanding paragraph 1 of this Article, a Party shall not deny a vessel referred to in that paragraph the use of port services:

- (a) essential to the safety or health of the crew or the safety of the vessel, provided these needs are duly proven; or
- (b) where appropriate, for the scrapping of the vessel.

3. Where a Party has denied the use of its port in accordance with this Article, it shall promptly notify the flag State and, as appropriate, relevant coastal States, regional fisheries management organisations and other relevant international organisations of its decision.

4. A Party shall withdraw its denial of the use of its port pursuant to paragraph 1 of this Article in respect of a vessel only if there is sufficient proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply.

5. Where a Party has withdrawn its denial pursuant to paragraph 4 of this Article, it shall promptly notify those to whom a notification was issued pursuant to paragraph 3 of this Article.

PART 4

INSPECTIONS AND FOLLOW-UP ACTIONS*Article 12***Levels and priorities for inspection**

1. Each Party shall inspect the number of vessels in its ports required to reach an annual level of inspections sufficient to achieve the objective of this Agreement.
2. Parties shall seek to agree on the minimum levels for inspection of vessels through, as appropriate, regional fisheries management organisations, FAO or otherwise.
3. In determining which vessels to inspect, a Party shall give priority to:
 - (a) vessels that have been denied entry or use of a port in accordance with this Agreement;
 - (b) requests from other relevant Parties, States or regional fisheries management organisations that particular vessels be inspected, particularly where such requests are supported by evidence of IUU fishing or fishing related activities in support of such fishing by the vessel in question; and
 - (c) other vessels for which there are clear grounds for suspecting that they have engaged in IUU fishing or fishing related activities in support of such fishing.

*Article 13***Conduct of inspections**

1. Each Party shall ensure that its inspectors carry out the functions set forth in Annex B as a minimum standard.
2. Each Party shall, in carrying out inspections in its ports:
 - (a) ensure that inspections are carried out by properly qualified inspectors authorised for that purpose, having regard in particular to Article 17;
 - (b) ensure that, prior to an inspection, inspectors are required to present to the master of the vessel an appropriate document identifying the inspectors as such;
 - (c) ensure that inspectors examine all relevant areas of the vessel, the fish on board, the nets and any other gear, equipment, and any document or record on board that is relevant to verifying compliance with relevant conservation and management measures;
 - (d) require the master of the vessel to give inspectors all necessary assistance and information, and to present relevant material and documents as may be required, or certified copies thereof;

- (e) in case of appropriate arrangements with the flag State of the vessel, invite the flag State to participate in the inspection;
- (f) make all possible efforts to avoid unduly delaying the vessel to minimise interference and inconvenience, including any unnecessary presence of inspectors on board, and to avoid action that would adversely affect the quality of the fish on board;
- (g) make all possible efforts to facilitate communication with the master or senior crew members of the vessel, including where possible and where needed that the inspector is accompanied by an interpreter;
- (h) ensure that inspections are conducted in a fair, transparent and non-discriminatory manner and would not constitute harassment of any vessel; and
- (i) not interfere with the master's ability, in conformity with international law, to communicate with the authorities of the flag State.

*Article 14***Results of inspections**

Each Party shall, as a minimum standard, include the information set out in Annex C in the written report of the results of each inspection.

*Article 15***Transmittal of inspection results**

Each Party shall transmit the results of each inspection to the flag State of the inspected vessel and, as appropriate, to:

- (a) relevant Parties and States, including:
 - (i) those States for which there is evidence through inspection that the vessel has engaged in IUU fishing or fishing related activities in support of such fishing within waters under their national jurisdiction; and
 - (ii) the State of which the vessel's master is a national.
- (b) relevant regional fisheries management organisations; and
- (c) FAO and other relevant international organisations.

*Article 16***Electronic exchange of information**

1. To facilitate implementation of this Agreement, each Party shall, where possible, establish a communication mechanism that allows for direct electronic exchange of information, with due regard to appropriate confidentiality requirements.

2. To the extent possible and with due regard to appropriate confidentiality requirements, Parties should cooperate to establish an information-sharing mechanism, preferably coordinated by FAO, in conjunction with other relevant multilateral and intergovernmental initiatives, and to facilitate the exchange of information with existing databases relevant to this Agreement.

3. Each Party shall designate an authority that shall act as a contact point for the exchange of information under this Agreement. Each Party shall notify the pertinent designation to FAO.

4. Each Party shall handle information to be transmitted through any mechanism established under paragraph 1 of this Article consistent with Annex D.

5. FAO shall request relevant regional fisheries management organisations to provide information concerning the measures or decisions they have adopted and implemented which relate to this Agreement for their integration, to the extent possible and taking due account of the appropriate confidentiality requirements, into the information-sharing mechanism referred to in paragraph 2 of this Article.

Article 17

Training of inspectors

Each Party shall ensure that its inspectors are properly trained taking into account the guidelines for the training of inspectors in Annex E. Parties shall seek to cooperate in this regard.

Article 18

Port State actions following inspection

1. Where, following an inspection, there are clear grounds for believing that a vessel has engaged IUU fishing or fishing related activities in support of such fishing, the inspecting Party shall:

- (a) promptly notify the flag State and, as appropriate, relevant coastal States, regional fisheries management organisations and other international organisations, and the State of which the vessel's master is a national of its findings; and
- (b) deny the vessel the use of its port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, inter alia, refueling and resupplying, maintenance and drydocking, if these actions have not already been taken in respect of the vessel, in a manner consistent with this Agreement, including Article 4.

2. Notwithstanding paragraph 1 of this Article, a Party shall not deny a vessel referred to in that paragraph the use of port services essential for the safety or health of the crew or the safety of the vessel.

3. Nothing in this Agreement prevents a Party from taking measures that are in conformity with international law in addition to those specified in paragraphs 1 and 2 of this Article, including such measures as the flag State of the vessel has expressly requested or to which it has consented.

Article 19

Information on recourse in the port State

1. A Party shall maintain the relevant information available to the public and provide such information, upon written request, to the owner, operator, master or representative of a vessel with regard to any recourse established in accordance with its national laws and regulations concerning port State measures taken by that Party pursuant to Article 9, 11, 13 or 18, including information pertaining to the public services or judicial institutions available for this purpose, as well as information on whether there is any right to seek compensation in accordance with its national laws and regulations in the event of any loss or damage suffered as a consequence of any alleged unlawful action by the Party.

2. The Party shall inform the flag State, the owner, operator, master or representative, as appropriate, of the outcome of any such recourse. Where other Parties, States or international organisations have been informed of the prior decision pursuant to Article 9, 11, 13 or 18, the Party shall inform them of any change in its decision.

PART 5

ROLE OF FLAG STATES

Article 20

Role of flag States

1. Each Party shall require the vessels entitled to fly its flag to cooperate with the port State in inspections carried out pursuant to this Agreement.

2. When a Party has clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing and is seeking entry to or is in the port of another State, it shall, as appropriate, request that State to inspect the vessel or to take other measures consistent with this Agreement.

3. Each Party shall encourage vessels entitled to fly its flag to land, transship, package and process fish, and use other port services, in ports of States that are acting in accordance with, or in a manner consistent with this Agreement. Parties are encouraged to develop, including through regional fisheries management organisations and FAO, fair, transparent and non-discriminatory procedures for identifying any State that may not be acting in accordance with, or in a manner consistent with, this Agreement.

4. Where, following port State inspection, a flag State Party receives an inspection report indicating that there are clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing, it shall immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with its laws and regulations.

5. Each Party shall, in its capacity as a flag State, report to other Parties, relevant port States and, as appropriate, other relevant States, regional fisheries management organisations and FAO on actions it has taken in respect of vessels entitled to fly its flag that, as a result of port State measures taken pursuant to this Agreement, have been determined to have engaged in IUU fishing or fishing related activities in support of such fishing.

6. Each Party shall ensure that measures applied to vessels entitled to fly its flag are at least as effective in preventing, deterring, and eliminating IUU fishing and fishing related activities in support of such fishing as measures applied to vessels referred to in paragraph 1 of Article 3.

PART 6

REQUIREMENTS OF DEVELOPING STATES

Article 21

Requirements of developing States

1. Parties shall give full recognition to the special requirements of developing States Parties in relation to the implementation of port State measures consistent with this Agreement. To this end, Parties shall, either directly or through FAO, other specialised agencies of the United Nations or other appropriate international organisations and bodies, including regional fisheries management organisations, provide assistance to developing States Parties in order to, inter alia:

- (a) enhance their ability, in particular the least-developed among them and small island developing States, to develop a legal basis and capacity for the implementation of effective port State measures;
- (b) facilitate their participation in any international organisations that promote the effective development and implementation of port State measures; and
- (c) facilitate technical assistance to strengthen the development and implementation of port State measures by them, in coordination with relevant international mechanisms.

2. Parties shall give due regard to the special requirements of developing port States Parties, in particular the least-developed among them and small island developing States, to ensure that

a disproportionate burden resulting from the implementation of this Agreement is not transferred directly or indirectly to them. In cases where the transfer of a disproportionate burden has been demonstrated, Parties shall cooperate to facilitate the implementation by the relevant developing States Parties of specific obligations under this Agreement.

3. Parties shall, either directly or through FAO, assess the special requirements of developing States Parties concerning the implementation of this Agreement.

4. Parties shall cooperate to establish appropriate funding mechanisms to assist developing States in the implementation of this Agreement. These mechanisms shall, inter alia, be directed specifically towards:

- (a) developing national and international port State measures;
- (b) developing and enhancing capacity, including for monitoring, control and surveillance and for training at the national and regional levels of port managers, inspectors, and enforcement and legal personnel;
- (c) monitoring, control, surveillance and compliance activities relevant to port State measures, including access to technology and equipment; and
- (d) listing developing States Parties with the costs involved in any proceedings for the settlement of disputes that result from actions they have taken pursuant to this Agreement.

5. Cooperation with and among developing States Parties for the purposes set out in this Article may include the provision of technical and financial assistance through bilateral, multilateral and regional channels, including South-South cooperation.

6. Parties shall establish an *ad hoc* working group to periodically report and make recommendations to the Parties on the establishment of funding mechanisms including a scheme for contributions, identification and mobilisation of funds, the development of criteria and procedures to guide implementation, and progress in the implementation of the funding mechanisms. In addition to the considerations provided in this Article, the *ad hoc* working group shall take into account, inter alia:

- (a) the assessment of the needs of developing States Parties, in particular the least-developed among them and small island developing States;
- (b) the availability and timely disbursement of funds;
- (c) transparency of decision-making and management processes concerning fundraising and allocations; and

(d) accountability of the recipient developing States Parties in the agreed use of funds.

Parties shall take into account the reports and any recommendations of the *ad hoc* working group and take appropriate action.

PART 7

DISPUTE SETTLEMENT

Article 22

Peaceful settlement of disputes

1. Any Party may seek consultations with any other Party or Parties on any dispute with regard to the interpretation or application of the provisions of this Agreement with a view to reaching a mutually satisfactory solution as soon as possible.

2. In the event that the dispute is not resolved through these consultations within a reasonable period of time, the Parties in question shall consult among themselves as soon as possible with a view to having the dispute settled by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

3. Any dispute of this character not so resolved shall, with the consent of all Parties to the dispute, be referred for settlement to the International Court of Justice, to the International Tribunal for the Law of the Sea or to arbitration. In the case of failure to reach agreement on referral to the International Court of Justice, to the International Tribunal for the Law of the Sea or to arbitration, the Parties shall continue to consult and cooperate with a view to reaching settlement of the dispute in accordance with the rules of international law relating to the conservation of living marine resources.

PART 8

NON-PARTIES

Article 23

Non-Parties to this Agreement

1. Parties shall encourage non-Parties to this Agreement to become Parties thereto and/or to adopt laws and regulations and implement measures consistent with its provisions.

2. Parties shall take fair, non-discriminatory and transparent measures consistent with this Agreement and other applicable international law to deter the activities of non-Parties which undermine the effective implementation of this Agreement.

PART 9

MONITORING, REVIEW AND ASSESSMENT

Article 24

Monitoring, review and assessment

1. Parties shall, within the framework of FAO and its relevant bodies, ensure the regular and systematic monitoring

and review of the implementation of this Agreement as well as the assessment of progress made towards achieving its objective.

2. Four years after the entry into force of this Agreement, FAO shall convene a meeting of the Parties to review and assess the effectiveness of this Agreement in achieving its objective. The Parties shall decide on further such meetings as necessary.

PART 10

FINAL PROVISIONS

Article 25

Signature

This Agreement shall be open for signature at FAO from the twenty-second day of November 2009 until the twenty-first day of November 2010, by all States and regional economic integration organisations.

Article 26

Ratification, acceptance or approval

1. This Agreement shall be subject to ratification, acceptance or approval by the signatories.

2. Instruments of ratification, acceptance or approval shall be deposited with the Depository.

Article 27

Accession

1. After the period in which this Agreement is open for signature, it shall be open for accession by any State or regional economic integration organisation.

2. Instruments of accession shall be deposited with the Depository.

Article 28

Participation by Regional Economic Integration Organisations

1. In cases where a regional economic integration organisation that is an international organisation referred to in Annex IX, Article 1, of the Convention does not have competence over all the matters governed by this Agreement, Annex IX to the Convention shall apply *mutatis mutandis* to participation by such regional economic integration organisation in this Agreement, except that the following provisions of that Annex shall not apply:

(a) Article 2, first sentence; and

(b) Article 3, paragraph 1.

2. In cases where a regional economic integration organisation that is an international organisation referred to in Annex IX, Article 1, of the Convention has competence over all the matters governed by this Agreement, the following provisions shall apply to participation by the regional economic integration organisation in this Agreement:

- (a) at the time of signature or accession, such organisation shall make a declaration stating:
 - (i) that it has competence over all the matters governed by this Agreement;
 - (ii) that, for this reason, its member States shall not become States Parties, except in respect of their territories for which the organisation has no responsibility; and
 - (iii) that it accepts the rights and obligations of States under this Agreement;
- (b) participation of such an organisation shall in no case confer any rights under this Agreement on member States of the organisation;
- (c) in the event of a conflict between the obligations of such organisation under this Agreement and its obligations under the Agreement establishing the organisation or any acts relating to it, the obligations under this Agreement shall prevail.

Article 29

Entry into force

1. This Agreement shall enter into force thirty days after the date of deposit with the Depositary of the twenty-fifth instrument of ratification, acceptance, approval or accession in accordance with Article 26 or 27.
2. For each signatory which ratifies, accepts or approves this Agreement after its entry into force, this Agreement shall enter into force thirty days after the date of the deposit of its instrument of ratification, acceptance or approval.
3. For each State or regional economic integration organisation which accedes to this Agreement after its entry into force, this Agreement shall enter into force thirty days after the date of the deposit of its instrument of accession.
4. For the purposes of this Article, any instrument deposited by a regional economic integration organisation shall not be counted as additional to those deposited by its Member States.

Article 30

Reservations and exceptions

No reservations or exceptions may be made to this Agreement.

Article 31

Declarations and statements

Article 30 does not preclude a State or regional economic integration organisation, when signing, ratifying, accepting, approving or acceding to this Agreement, from making a declaration or statement, however phrased or named, with a view to, inter alia, the harmonisation of its laws and regulations with the provisions of this Agreement, provided that such declaration or statement does not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State or regional economic integration organisation.

Article 32

Provisional application

1. This Agreement shall be applied provisionally by States or regional economic integration organisations which consent to its provisional application by so notifying the Depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.
2. Provisional application by a State or regional economic integration organisation shall terminate upon the entry into force of this Agreement for that State or regional economic integration organisation or upon notification by that State or regional economic integration organisation to the Depositary in writing of its intention to terminate provisional application.

Article 33

Amendments

1. Any Party may propose amendments to this Agreement after the expiry of a period of two years from the date of entry into force of this Agreement.
2. Any proposed amendment to this Agreement shall be transmitted by written communication to the Depositary along with a request for the convening of a meeting of the Parties to consider it. The Depositary shall circulate to all Parties such communication as well as all replies to the request received from Parties. Unless within six months from the date of circulation of the communication one half of the Parties object to the request, the Depositary shall convene a meeting of the Parties to consider the proposed amendment.
3. Subject to Article 34, any amendment to this Agreement shall only be adopted by consensus of the Parties present at the meeting at which it is proposed for adoption.
4. Subject to Article 34, any amendment adopted by the meeting of the Parties shall come into force among the Parties having ratified, accepted or approved it on the ninetieth day after the deposit of instruments of ratification, acceptance or approval by two-thirds of the Parties to this Agreement based on the number of Parties on the date of adoption of the amendment. Thereafter the amendment shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, acceptance or approval of the amendment.

5. For the purposes of this Article, an instrument deposited by a regional economic integration organisation shall not be counted as additional to those deposited by its Member States.

Article 34

Annexes

1. The Annexes form an integral part of this Agreement and a reference to this Agreement shall constitute a reference to the Annexes.

2. An amendment to an Annex to this Agreement may be adopted by two-thirds of the Parties to this Agreement present at a meeting where the proposed amendment to the Annex is considered. Every effort shall however be made to reach agreement on any amendment to an Annex by way of consensus. An amendment to an Annex shall be incorporated in this Agreement and enter into force for those Parties that have expressed their acceptance from the date on which the Depositary receives notification of acceptance from one-third of the Parties to this Agreement, based on the number of Parties on the date of adoption of the amendment. The amendment shall thereafter enter into force for each remaining Party upon receipt by the Depositary of its acceptance.

Article 35

Withdrawal

Any Party may withdraw from this Agreement at any time after the expiry of one year from the date upon which the Agreement entered into force with respect to that Party, by giving written notice of such withdrawal to the Depositary. Withdrawal shall become effective one year after receipt of the notice of withdrawal by the Depositary.

Article 36

The Depositary

The Director-General of the FAO shall be the Depositary of this Agreement. The Depositary shall:

(a) transmit certified copies of this Agreement to each signatory and Party;

(b) register this Agreement, upon its entry into force, with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations;

(c) promptly inform each signatory and Party to this Agreement of all:

(i) signatures and instruments of ratification, acceptance, approval and accession deposited under Articles 25, 26 and 27;

(ii) the date of entry into force of this Agreement in accordance with Article 29;

(iii) proposals for amendment to this Agreement and their adoption and entry into force in accordance with Article 33;

(iv) proposals for amendment to the Annexes and their adoption and entry into force in accordance with Article 34; and

(v) withdrawals from this Agreement in accordance with Article 35.

Article 37

Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorised, have signed this Agreement.

DONE at Rome on this twenty-second day of November in the year two thousand and nine.

ANNEX A

Information to be provided in advance by vessels requesting port entry

| | | | | | | | | | |
|--|---------------------|-------------------|------------------------|-----------------|----------------|-----------------|---------------------------|-----------------|--|
| 1. Intended port of call | | | | | | | | | |
| 2. Port State | | | | | | | | | |
| 3. Estimated date and time of arrival | | | | | | | | | |
| 4. Purpose(s) | | | | | | | | | |
| 5. Port and date of last port call | | | | | | | | | |
| 6. Name of the vessel | | | | | | | | | |
| 7. Flag State | | | | | | | | | |
| 8. Type of vessel | | | | | | | | | |
| 9. International Radio Call Sign | | | | | | | | | |
| 10. Vessel contact information | | | | | | | | | |
| 11. Vessel owner(s) | | | | | | | | | |
| 12. Certificate of registry ID | | | | | | | | | |
| 13. IMO ship ID, if available | | | | | | | | | |
| 14. External ID, if available | | | | | | | | | |
| 15. RFMO ID, if applicable | | | | | | | | | |
| 16. VMS | | No | | Yes: National | | Yes: RFMO(s) | | Type: | |
| 17. Vessel dimensions | | | Length | | Beam | | Draft | | |
| 18. Vessel master name and nationality | | | | | | | | | |
| 19. Relevant fishing authorisation(s) | | | | | | | | | |
| <i>Identifier</i> | <i>Issued by</i> | <i>Validity</i> | <i>Fishing area(s)</i> | | <i>Species</i> | <i>Gear</i> | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| 20. Relevant transshipment authorisation(s) | | | | | | | | | |
| <i>Identifier</i> | | <i>Issued by</i> | | <i>Validity</i> | | | | | |
| <i>Identifier</i> | | <i>Issued by</i> | | <i>Validity</i> | | | | | |
| 21. Transshipment information concerning donor vessels | | | | | | | | | |
| <i>Date</i> | <i>Location</i> | <i>Name</i> | <i>Flag State</i> | <i>ID</i> | <i>Species</i> | <i>Product</i> | <i>Catch</i> | <i>Quantity</i> | |
| | | | | | | | | | |
| | | | | | | | | | |
| 22. Total catch onboard | | | | | | | 23. Catch to be offloaded | | |
| <i>Species</i> | <i>Product form</i> | <i>Catch area</i> | | <i>Quantity</i> | | <i>Quantity</i> | | | |
| | | | | | | | | | |
| | | | | | | | | | |

ANNEX B

Port State inspection procedures

Inspectors shall:

- (a) verify, to the extent possible, that the vessel identification documentation onboard and information relating to the owner of the vessel is true, complete and correct, including through appropriate contacts with the flag State or international records of vessels if necessary;
 - (b) verify that the vessel's flag and markings (e.g. name, external registration number, International Maritime Organisation (IMO) ship identification number, international radio call sign and other markings, main dimensions) are consistent with information contained in the documentation;
 - (c) verify, to the extent possible, that the authorisations for fishing and fishing related activities are true, complete, correct and consistent with the information provided in accordance with Annex A;
 - (d) review all other relevant documentation and records held onboard, including, to the extent possible, those in electronic format and vessel monitoring system (VMS) data from the flag State or relevant regional fisheries management organisations (RFMOs). Relevant documentation may include logbooks, catch, transshipment and trade documents, crew lists, stowage plans and drawings, descriptions of fish holds, and documents required pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
 - (e) examine, to the extent possible, all relevant fishing gear onboard, including any gear stowed out of sight as well as related devices, and to the extent possible, verify that they are in conformity with the conditions of the authorisations. The fishing gear shall, to the extent possible, also be checked to ensure that features such as the mesh and twine size, devices and attachments, dimensions and configuration of nets, pots, dredges, hook sizes and numbers are in conformity with applicable regulations and that the markings correspond to those authorised for the vessel;
 - (f) determine, to the extent possible, whether the fish on board was harvested in accordance with the applicable authorisations;
 - (g) examine the fish, including by sampling, to determine its quantity and composition. In doing so, inspectors may open containers where the fish has been pre-packed and move the catch or containers to ascertain the integrity of fish holds. Such examination may include inspections of product type and determination of nominal weight;
 - (h) evaluate whether there is clear evidence for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing;
 - (i) provide the master of the vessel with the report containing the result of the inspection, including possible measures that could be taken, to be signed by the inspector and the master. The master's signature on the report shall serve only as acknowledgment of the receipt of a copy of the report. The master shall be given the opportunity to add any comments or objection to the report, and, as appropriate, to contact the relevant authorities of the flag State in particular where the master has serious difficulties in understanding the content of the report. A copy of the report shall be provided to the master; and
 - (j) arrange, where necessary and possible, for translation of relevant documentation.
-

ANNEX C

Report of the results of the inspection

| | | | | | |
|---|-----------|-------------------|----------------------------------|---------------------------|------|
| 1. Inspection report No | | 2. Port State | | | |
| 3. Inspecting authority | | | | | |
| 4. Name of principal inspector | | | | ID | |
| 5. Port of inspection | | | | | |
| 6. Commencement of inspection | | YYYY | MM | DD | HH |
| 7. Completion of inspection | | YYYY | MM | DD | HH |
| 8. Advanced notification received | | | Yes | | No |
| 9. Purpose(s) | LAN | TRX | PRO | OTH (specify) | |
| 10. Port and State and date of last port call | | | YYYY | MM | DD |
| 11. Vessel name | | | | | |
| 12. Flag State | | | | | |
| 13. Type of vessel | | | | | |
| 14. International Radio Call Sign | | | | | |
| 15. Certificate of registry ID | | | | | |
| 16. IMO ship ID, if available | | | | | |
| 17. External ID, if available | | | | | |
| 18. Port of registry | | | | | |
| 19. Vessel owner(s) | | | | | |
| 20. Vessel beneficial owner(s), if known and different from vessel owner | | | | | |
| 21. Vessel operator(s), if different from vessel owner | | | | | |
| 22. Vessel master name and nationality | | | | | |
| 23. Fishing master name and nationality | | | | | |
| 24. Vessel agent | | | | | |
| 25. VMS | No | Yes: National | Yes: RFMOs | Type: | |
| 26. Status in RFMO areas where fishing or fishing related activities have been undertaken, including any IUU vessel listing | | | | | |
| Vessel identifier | RFMO | Flag State status | Vessel on authorised vessel list | Vessel on IUU vessel list | |
| | | | | | |
| | | | | | |
| 27. Relevant fishing authorisation(s) | | | | | |
| Identifier | Issued by | Validity | Fishing area(s) | Species | Gear |
| | | | | | |
| | | | | | |
| 28. Relevant transshipment authorisation(s) | | | | | |
| Identifier | | Issued by | | Validity | |
| Identifier | | Issued by | | Validity | |

| 29. Transshipment information concerning donor vessels | | | | | | |
|--|--------------|---------------|-------------------|--------------------|--|----------|
| Name | Flag State | ID no | Species | Product form | Catch area(s) | Quantity |
| | | | | | | |
| | | | | | | |
| 30. Evaluation of offloaded catch (quantity) | | | | | | |
| Species | Product form | Catch area(s) | Quantity declared | Quantity offloaded | Difference between quantity declared and quantity determined, if any | |
| | | | | | | |
| | | | | | | |
| 31. Catch retained onboard (quantity) | | | | | | |
| Species | Product form | Catch area(s) | Quantity declared | Quantity retained | Difference between quantity declared and quantity determined, if any | |
| | | | | | | |
| | | | | | | |
| 32. Examination of logbook(s) and other documentation | | | | Yes | No | Comments |
| | | | | | | |
| 33. Compliance with applicable catch documentation scheme(s) | | | | Yes | No | Comments |
| | | | | | | |
| 34. Compliance with applicable trade information scheme(s) | | | | Yes | No | Comments |
| | | | | | | |
| 35. Type of gear used | | | | | | |
| | | | | | | |
| 36. Gear examined in accordance with paragraph (e) of Annex B | | | | Yes | No | Comments |
| | | | | | | |
| 37. Findings by inspector(s) | | | | | | |
| | | | | | | |
| 38. Apparent infringement(s) noted including reference to relevant legal instrument(s) | | | | | | |
| | | | | | | |
| 39. Comments by the master | | | | | | |
| | | | | | | |
| 40. Action taken | | | | | | |
| | | | | | | |
| 41. Master's signature | | | | | | |
| | | | | | | |
| 42. Inspector's signature | | | | | | |
| | | | | | | |

ANNEX D

INFORMATION SYSTEMS ON PORT STATE MEASURES

In implementing this Agreement, each Party shall:

- (a) seek to establish computerised communication in accordance with Article 16;
- (b) establish, to the extent possible, websites to publicise the list of ports designated in accordance with Article 7 and the actions taken in accordance with the relevant provisions of this Agreement;
- (c) identify, to the greatest extent possible, each inspection report by a unique reference number starting with 3-alpha code of the port State and identification of the issuing agency;
- (d) utilise, to the extent possible, the international coding system below in Annexes A and C and translate any other coding system into the international system.

countries/territories: ISO-31663-alpha Country Code

species: ASFIS 3-alpha code (known as FAO 3-alpha code)

vessel types: ISSCFV code (known as FAO alpha code)

gear types: ISSCFG code (known as FAO alpha code)

ANNEX E

Guidelines for the training of inspectors

Elements of a training programme for port State inspectors should include at least the following areas:

1. Ethics;
2. Health, safety and security issues;
3. Applicable national laws and regulations, areas of competence and conservation and management measures of relevant RFMOs, and applicable international law;
4. Collection, evaluation and preservation of evidence;
5. General inspection procedures such as report writing and interview techniques;
6. Analysis of information, such as logbooks, electronic documentation and vessel history (name, ownership and flag State), required for the validation of information given by the master of the vessel;
7. Vessel boarding and inspection, including hold inspections and calculation of vessel hold volumes;
8. Verification and validation of information related to landings, transshipments, processing and fish remaining onboard, including utilising conversion factors for the various species and products;
9. Identification of fish species, and the measurement of length and other biological parameters;
10. Identification of vessels and gear, and techniques for the inspection and measurement of gear;
11. Equipment and operation of VMS and other electronic tracking systems; and
12. Actions to be taken following an inspection.

DECLARATION CONCERNING THE COMPETENCE OF THE EUROPEAN UNION WITH REGARD TO MATTERS GOVERNED BY THE AGREEMENT ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING

(Declaration made pursuant to point (a) of Article 28(2) of the Agreement)

1. Point (a) of Article 28(2) of the Agreement stipulates that in cases where a regional economic integration organisation has competence over all the matters governed by this Agreement, at the time of signature or accession, such organisation shall make a declaration to this effect.
2. Pursuant to point (h) of Article 1 of the Agreement a 'regional economic integration organisation' means a regional economic integration organisation to which its member States have transferred competence over matters covered by the Agreement, including the authority to make decisions binding on its member States in respect of those matters.
3. The European Union is considered a regional economic integration organisation in accordance with the above quoted Articles.
4. Consequently, the European Union hereby declares that:
 - (i) it has competence over all the matters governed by the Agreement;
 - (ii) for this reason, its Member States shall not become State Parties, except in respect of their territories for which it has no responsibility.

The current Member States of the European Union are: the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland;

- (iii) the European Union accepts the rights and obligations of States under the Agreement.
 5. The European Union states that, in the event of the occurrence of a conflict as referred to in Article 28(2)(c) of the Agreement, it will apply the obligations stemming from that provision in accordance with the Treaty establishing the European Community as interpreted by the European Court of Justice.
-

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 715/2011

of 19 July 2011

amending, for the 15th time, Council Regulation (EC) No 1763/2004 imposing certain restrictive measures in support of effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1763/2004 of 11 October 2004 imposing certain restrictive measures in support of effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY) ⁽¹⁾, and in particular Article 10(a) thereof,

Whereas:

- (1) Annex I to Regulation (EC) No 1763/2004 lists the persons covered by the freezing of funds and economic resources under that Regulation.
- (2) The Commission is empowered to amend that Annex, taking into account Council Decisions implementing Council Common Position 2004/694/CFSP of 11 October 2004 on further measures in support of the effective implementation of the mandate of the ICTY ⁽²⁾. Common Position 2004/694/CFSP has been

replaced with Council Decision 2010/603/CFSP of 7 October 2010 on further measures in support of the effective implementation of the mandate of the ICTY ⁽³⁾. Council Implementing Decision 2011/422/CFSP ⁽⁴⁾ implements Decision 2010/603/CFSP.

- (3) Regulation (EC) No 1763/2004 gives effect to Decision 2010/603/CFSP to the extent that action at Union level is required. Annex I to Regulation (EC) No 1763/2004 should, therefore, be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1763/2004 is amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 19 July 2011.

For the Commission,

On behalf of the President,

Head of the Service for Foreign Policy Instruments

⁽¹⁾ OJ L 315, 14.10.2004, p. 14.

⁽²⁾ OJ L 315, 14.10.2004, p. 52.

⁽³⁾ OJ L 265, 8.10.2010, p. 15.

⁽⁴⁾ OJ L 188, 19.7.2011, p. 19.

ANNEX

In Annex I to Regulation (EC) No 1763/2004 the following entry is deleted:

- '14. Mladić, Ratko. Date of birth: 12.3.1942. Place of birth: Bozanovici, Municipality of Kalinovik, Bosnia and Herzegovina. Nationality: (a) Bosnia and Herzegovina, (b) Serbia and Montenegro.'
-

DECISIONS

COUNCIL DECISION

of 12 July 2011

determining for the General Secretariat of the Council the appointing authority and the authority empowered to conclude contracts of employment and repealing Decision 2006/491/EC, Euratom

(2011/444/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Staff Regulations of Officials of the European Union and the Conditions of employment of other servants of the European Union, as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾, and in particular Article 2 of those Staff Regulations and Article 6 of those Conditions,

Whereas:

- (1) Under the first subparagraph of Article 240(2) of the Treaty on the Functioning of the European Union, the General Secretariat of the Council comes under the responsibility of a Secretary-General.
- (2) A new decision should be adopted, determining for the General Secretariat of the Council the appointing authority and the authority empowered to conclude contracts of employment, and Decision 2006/491/EC, Euratom ⁽²⁾ should be repealed,

HAS ADOPTED THIS DECISION:

Article 1

The powers conferred by the Staff Regulations of Officials on the appointing authority and by the Conditions of employment of other servants on the authority competent to conclude contracts of employment shall, as regards the General Secretariat of the Council, be exercised:

- (a) by the Council for the Secretary-General;

- (b) by the Council, on a proposal from the Secretary-General, for the application to Directors-General of Articles 1a, 30, 34, 41, 49, 50 and 51 of the Staff Regulations;

- (c) by the Secretary-General in other cases.

The Secretary-General is authorised to delegate, in whole or in part, to the Director-General of Administration any or all of his powers as regards the application of the Conditions of employment of other servants and the application of the Staff Regulations to officials in the AST function group, except for powers in respect of the appointment and termination of service of officials and the engagement of other servants.

Article 2

Decision 2006/491/EC, Euratom is hereby repealed.

Article 3

This Decision enters into force on the date of its adoption.

Done at Brussels, 12 July 2011.

For the Council
The President
J. VINCENT-ROSTOWSKI

⁽¹⁾ OJ L 56, 4.3.1968, p. 1.

⁽²⁾ Council Decision of 27 June 2006 determining for the General Secretariat of the Council the appointing authority and the authority empowered to conclude contracts of employment (OJ L 194, 14.7.2006, p. 29).

COUNCIL IMPLEMENTING DECISION**of 12 July 2011****authorising Germany to apply a reduced rate of electricity tax to electricity directly provided to vessels at berth in a port ('shore-side electricity') in accordance with Article 19 of Directive 2003/96/EC**

(2011/445/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity⁽¹⁾, and in particular Article 19 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By letter of 27 December 2010, Germany sought authorisation to apply a reduced rate of electricity tax to electricity directly provided to vessels at berth in a port ('shore-side electricity'), pursuant to Article 19 of Directive 2003/96/EC.
- (2) With the tax reduction it intends to apply, Germany aims at promoting a more widespread use of shore-side electricity as an environmentally less harmful way for ships to satisfy their electricity needs while lying at berth in ports as compared to the burning of bunker fuels on board the vessels.
- (3) In so far as the use of shore-side electricity avoids emissions of air pollutants associated with the burning of bunker fuels on board the vessels at berth, it contributes to an improvement of local air quality in port cities. The measure is therefore expected to contribute to the Union's environmental and health policy objectives.
- (4) Allowing Germany to apply a reduced rate of electricity taxation to shore-side electricity does not go beyond what is necessary to achieve the abovementioned objective, since on-board generation will remain the more competitive alternative in most cases. For the same reason, and because of the current relatively low degree of market penetration of the technology, the measure is unlikely to lead to significant distortions in competition during its lifetime and will thus not negatively affect the proper functioning of the internal market.

- (5) It follows from Article 19(2) of Directive 2003/96/EC that each authorisation granted under that provision is to be strictly limited in time. Given the need for a period long enough not to discourage port operators from making the necessary investments, but also the need to review the situation in Germany in due time and the need not to undermine future developments of the existing legal framework, it is appropriate to grant the authorisation requested for a period of 3 years, subject however to the entry into application of general provisions in the matter, at a point in time earlier than the expiry thus foreseen,

HAS ADOPTED THIS DECISION:

Article 1

Germany is hereby authorised to apply a reduced rate of electricity taxation to electricity directly supplied to vessels, other than private pleasure craft, berthed in ports ('shore-side electricity'), provided that the minimum levels of taxation pursuant to Article 10 of Directive 2003/96/EC are respected.

Article 2

This Decision shall take effect on the day of its notification.

It shall expire on 16 July 2014.

However, should the Council, acting on the basis of Article 113 of the Treaty, provide for general rules on tax advantages for shore-side electricity, this Decision shall expire on the day on which those general rules become applicable.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 12 July 2011.

For the Council
The President

J. VINCENT-ROSTOWSKI

⁽¹⁾ OJ L 283, 31.10.2003, p. 51.

COMMISSION IMPLEMENTING DECISION

of 11 July 2011

on the Union financial contribution to national programmes of 15 Member States (Bulgaria, Germany, Estonia, Ireland, France, Italy, Cyprus, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovenia and Finland) in 2011 for the collection, management and use of data in the fisheries sector

(notified under document C(2011) 4918)

(Only the Bulgarian, English, Estonian, Finnish, French, German, Greek, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovenian, and Swedish texts are authentic)

(2011/446/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 861/2006 of 22 May 2006 establishing Community financial measures for the implementation of the common fisheries policy and in the area of the Law of the Sea ⁽¹⁾, and in particular Article 24(1) thereof,

Whereas:

(1) Regulation (EC) No 861/2006 lays down the conditions whereby Member States may receive a contribution from the European Union for expenditure incurred in their national programmes of collection and management of data. Those programmes are to be drawn up in accordance with Council Regulation (EC) No 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy ⁽²⁾ and Commission Regulation (EC) No 665/2008 of 14 July 2008 laying down detailed rules for the application of Council Regulation (EC) No 199/2008 ⁽³⁾.

Bulgaria, Germany, Estonia, Ireland, France, Italy, Cyprus, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovenia and Finland have submitted national programmes for 2011–2013 as provided for in Article 4(4) and (5) of Regulation (EC) No 199/2008. These programmes were approved in 2011 in accordance with Article 6(3) of Regulation (EC) No 199/2008.

Those Member States have submitted annual budget forecasts covering the period 2011–2013 according to Article 2 of Commission Regulation (EC) No 1078/2008 of 3 November 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 861/2006 as regards the expenditure incurred by Member States for the collection and management of the basic fisheries data ⁽⁴⁾. The Commission has evaluated Member States' annual budget forecasts, as laid down in Article 4 of Regulation (EC) No 1078/2008, by taking into account the approved national programmes.

(2) Article 5 of Regulation (EC) No 1078/2008 establishes that the Commission is to approve the annual budget forecast and is to decide on the annual Union financial contribution to each national programme in accordance with the procedure laid down in Article 24 of Regulation (EC) No 861/2006 and on the basis of the outcome of the evaluation of the annual budget forecasts as referred to in Article 4 of Regulation (EC) No 1078/2008.

Article 24(3)(b) of Regulation (EC) No 861/2006 establishes that a Commission Decision is to fix the rate of the financial contribution. Article 16 of that Regulation provides that Union financial measures in the area of basic data collection are not to exceed 50 % of the costs incurred by Member States in carrying out the programme of collection, management and use of data in the fisheries sector.

(3) This Decision constitutes the financing decision within the meaning of Article 75(2) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁵⁾.

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

⁽¹⁾ OJ L 160, 14.6.2006, p. 1.

⁽²⁾ OJ L 60, 5.3.2008, p. 1.

⁽³⁾ OJ L 186, 15.7.2008, p. 3.

⁽⁴⁾ OJ L 295, 4.11.2008, p. 24.

⁽⁵⁾ OJ L 248, 16.9.2002, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

The maximum global amounts of the Union financial contribution to be granted to each Member State for the collection, management and use of data in the fisheries sector for 2011 and the rate of the Union financial contribution, are established in the Annex.

Article 2

This Decision is addressed to the Republic of Bulgaria, the Federal Republic of Germany, the Republic of Estonia, Ireland,

the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia and the Republic of Finland.

Done at Brussels, 11 July 2011.

For the Commission

Maria DAMANAKI

Member of the Commission

ANNEX

NATIONAL PROGRAMMES 2011–2013

ELIGIBLE EXPENDITURE AND MAXIMUM UNION CONTRIBUTION FOR 2011

(in EUR)

| Member State | Eligible expenditure | Maximum Union contribution (Rate of 50 %) |
|--------------|----------------------|--|
| BULGARIA | 366 500,00 | 183 250,00 |
| GERMANY | 6 615 835,00 | 3 307 917,50 |
| ESTONIA | 626 997,00 | 313 498,50 |
| IRELAND | 5 831 252,00 | 2 915 626,00 |
| FRANCE | 14 408 590,00 | 7 204 295,00 |
| ITALY | 7 799 304,00 | 3 899 652,00 |
| CYPRUS | 489 211,00 | 244 605,50 |
| LATVIA | 309 381,00 | 154 690,50 |
| LITHUANIA | 279 742,00 | 139 871,00 |
| MALTA | 576 570,00 | 288 285,00 |
| POLAND | 1 046 307,00 | 523 153,50 |
| PORTUGAL | 4 289 311,00 | 2 144 655,50 |
| ROMANIA | 634 469,00 | 317 234,50 |
| SLOVENIA | 207 349,00 | 103 674,50 |
| FINLAND | 1 736 460,00 | 868 230,00 |
| TOTAL | 45 217 278,00 | 22 608 639,00 |

COMMISSION IMPLEMENTING DECISION

of 20 July 2011

correcting Decision 2010/152/EU excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD)

(notified under document C(2011) 5139)

(Only the Polish text is authentic)

(2011/447/EU)

THE EUROPEAN COMMISSION,

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

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

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

Having consulted the Committee on the Agricultural Funds,

Whereas:

(1) By Decision 2010/152/EU ⁽³⁾ the Commission excluded from European Union financing a total amount of PLN 279 794 442,15 and EUR 25 583 996,81 including in particular PLN 180 448 032,62 incurred by Poland for area-related rural development measures in the 2000-2006 programming period. However, the Annex to that Decision erroneously identified that amount to be charged to budget item 6 7 0 1 'Clearance of EAGF accounts — assigned revenue'. Rather, as that correction concerned the expenditures under the Temporary Rural Development Instrument (TRDI), it should have been charged to budget item 6 5 0 0 'Financial corrections in connection with the Structural Funds and Cohesion Fund and the European Fisheries Fund'.

(2) Pursuant to Article 11(4) of Commission Regulation (EC) No 885/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No

1290/2005 as regards the accreditation of paying agencies and other bodies and the clearance of the accounts of the EAGF and of the EAFRD ⁽⁴⁾, sums excluded from Union financing are deducted from the monthly payments relating to the expenditure effected in the second month following the Decision with respect to the EAGF. Therefore, the amount of PLN 180 448 032,62 was converted into euro applying the exchange rate of 29 April 2010, amounting to EUR 46 087 919,86.

(3) Pursuant to Article 5 of Commission Regulation (EC) No 27/2004 of 5 January 2004 laying down transitional detailed rules for the application of Council Regulation (EC) No 1257/1999 as regards the financing by the EAGGF Guarantee Section of rural development measures in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia ⁽⁵⁾, Commission decisions concerning rural development in Poland are to be expressed in euro. The corrections concerning TRDI which are expressed in the national currencies in the decisions should therefore be converted into euro. The conversion is made using the average exchange rate of the financial year of TRDI expenditure subject to correction. Following this methodology the amount of PLN 180 448 032,62 being a correction for TRDI expenses in the financial years 2005, 2006 and 2007 amounts to EUR 46 430 682,69.

(4) Decision 2010/152/EU should therefore be corrected accordingly,

HAS ADOPTED THIS DECISION:

Article 1

All entries in the Annex to Decision 2010/152/EU concerning Poland shall be replaced by those set out in the Annex to this Decision.

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.

⁽²⁾ OJ L 209, 11.8.2005, p. 1.

⁽³⁾ OJ L 63, 12.3.2010, p. 7.

⁽⁴⁾ OJ L 171, 23.6.2006, p. 90.

⁽⁵⁾ OJ L 5, 9.1.2004, p. 36.

Article 2

For bookkeeping reasons, Poland shall declare the amount of EUR 46 087 919,86 for reimbursement on budget item 6 7 0 1 'Clearance of EAGF accounts — assigned revenue'.

A recovery order with the amount of EUR 46 430 682,69 shall be issued by the Commission in order to execute the financial corrections concerning TRDI from budget item 6 5 0 0 'Financial corrections in connection with the Structural Funds and Cohesion Fund and the European Fisheries Fund'.

Article 3

This Decision is addressed to the Republic of Poland.

Done at Brussels, 20 July 2011.

For the Commission
Dacian CIOLOȘ
Member of the Commission

ANNEX

BUDGET ITEM 6701

| MS | Measure | FY | Reason for correction | Type | % | Currency | Amount | Deductions already made | Financial impact |
|-----------------------|-----------------------------------|------|---|-----------|------|----------|------------------------|-------------------------|------------------------|
| PL | Direct payments | 2006 | Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance. | One-off | | PLN | - 87 534 475,32 | 0,00 | - 87 534 475,32 |
| PL | Direct payments | 2006 | Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance. | Flat rate | 5,00 | PLN | - 11 811 934,21 | 0,00 | - 11 811 934,21 |
| PL | Direct payments | 2007 | Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance. | Flat rate | 5,00 | EUR | - 2 293 418,87 | 0,00 | - 2 293 418,87 |
| PL | Direct payments | 2007 | Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance. | One-off | | EUR | - 23 290 577,94 | 0,00 | - 23 290 577,94 |
| PL | Financial audit — Overshooting | 2008 | Overshooting of financial ceilings | One-off | | EUR | 0,00 | - 1 894 213,61 | 1 894 213,61 |
| Total PL (PLN) | | | | | | | - 99 346 409,53 | 0,00 | - 99 346 409,53 |
| Total PL (EUR) | | | | | | | - 25 583 996,81 | - 1 894 213,61 | - 23 689 783,20 |

BUDGET ITEM 6 5 0 0

| MS | Measure | FY | Reason for correction | Type | % | Currency | Amount | Deductions already made | Financial impact |
|--------------------------|---|------|---|-----------|------|----------|-------------------------|-------------------------|-------------------------|
| PL | Rural Development EAGGF Transitional Instrument (2000-2006) | 2005 | Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance. | Flat rate | 5,00 | PLN | - 1 408 667,08 | 0,00 | - 1 408 667,08 |
| PL | Rural Development EAGGF Transitional Instrument (2000-2006) | 2006 | Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance. | One-off | | PLN | - 18 510 167,85 | 0,00 | - 18 510 167,85 |
| PL | Rural Development EAGGF Transitional Instrument (2000-2006) | 2006 | Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance. | Flat rate | 5,00 | PLN | - 69 151 379,37 | 0,00 | - 69 151 379,37 |
| PL | Rural Development EAGGF Transitional Instrument (2000-2006) | 2007 | Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance. | One-off | | PLN | - 12 943 389,24 | 0,00 | - 12 943 389,24 |
| PL | Rural Development EAGGF Transitional Instrument (2000-2006) | 2007 | Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance. | Flat rate | 5,00 | PLN | - 78 434 429,08 | 0,00 | - 78 434 429,08 |
| Total PL (PLN) | | | | | | | - 180 448 032,62 | 0,00 | - 180 448 032,62 |
| Grand total (PLN) | | | | | | | - 279 794 442,15 | 0,00 | - 279 794 442,15 |
| Grand total (EUR) | | | | | | | - 25 583 996,81 | - 1 894 213,61 | - 23 689 783,20 |

INTERINSTITUTIONAL AGREEMENTS

Agreement between the European Parliament and the European Commission on the establishment of a transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation

THE EUROPEAN PARLIAMENT AND THE EUROPEAN COMMISSION ('the parties hereto'),

Having regard to the Treaty on European Union, in particular Article 11(1) and (2) thereof, the Treaty on the Functioning of the European Union, in particular Article 295 thereof, and the Treaty establishing the European Atomic Energy Community (hereinafter together referred to as 'the Treaties'),

Whereas European policy-makers do not operate in isolation from civil society, but maintain an open, transparent and regular dialogue with representative associations and civil society,

AGREE AS FOLLOWS:

exercise their parliamentary mandate without restriction, and shall not impede access for Members' constituents to the European Parliament's premises.

I. ESTABLISHMENT OF THE TRANSPARENCY REGISTER

1. In conformity with their commitment to transparency, the parties hereto agree to establish and operate a common 'Transparency Register' (hereinafter 'the register') for the registration and monitoring of organisations and self-employed individuals engaged in EU policy-making and policy implementation.

5. The establishment and operation of the register shall not impinge on the competences or prerogatives of the parties hereto or affect their respective organisational powers.

II. PRINCIPLES OF THE REGISTER

2. The establishment and operation of the register shall build upon the existing registration systems set up and launched by the European Parliament in 1996 and the European Commission in June 2008, supplemented by the work of the relevant European Parliament and European Commission joint working group as well as by the adaptations made in the light of the experience gained and the input collected from stakeholders as set out in the European Commission's Communication of 28 October 2009 entitled 'European Transparency Initiative: the Register of Interest Representatives, one year after' ⁽¹⁾. This approach does not affect or prejudice the objectives of the European Parliament as expressed in its resolution of 8 May 2008 on the development of the framework for the activities of interest representatives (lobbyists) in the European institutions ⁽²⁾.

6. The parties hereto shall strive to treat all operators engaged in similar activities in a similar manner, and to allow for a level playing-field for the registration of organisations and self-employed individuals engaged in EU policy-making and policy implementation.

III. STRUCTURE OF THE REGISTER

3. The establishment and operation of the register shall respect the general principles of Union law, including the principles of proportionality and non-discrimination.

7. The register shall include the following:

(a) a set of guidelines on:

— the scope of the register, eligible activities and exemptions,

— sections open to registration (Annex I),

— information required from registrants, including the financial disclosure requirements (Annex II);

4. The establishment and operation of the register shall respect the rights of Members of the European Parliament to

(b) a code of conduct (Annex III);

(c) a complaint mechanism and measures to be applied in the event of non-compliance with the code of conduct, including the procedure for the investigation and treatment of complaints (Annex IV).

⁽¹⁾ COM(2009) 612.

⁽²⁾ OJ C 271 E, 12.11.2009, p. 48.

IV. SCOPE OF THE REGISTER

Activities covered

8. The scope of the register covers all activities, other than those excluded in part IV, carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and the decision-making processes of the EU institutions, irrespective of the channel or medium of communication used, for example outsourcing, media, contracts with professional intermediaries, think-tanks, platforms, forums, campaigns and grassroots initiatives. These activities include, inter alia, contacting Members, officials or other staff of the EU institutions, preparing, circulating and communicating letters, information material or discussion papers and position papers, and organising events, meetings or promotional activities and social events or conferences, invitations to which have been sent to Members, officials or other staff of the EU institutions. Voluntary contributions and participation in formal consultations on envisaged EU legislative or other legal acts and other open consultations are also included.

9. All organisations and self-employed individuals, irrespective of their legal status, engaged in activities falling within the scope of the register are expected to register ⁽¹⁾.

Activities excluded

10. The following activities are excluded from the scope of the register:

- (a) activities concerning the provision of legal and other professional advice, in so far as they relate to the exercise of the fundamental right of a client to a fair trial, including the right of defence in administrative proceedings, such as carried out by lawyers or by any other professionals involved therein. The following do not fall within the scope of the register (irrespective of the actual parties involved): advisory work and contacts with public bodies in order to better inform clients about a general legal situation or about their specific legal position, or to advise them whether or not a particular legal or administrative step is appropriate or admissible under the law as it stands; advice given to clients to help them ensure that their activities comply with the law; representation in the context of a conciliation or mediation procedure aimed at preventing a dispute from being brought before a judicial or administrative body. This applies to all business sectors in the European Union and is not restricted to certain specific procedures (competition). In so far as a company and its advisers are involved as a party in a specific legal or administrative case or proceeding, any activity relating directly thereto which does not seek as such to change the existing legal framework does not fall within the scope of the register;
- (b) activities of the social partners as participants in the social dialogue (trade unions, employers associations, etc.) when

performing the role assigned to them in the Treaties. This applies *mutatis mutandis* to any entity specifically designated in the Treaties to play an institutional role;

- (c) activities in response to direct and individual requests from EU institutions or Members of the European Parliament, such as ad hoc or regular requests for factual information, data or expertise and/or individualised invitations to attend public hearings or to participate in the workings of consultative committees or in any similar forums.

Specific provisions

11. Churches and religious communities are not concerned by the register. However, the representative offices or legal entities, offices and networks created to represent them in their dealings with the EU institutions, as well as their associations, are expected to register.

12. Political parties are not concerned by the register. However, any organisations created or supported by them which are engaged in activities falling within the scope of the register are expected to register.

13. Local, regional and municipal authorities are not concerned by the register. However, the representative offices or legal entities, offices and networks created to represent them in their dealings with the EU institutions, as well as their associations, are expected to register.

14. Networks, platforms or other forms of collective activity which have no legal status or legal personality but which constitute *de facto* a source of organised influence and which are engaged in activities falling within the scope of the register are expected to register. In such cases their members should identify one of their number as their contact person responsible for their relations with the administration of the register.

15. The activities to be taken into account for the financial declaration in the register are those aimed at all EU institutions, agencies and bodies, and their members, officials and other staff. These activities also include activities directed at Member States' bodies operating at EU level which are engaged in EU decision-making processes.

16. European networks, federations, associations or platforms are encouraged to produce common, transparent guidelines for their members identifying the activities falling within the scope of the register. They are expected to make those guidelines public.

⁽¹⁾ Member States' governments, third country governments, international intergovernmental organisations as well as their diplomatic missions are not expected to register.

V. RULES APPLICABLE TO REGISTRANTS

17. By registering, the organisations and individuals concerned:

- agree that the information which they provide for inclusion in the register shall be public,
- agree to act in compliance with the code of conduct and, where relevant, to provide the text of any professional code of conduct by which they are bound,
- guarantee that the information provided for inclusion in the register is correct,
- accept that any complaint against them will be handled on the basis of the rules in the code of conduct underpinning the register,
- agree to be subject to any measures to be applied in the event of infringement of the code of conduct and acknowledge that the measures provided for in Annex IV may be applied to them in the event of non-compliance with the rules laid down in the code of conduct,
- note that the parties hereto may, upon request and subject to the provisions of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents⁽¹⁾, have to disclose correspondence and other documents concerning the activities of registrants.

VI. MEASURES IN THE EVENT OF NON-COMPLIANCE WITH THE CODE OF CONDUCT

18. Non-compliance with the code of conduct by registrants or by their representatives may lead, following an investigation paying due respect to the principle of proportionality and the right of defence, to the application of measures laid down in Annex IV such as suspension or removal from the register and, if applicable, withdrawal of the badges affording access to the European Parliament issued to the persons concerned and, if appropriate, their organisations. A decision to apply such measures may be published on the register's website.

19. Anyone may lodge a complaint, substantiated by material facts, about suspected non-compliance with the code of conduct, in accordance with the procedure laid down in Annex IV.

VII. IMPLEMENTATION

20. The Secretaries-General of the European Parliament and the European Commission shall be responsible for supervision of the system and for all key operational aspects, and shall by common accord take the measures necessary to implement this agreement.

21. In order to implement the system, the services of the European Parliament and the European Commission will establish a joint operational structure, to be known as 'the joint Transparency Register Secretariat'. This will be made up of a group of officials from the European Parliament and the European Commission pursuant to an arrangement to be made between the competent services. The joint Transparency Register Secretariat shall operate under the coordination of a Head of Unit in the Secretariat-General of the European Commission. Its tasks will include the implementation of measures to contribute to the quality of the content of the register.

22. The issue and control of badges affording long-term access to the European Parliament's buildings will remain a process operated by that institution. Such badges will only be issued to individuals representing, or working for, organisations falling within the scope of the register where those organisations or individuals have registered. However, registration shall not confer an automatic entitlement to such a badge.

23. Although the system will be operated jointly, the parties hereto remain free to use the register independently for their own specific purposes, including the offering of incentives such as the transmission of information to registrants when launching public consultations or organising events.

24. The parties hereto shall organise appropriate training and internal communication projects to raise awareness of the register and the complaints procedure among their Members and staff.

25. The parties hereto shall take appropriate measures externally to raise awareness of the register and promote its use.

26. A series of basic statistics, extracted from the database of the register, shall be published regularly on the Europa website and shall be accessible via a user-friendly search engine. The public content of that database will be available on request in electronic, machine-readable formats.

27. Following consultation with stakeholders, an annual report on the operation of the register shall be submitted by the Secretaries-General of the European Parliament and the European Commission to the responsible Vice-Presidents of the European Parliament and the European Commission.

VIII. INVOLVEMENT OF OTHER INSTITUTIONS AND BODIES

28. The European Council and the Council are invited to join the register. Other EU institutions, bodies and agencies are encouraged to use this system themselves as a reference instrument for their own interaction with organisations and self-employed individuals engaged in EU policy-making and policy implementation.

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

IX. FINAL PROVISIONS

29. The switchover from the existing registers of the parties hereto to the new common register will take place over a transition period of 12 months from the day of entry into operation of the common register. Organisations and individuals currently registered in either system shall be invited to renew their registration in the common system.

Once the common register has entered into operation:

— registrants will be able to switch their existing registration to the common register at the date of their choice but no later than the day of renewal of their European Commission registration, or, for those registered only with the European Parliament, by no later than the end of a 12-month period from that entry into operation,

— any new registration or update of existing data will only be possible through the common register.

30. The common register shall be subject to review no later than 2 years following its entry into operation.

Done at Brussels, 23 June 2011.

For the European Parliament
The President
J. BUZEK

For the European Commission
The Vice-President
M. ŠEFČOVIČ

ANNEX I

'Transparency Register'

Organisations and self-employed individuals engaged in EU policy-making and policy implementation

| Sections | | Characteristics/remarks |
|---|---|---|
| I — Professional consultancies/law firms/self-employed consultants | | |
| Subsection | Professional consultancies | Firms carrying on, pursuant to contract, activities involving lobbying, promotion, public affairs and relations with public authorities |
| Subsection | Law firms | Law firms carrying on, pursuant to contract, activities involving lobbying, promotion, public affairs and relations with public authorities |
| Subsection | Self-employed consultants | Self-employed consultants or lawyers carrying on, pursuant to contract, activities involving lobbying, promotion, public affairs and relations with public authorities |
| II — In-house lobbyists and trade/professional associations | | |
| Subsection | Companies & groups | Companies or groups of companies (with or without legal status) carrying on in-house, for their own account, activities involving lobbying, promotion, public affairs and relations with public authorities |
| Subsection | Trade, business & professional associations | |
| Subsection | Trade unions | |
| Subsection | Other similar organisations | |
| III — Non-governmental organisations | | |
| Subsection | Non-governmental organisations, platforms and networks and similar. | Not-for-profit organisations (with or without legal status), independent from public authorities, political parties or commercial organisations. Includes foundations, charities, etc. |
| IV — Think tanks, research and academic institutions | | |
| Subsection | Think tanks and research institutions | Specialised think tanks and research institutions dealing with the activities and policies of the European Union |
| Subsection | Academic institutions | Institutions whose primary purpose is education but that deal with the activities and policies of the European Union |
| V — Organisations representing churches and religious communities | | |
| Subsection | Organisations representing churches and religious communities | Legal entities, offices or networks set up for representation activities |

| Sections | | Characteristics/remarks |
|--|---|--|
| VI — Organisations representing local, regional and municipal authorities, other public or mixed entities, etc. | | NB: Public authorities themselves are not concerned by the register. |
| Subsection | Local, regional and municipal authorities (at sub-national level) | Legal entities, representation offices, associations or networks set up to represent local, regional and municipal authorities (at sub-national level) |
| Subsection | Other public or mixed entities, etc. | Includes other organisations with public or mixed (public/private) status. |

ANNEX II

INFORMATION TO BE PROVIDED BY REGISTRANTS

I. General and basic information

- organisation name(s), address, phone number, e-mail address, website,
- (a) identity of the person legally responsible for the organisation and (b) name of the organisation's director or managing partner or, if applicable, principal contact point in respect of activities covered by the register; names of the persons for whom badges affording access to the European Parliament's buildings are requested ⁽¹⁾,
- number of persons (Members, staff, etc) involved in activities falling within the scope of the register,
- goals/remit — fields of interest — activities — countries in which operations are carried out — affiliations to networks — general information falling within the scope of the register,
- if applicable, number of members (individuals and organisations).

II. Specific information

A. Activities

Main legislative proposals covered in the preceding year by activities of the registrant falling within the scope of the transparency register

B. Financial information

All financial figures provided should cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or of renewal.

Double counting is not excluded. The financial declaration made by professional consultancies/law firms/self-employed consultants concerning their clients (list and grid) does not exempt those clients from their obligation to include those contractual activities in their own declarations, so as to avoid an underestimation of their declared financial outlay.

Professional consultancies/law firms/self-employed consultants (Section I of Annex I): details must be given of the turnover attributable to the activities falling within the scope of the register, as well as the relative weight attaching to their clients according to the following grid:

| <i>(in EUR)</i> | |
|---------------------|--------------|
| Turnover | Bracket size |
| 0 – 499 999 | 50 000 |
| 500 000 – 1 000 000 | 100 000 |
| > 1 000 000 | 250 000 |

In-house lobbyists and trade/professional associations (Section II of Annex I): an estimate must be given of the cost of activities falling within the scope of the register.

Non-governmental organisations, think tanks, research and academic institutions — organisations representing churches and religious communities — Organisations representing local, regional and municipal authorities, other public or mixed entities, etc. (Sections III to VI of Annex I): the overall budget must be specified, together with a breakdown of the main sources of funding.

Additionally, for all registrants: the amount and source of funding received from the EU institutions in the most recent financial year closed, as of the date of registration or of renewal.

⁽¹⁾ Registrants will be asked to provide this information at the end of the registration process, for submission to the European Parliament. The names of individuals to whom access badges have been allocated will then be automatically inserted by the system on the basis of the European Parliament's updates and information, once the European Parliament has decided to issue the badges. Registration does not give rise to an automatic entitlement to a badge affording access to the European Parliament.

ANNEX III

CODE OF CONDUCT

In their relations with the EU institutions and their Members, officials and other staff, registrants shall:

- (a) always identify themselves by name and by the entity or entities they work for or represent; declare the interests, objectives or aims promoted and, where applicable, specify the clients or members whom they represent;
- (b) not obtain or try to obtain information, or any decision, dishonestly, or by use of undue pressure or inappropriate behaviour;
- (c) not claim any formal relationship with the EU or any of its institutions in their dealings with third parties, nor misrepresent the effect of registration in such a way as to mislead third parties or officials or other staff of the EU;
- (d) ensure that, to the best of their knowledge, information which they provide upon registration and subsequently in the framework of their activities within the scope of the register is complete, up-to-date and not misleading;
- (e) not sell to third parties copies of documents obtained from any EU institution;
- (f) not induce Members of the EU institutions, officials or other staff of the EU, or assistants or trainees of those Members, to contravene the rules and standards of behaviour applicable to them;
- (g) if employing former officials or other staff of the EU or assistants or trainees of Members of the EU institutions, respect the obligation of such employees to abide by the rules and confidentiality requirements which apply to them;
- (h) observe any rules laid down on the rights and responsibilities of former Members of the European Parliament and the European Commission;
- (i) inform whomever they represent of their obligations towards the EU institutions.

Individuals representing or working for entities which have registered with the European Parliament with a view to being issued with a personal, non-transferable badge affording access to the European Parliament's premises shall:

- (j) comply strictly with the provisions of Rule 9 of, and Annex X and the second paragraph of Article 2 of Annex I to the European Parliament's Rules of Procedure;
 - (k) satisfy themselves that any assistance provided in the context of Article 2 of Annex I to the European Parliament's Rules of Procedure is declared in the appropriate register;
 - (l) in order to avoid possible conflicts of interest, obtain the prior consent of the Member or Members of the European Parliament concerned as regards any contractual relationship with or employment of a Member's assistant, and subsequently declare this in the register.
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ANNEX IV

PROCEDURE FOR THE INVESTIGATION AND TREATMENT OF COMPLAINTS**Stage 1: Submitting a complaint**

1. Complaints may be submitted by completing a standard form on the website of the register. That form contains information about the registrant being complained about, the name and contact details of the complainant and details about the complaint, including, in principle, documents or other materials supporting the complaint. Anonymous complaints shall not be considered.
2. The complaint shall specify one or more clauses of the code of conduct which the complainant alleges have been breached. Complaints about information entered in the register are treated as allegations of infringement of point (d) of the code of conduct ⁽¹⁾.
3. Complainants must in principle provide documents and/or other materials supporting their complaint.

Stage 2: Decision on admissibility

4. The joint Transparency Register Secretariat shall:
 - (a) verify that sufficient evidence is adduced to support the complaint, whether this takes the form of documents, other materials or personal statements; to be admissible, material evidence should in principle be sourced either from the registrant complained about or from a document issued by a third party;
 - (b) on the basis of such verification, decide on the admissibility of the complaint;
 - (c) if it deems the complaint admissible, register the complaint and fix a deadline (20 working days) for the decision on the validity of the complaint.
5. If the complaint is deemed inadmissible, the complainant shall be informed by letter, which shall state the reasons for the decision. If the complaint is deemed admissible, it shall be investigated in accordance with the procedure set out below.

Stage 3: Investigation

6. After registering the complaint, the joint Transparency Register Secretariat shall inform the registrant in writing of the complaint made against that registrant and the content of that complaint, and shall invite the registrant to present explanations, arguments or other elements of defence within 10 working days.
7. All information collected during the investigation shall be examined by the joint Transparency Register Secretariat.
8. The joint Transparency Register Secretariat may decide to hear the registrant complained about, or the complainant.

Stage 4: Decision on the complaint

9. If the investigation shows the complaint to be unfounded, the joint Transparency Register Secretariat shall inform both parties of the decision to that effect. If the complaint is upheld, the registrant may be temporarily suspended from the register pending the taking of steps to address the problem (see paragraphs 11 to 14 below) or may be subject to measures ranging from long-term suspension from the register to removal from the register and withdrawal, where applicable, of any badge affording access to the European Parliament (see stages 6 and 7 below).

Stage 5: Measures in the event of non-compliance with the code of conduct

10. The measures which may be applied in the event of non-compliance with the code of conduct shall range from temporary suspension to removal from the register (see the table below).
11. If it is established that information entered in the register is incorrect or incomplete, the registrant shall be requested to correct that information within 8 weeks, during which period the registration of that registrant shall be suspended. The badge(s) affording access to the European Parliament, if any, shall not be withdrawn during that period.

⁽¹⁾ That point (d) requires registrants, in their relations with the EU institutions and their Members, officials and other staff, to 'ensure that, to the best of their knowledge, information which they provide upon registration and subsequently in the framework of their activities within the scope of the register is complete, up-to-date and not misleading'.

12. If the registrant rectifies the information within the period of 8 weeks specified in paragraph 11, the registration pertaining to that registrant shall be reactivated. If the registrant does not act within the period of 8 weeks specified in paragraph 11, a measure may be imposed.
13. If the registrant requests more time to rectify the information in accordance with paragraph 11, and gives sufficient reasons for that request, the period of suspension may be extended.
14. In the event of non-compliance with the code of conduct on other grounds, the registration of the registrant in question shall be suspended for a period of 8 weeks, during which time the European Parliament and the European Commission shall take the final decision on the measure or measures, if any, to be imposed.
15. Any decision to remove a registrant from the register shall include a ban on future registration for a period of 1 or 2 years.

Stage 6: Decision on the measure to be applied

16. A draft decision on the measure to be applied shall be prepared jointly by the competent services of the European Parliament and of the European Commission and forwarded for final decision to the Secretaries-General of those institutions. The competent Vice-Presidents of the European Parliament and of the European Commission will be informed.
17. The joint Transparency Register Secretariat shall immediately inform both parties (the complainant and the registrant against which the complaint was made) of the measure decided upon, and shall implement that measure.

Stage 7: Withdrawal (if applicable) of the badge(s) affording access to the European Parliament

18. Where a decision on removal from the register entails withdrawal of a badge or badges affording access to the European Parliament, it shall be forwarded by the Secretary-General of the European Parliament to the responsible Quaestor, who shall be invited to authorise the withdrawal of any such badge(s) held by the organisation or individual concerned.
19. The registrant shall be invited to return all or some of any EP badges held within 15 days.

Table of measures available in the event of non-compliance with the code of conduct

| | Type of non-compliance | Measure | Mention of measure in the register | EP access badge withdrawn |
|---|--|--|------------------------------------|---------------------------|
| 1 | Unintentional non-compliance, immediately corrected | Written notification acknowledging the facts and their correction | No | No |
| 2 | Deliberate non-compliance with the code, necessitating a change of behaviour or rectification of information in the register within the deadline laid down | Temporary suspension for up to 6 months or until such time as the corrective action requested is completed within the deadline set | Yes during the suspension period | No |
| 3 | Persistent non-compliance with the code — no change of behaviour — failure to correct information within the deadline laid down | Removal from the register for 1 year | Yes | Yes |
| 4 | Serious, deliberate non-compliance with the code | Removal from the register for 2 years | Yes | Yes |

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